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**Central Administrative Tribunal**  
HYDERABAD BENCH : AT HYDERABAD

O.A. No. 954 of 1989.  
~~T.A. No.~~

Date of Decision :

\_\_\_\_\_ Petitioner.  
\_\_\_\_\_ Advocate for the  
petitioner (s)  
Versus  
\_\_\_\_\_ Respondent.  
\_\_\_\_\_ Advocate for the  
Respondent (s)

CORAM :

THE HON'BLE MR. J. NARASIMHA MURTHY : MEMBER (JUDICIAL)

THE HON'BLE MR. R. BALASUBRAMANIAN : MEMBER (ADMINISTRATIVE)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?
5. Remarks of Vice Chairman on columns 1, 2, 4  
(To be submitted to Hon'ble Vice Chairman where he is not on the Bench)

(JNM)  
M(J)

(RBS)  
M(A)

MD

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :  
HYDERABAD BENCH : AT HYDERABAD :

O.A.No.954/89.

Date of Judgment: 21-8-1990.

M.Panduranga

...Applicant

Vs.

- 1. F.A. & CAO, Rail Nilayam,  
South Central Railway,  
Secunderabad.
- 2. General Manager, Rail Nilayam,  
S.C.Railway, Sec'bad.
- 3. Union of India, represented by  
Secretary, Ministry of Railways,  
New Delhi.

...Respondents

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Counsel for the Applicant : Shri B.N.Sarma, Advocate

Counsel for the Respondents : Shri N.R.Devarej, SC.for Rlys

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CORAM:

HON'BLE SHRI J.NARASIMHA MURTHY : MEMBER (JUDL)

HON'BLE SHRI R.BALASUBRAMANIAN : MEMBER (ADMINISTRATIVE)

(Judgment of the Division Bench delivered by  
Hon'ble Shri R.Balasubramanian, Member(A)).

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has been

This application/ filed by Shri M.Panduranga

under section 19 of the Administrative Tribunals Act,  
1985 against the F.A.& C.A.O., S.C.Railway, Secunderabad  
and two others. The applicant who is a B.Sc., graduate,  
applied for a job in the Railways in 1982 under the  
physically handicapped persons quota and his name was  
sponsored by the Employment Exchange, Warangal. His  
Application was against the physically handicapped persons  
quota. He was selected and given an offer of appoint-

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ment subject to being found medically fit. The applicant was medically examined, but did not get any communication from the respondents. On personal enquiries he learnt that he was declared unfit because the team which examined noted some murmur in his heart. The applicant approached Dr. Brahmaji Rao, Heart Specialist who gave a certificate on 11-2-1986 that the applicant is fit for employment in Railways. The applicant represented to the Higher Authorities requesting them to appoint him as an Accounts Clerk but so far they have not taken any action. He has approached this Tribunal with a prayer that he be appointed as Accounts Clerk in the Railways.

2. The respondents oppose the prayer. It is their case that as early as in 1986 he knew about his being declared unfit on medical grounds, but has chosen to approach the Tribunal only in 1989. The respondents contend that the case is hit by limitation.

3. It is also contended by the respondents that all that the applicant did <sup>was</sup> ~~that~~ only to produce a certificate from Dr. Brahmaji Rao, heart specialist, but he had not moved ~~to~~ the Railways for a re-examination of his case in accordance with the Indian Railway Establishment Manual Rules. They therefore contend that the case should be dismissed.

4. We have examined the case and heard the learned contd...3.

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counsel for the applicant Shri B.N.Sarma and Shri N.R.Devaraj, learned standing counsel for the respondent railways. No doubt the applicant knew that he was declared unfit soon after the examination by the Medical Board, when he appended his signature on the medical certificate, which was issued by the Medical Board. Though he did not know the grounds he should have immediately taken-up the matter with the Railways for re-consideration. There is a provision for such a re-consideration in para 1020 of the I.R.E.M. If the government is not satisfied on the evidence produced by the candidate concerned of the possibility of an error of judgement in the decision of the examining medical authority, it will be open to the Railway Authorities to allow re-examination. However, such evidence should be submitted within one month from the date of communication, in which the decision of the first Medical authority was communicated to the candidate. Otherwise no request for an appeal for medical re-examination will be considered. It was only as late as on 2-11-1988 that the respondents replied to one of the letters sent by the applicant stating that the applicant could not be considered for a job in view of the fact that he was declared medically unfit. The respondents ought to have seen that no formal communication was addressed to the applicant to give him an opportunity to represent within one month time limit stipulated in para 1020(a) of I.R.E.M. On the other

contd...4..

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hand<sup>the</sup> respondents argued that the applicant knew about it when he appended his signature on the certificate issued by the Railway Medical Authorities. It is not a substitute to a formal notice/communication from the respondents to enable the applicant to approach the Railway Authorities for reconsideration. There is another condition to be satisfied i.e., according to the I.R.E.M., the candidate while seeking reconsideration should produce evidence about the possibility of an error of judgment and this should be in the form of a certificate from other registered medical practitioner which should specifically mention that the certificate was given in full knowledge that he has already been rejected as unfit for service by the Railway Medical Authority. In this case, the applicant had produced a certificate from Dr. Brahmaji Rao, a noted heart specialist, which indicates that he is fully aware of the fact that the applicant had not been found fit by the Railway Medical Board.

5. The time limit of one month is not insignificant. If a candidate is re-examined medically after a long lapse, there may be a change in his state of health and the result may not be <sup>a</sup> true reflection of what it was at the time of the first examination. In this case, the first medical examination was in January, 1986 and the applicant approached the respondents for relief in March, 1986. This is not likely to alter his state of health substantially although by a strict application of the rule it could be rejected.

*Handwritten initials/signature*

To

1. The F.A. & CAO, Railnilayam,  
South Central Railway, Secunderabad.
2. The General Manager, Railnilayam,  
S.C.Railway, Secunderabad.
3. The Secretary, Union of India,  
Ministry of Railways, New Delhi.
4. One copy to Mr, B.N.Sarma, Advocate  
3-6-779, Himayatnagar, Hyderabad.
5. One copy to Mrs N.R.Devraj, SC for Rlys, CAT.Hyd Bench.
6. One copy to Mr.J.Narasimha Murty, Member(J) CAT.Hyd.Bench.
7. One copy to Mr.R.Balasubramanian, Member(A) CAT.Hyd.Bench.
8. One spare copy.

pvm.

D/O D.  
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6. Taking all these factors into account and keeping in mind that the applicant is a physically handicapped person and <sup>that</sup> he is applying only for the post of Accounts Clerk, which does not entail exacting physical requirements, we feel that it is a fit case for medical re-examination. The earlier medical examination as indicated in the counter affidavit was conducted by a team consisting of DMO/Oph.DMO/Phyn. and DMO/Ortho. We direct that the Railway Authorities constitute a new team including at least one heart specialist for re-examining the applicant for appointment against the physically handicapped quota. In the event of his being found fit, he may be offered employment against an existing vacancy or any immediate vacancy arising. It may however be made clear to the applicant that his appointment counts only from the date when he actually assumes charge and not against the original date of selection.

7. With these directions we dispose of the application with no order as to costs.

*MS*

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( J. NARASIMHA MURTHY )  
Member (Judl).

*R. Balasubramanian*  
( R. BALASUBRAMANIAN )  
Member (Admn).

Dated 21-8-90.

*Dr. V. S. S. S. S.*  
DEPUTY REGISTRAR (JUDL)