

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
Bangalore-38.

Dated: 2 FEB 1994

APPLICATION NO(s) 480 of 1993.

APPLICANTS:

Sikandar Mehaboob Kolar

RESPONDENTS:

v/s. Secretary, M/o. Railways, N Delhi & Others.

TO.

1. The Secretary, Ministry of Railways,
Railway Bhavan, New Delhi.
2. The Chairman,
South Central Railway,
Rail Nilayam, Secunderabad.
3. The Divisional Manager,
South Central Railway,
Hubli.
4. The Permanent Way Inspector,
South Central Railway, Mathar.
5. Sri. N. S. Prasad, Advocate,
242, Fifth Main Road,
Gandhinagar, Bangalore-9.

SUBJECT:- Forwarding of copies of the Orders passed by
the Central Administrative Tribunal, Bangalore.

-xxx-

Please find enclosed herewith a copy of the
ORDER/STAY ORDER/INTERIM ORDER/, Passed by this Tribunal
in the above mentioned application(s) on 19-01-1994.

*Issued on
3/2/94*

olc

for *Sc. Registrar*
DEPUTY REGISTRAR
JUDICIAL BRANCHES.

gm*

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

O.A. NO.480/93

WEDNESDAY THIS THE NINETEENTH DAY OF JANUARY 1994

Shri Justice P.K. Shyamasundar ... Vice Chairman

Shri V. Ramakrishnan ... Member [A]

Sikandar Mehaboob Kolar,
Aged about 22 years,
Occ: Ex.Gangman,
Now at :Hotgi Railway Station,
Hotagi Post,
South Sholapur Taluk,
Dist:Solapur.

... Applicant

v.

1. The Union of India by its
Secretary to Government,
M/o Railways, Railway Bhavan,
New Delhi.
2. The Chairman,
South Central Railway
Rail Nilayam,
Secunderabad.
3. South Central Railway,
by its Manager,
Divisional Office,
South Central Railway,
Hubli.
4. Permanent Way Inspector,
South Central Railway,
Wathar.

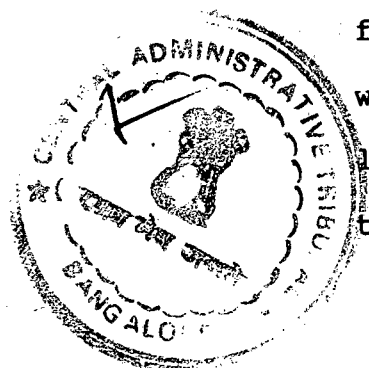
... Respondents

[By Advocate Shri N.S. Prasad ..
Standing Counsel for Railways]

ORDER

Shri Justice P.K. Shyamsundar, Vice-Chairman:

1. We have heard Shri N.S. Prasad, learned Standing Counsel for Railways and propose to dispose off this application finally with his assistance. The applicant was for some time a casual labour working as Gangman but had his services terminated on the ground of having been found medically unfit. Certificate



of the Medical Superintendent certifying lack of fitness is produced by the applicant at Annexure B. The learned Standing counsel has produced the original certificate as well. It is seen therefrom that the applicant on medical examination was found unfit and the learned Standing Counsel says that it is deficiency in distant vision. However, the applicant on his own has produced a medical certificate issued by the Civil Surgeon, Sholapur, certifying that he is physically and mentally fit for duties, his vision is OK, etc.

2. The chief complaint made in this application is that his medical examination by the Railway Surgeon was perfunctory and he had been disbanded illegally even though he is fit.

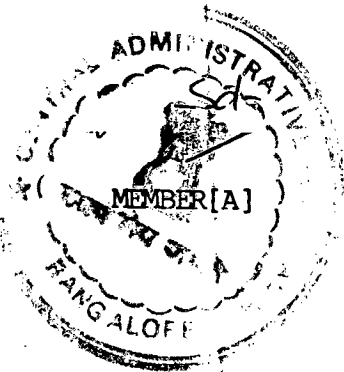
3. Now that we find there is a certificate produced by the applicant testifying that he is medically fit contrary to the medical certificate issued by the Railway Surgeon, it seems to us that this is a fit case in which a Medical Board should be constituted for examining the applicant anew.

4. Standing Counsel tells us that there is a provision in the Railway Rules enabling the constitution of an Appellate Board [Medical] for examining candidates like the applicant. As a matter of fact the grievance made by the applicant is that in the light of the certificate produced on his behalf, the authorities should have taken the step of directing him to appear before the Chief Medical Officer or somebody even senior to the Medical Supdt. who had issued the disability certificate. We hereby treat this as a motion by the applicant for seeking further consideration of his medical fitness by a superior body.

5. Accordingly we direct the respondents to ensure examination

of the applicant by a medical board duly constituted under the rules. On receipt of the opinion of the medical board, the authorities will reconsider the question of continuing the applicant in service further.

6. With these observations this application is disposed off at the admission stage itself. Let a copy of this order be sent to the railway authorities for reference and compliance. The medical examination and further action to be taken thereafter shall be done within a period of 3 months subject of course the applicant making himself available for further examination by the Board.



Sd-
VICE-CHAIRMAN

TRUE COPY

Sd. Shankar
2/2/94
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

OA 480/93 ✓

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE BENCH

REVIEW APPLICATION NUMBER 8 OF 1994

TUESDAY, THIS THE 20TH DAY OF SEPTEMBER, 1994.

Mr. Justice P.K. Shyamsundar,

.. Vice-Chairman.

Mr. V. Ramakrishnan,

Member.

Sikandar Mehaboob Kolar,
Aged about 22 years,
Occupation: Ex-Gangman,
Now at Hotgi Railway Station,
Hotagi Post, South Sholapur Taluk,
District Sholapur.

.. Applicant.

(By Advocate Shri Ashok R. Kalyana Shetty)

v.

1. The Union of India,
by its Under Secretary to Government,
(Railways) Railway Bhavan, New Delhi.

2. The Chairman,
South Central Railway,
Railway Nilayam, Secunderabad.

3. South Central Railways by its
Manager, Divisional Office,
South Central Railways, Hubli.

4. Permanent Way Inspector,
South Central Railways, WATHAR.

.. Respondents.

(By Standing Counsel Shri N.S. Prasad)

ORDER

Mr. Justice P.K. Shyamsundar, Vice-Chairman:-

We have heard Mr. Ashok R. Kalyana Shetty for the review applicant and Shri N.S. Prasad, learned Standing Counsel for Railways. The applicant who was working as a casual labour/-Khalasi was found unfit for continuance in that post which was classified as B1 category and as a result his services were terminated on grounds of medical unfitness. It transpires that in the usual course he had to take a medical test and thereat it transpired that he was unable to detect colour or in other words he was suffering from colour blindness. In that situation

the Railways/employers (herein the respondents) found it necessary to terminate his services which was ordered accordingly. From that order the applicant came up before us in original application - O.A.No.480 of 1993 which stood disposed of on 19-1-1994 with some observations on the basis of which he became entitled to a second examination by a Medical Board. Even there, it now transpires, he did not make the grade and now stands officially disqualified for continuance in the B1 category post. But, Mr. Shetty tells us that if he is not qualified for a B1 category post, he should be considered to a C1 category post and as a matter of fact that appears to be also one of the prayers in the review application. But, we find for filling in a C1 category post he must necessarily have put in 6 years of service and it is not denied but admitted that he does not have the qualifying tenure of 6 years to his credit and therefore he cannot urge for placement in the C1 category. But, Mr. Shetty, however, continues to urge that if not to C1 his client may be considered to any other post to which he is found suitable. While we do sympathise with the plight of the applicant, we however do not know whether any kind of fitment is possible at all in the case of the applicant. What we can possibly do and indeed do is to reserve liberty to the applicant to make a representation to the Railway administration to provide him with some occupational opportunity in any capacity whatsoever that is within the control and administration of the Railways. If the applicant makes such a representation within one month from this day, the Railway administration will do well to consider the same and see how best his condition can be ameliorated. With these observations the review application stands rejected. No costs.

TRUE COPY

Sdr

MEMBER(A)

Section Officer

Central Administrative Tribunal

Bangalore Bench
Bangalore

Sdr

VICE-CHAIRMAN