

REGISTERED

CENTRAL ADMINISTRATIVE
BANGALORE BENCH

TRIBUNAL

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 1 NOV 1988

APPLICATION NO.

1167

/ 88(F)

W.P. NO.

Applicant(s)

Shri Dharnappa

To

Respondent(s)

V/s

The Chief Personnel Officer, South Central Railway,
Secunderabad & 2 Ors

1. Shri Dharnappa
S/o Shri Annu Poojary
Mandimane House
P.O. Goribettu - 577 151
Moodigera Taluk
Chickmagalur District
2. Shri M. Madhusudan
Advocate
491, 16th Main
Srinagar
Bangalore - 560 050
3. The Chief Personnel Officer
South Central Railway
Rail Nilayam
Secunderabad (Andhra Pradesh)

4. The Divisional Railway Manager
South Central Railway
Hubli
5. The Chairman
Railway Recruitment Board
Bangalore - 560 046
6. Shri K.V. Lakshmanachar
Railway Advocate
No. 4, 5th Block
Griand Square Police Quarters
Mysore Road
Bangalore - 560 002

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~STAY~~/~~INTERIM ORDER~~
passed by this Tribunal in the above said application(s) on 28-10-88.

4x filed
K. N. Raju
1-11-88

Encl : As above

9C
SECTION OFFICER
~~DEPUTY REGISTRAR~~
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

DATED THIS THE TWENTYEIGHTH DAY OF OCTOBER, 1988.

Present: Hon'ble Shri Justice K.S. Puttaswamy .. Vice Chairman
Hon'ble Shri L.H.A. Rego .. Member (A)

APPLICATION NO. 1167/88(F)

Shri Dharnappa
S/o. Annu Poojary
aged about 29 years
Mandimane House
P.O. Goribettu - 577 151
Moodigere Taluk
Chikamagalur District.

.. Applicant

(Shri M. Madhusudan, Advocate)

Vs.

1. The Chief Personnel Officer
South Central Railway
Secunderabad.
2. The Divisional Railway Manager
South Central Railway, Hubli.
3. The Chairman
Railway Recruitment Board
Bangalore-46.

.. Respondents

(Shri K.V. Lakshmanachar ... Railway Advocate)

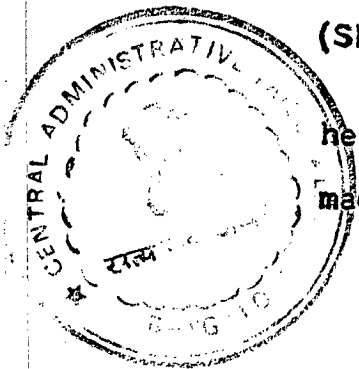
This application having come up for
hearing before the Tribunal today, Hon'ble Vice Chairman
made the following:

O R D E R

This case stands posted to 3.11.1988.

But as desired by both sides, this case is advanced to this
day and is heard on merits.

2. This is an application made by the
applicant under Section 19 of the Administrative Tribunals
Act, 1985 ('Act').
3. Shri M. Dharnappa, applicant before us
has been selected to the post of Assistant Station Master (ASM)
in the Indian Railways subject to his being found medically
fit for that post. In pursuance of the orders made thereto



the applicant appeared for medical examination on 18.10.1985 and the authority examining declared him medically unfit for the post. On this, the applicant filed an appeal before the appropriate Appellate authority annexing a medical certificate issued by a private Medical Practitioner certifying that he was medically fit for the post. On an examination of the same, the Chief Personnel Officer, South Central Railway, Secunderabad (CPO) by his letter no. P(Trg)563/Pro. ASM/D dated 14.7.1987, Annexure-A6 addressed to the Chief Medical Superintendent, South Central Railway, Secunderabad (CMS) requested him to re-examine the applicant and certify on his fitness or otherwise to the post, which has not so far materialised for reasons that are not agreed to by both sides. Hence this application.

4. In their reply, the respondents have asserted that the applicant had ^{not} appeared for medical-examination and therefore, he is not entitled for any relief.

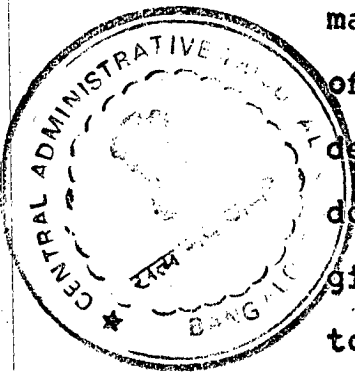
5. Shri M. Madhusudan, learned counsel for the applicant contends that on the very terms of the communication addressed by the CPO, the CMS should be directed to re-examine the applicant and submit his report to the competent authority to examine the same and pass appropriate orders as the circumstances so justify.

6. Shri K.V. Lakshmanachar, learned counsel for the respondents, contends that since the applicant had not appeared for medical re-examination he is not entitled for any relief.

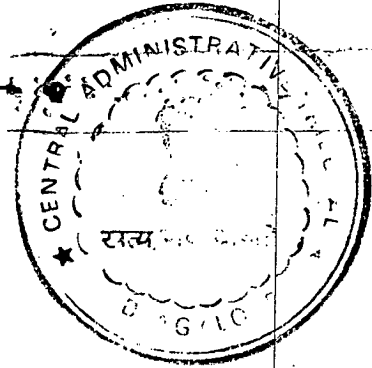
7. On the appeal filed by the applicant, the CPO had requested the CMS to re-examine the applicant and furnish his opinion. But that communication does not appear to have been sent to the applicant, resulting in this unnecessary litigation. On this view, we consider it proper to afford an opportunity to the applicant and direct the CPO - respondent No.1 to make necessary arrangements for the medical examination of the applicant, obtain the report of the CMS and decide the same in accordance with law. But before doing so, we have no doubt that the CPO & CMS will give adequate intimation and time to the applicant to appear for re-examination.

8. In the light of our above discussion, we allow this application and direct respondent No.1 to make necessary arrangements for the medical re-examination of the applicant in terms of his communication dated 14.7.1987 with all such expedition as is possible in the circumstances of the case and in any event within a period of 3 months from the date of receipt of this order.

9. Application is disposed of on the above terms. But in the circumstances of the case, We direct the parties to bear their own costs.



10. Let this order be communicated to all
the parties immediately.



Sd/-
VICE-CHAIRMAN
28/10/88

Sd/-
MEMBER (A) / 28-10-1988

TRUE COPY

R. Thy 1/11/88
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE