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Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 91/89

Date of Decision : 21.4.1991.

T.A.No.

C. Rajasekhar Reddy

Petitioner.

Sri P. Veera Reddy

Advocate for the
petitioner (s)

Versus

The Dy. Chief Mechanical Engineer, Respondent.
S.C.R., Tirupathi

Mr. N. R. Deva Raj, SC for Railways Advocate for the
Respondent (s)

CORAM :

THE HON'BLE MR. B.N. JAYASIMHA, VC

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

1. Whether Reporters of local papers may be allowed to see the Judgement? As
2. To be referred to the Reporter or not? As
3. Whether their Lordships wish to see the fair copy of the Judgment? As
4. Whether it needs to be circulated to other Benches of the Tribunal? As
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)

bni
(HBNJ)

hjnm
(HJNM)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT : HYDERABAD

O.A. No. 91/89

Date of order: 4.4. 1991.

Between

C. Rajasekhar Reddy

.. Applicant

Vs.

The Dy. Chief Mechanical Engineer,
(South Central Railway,),
Carriage Repair Shop,
Tirupathi.

.. Respondent

Appearance

For the applicant

: Shri P. Veera Reddy, Advocate

For the respondent

: Shri N.R. Deva Raj, S.C., for
Railways

Coram

THE HON'BLE SHRI B.N. JAYASIMHA, VICE CHAIRMAN

THE HON'BLE SHRI J.NARASIMHA MURTHY, MEMBER(J)

(Contd....)

bns

(Judgement of the Bench delivered by Hon'ble Shri B.N.
Jayasimha, Vice Chairman)

The applicant is aggrieved by the order issued by the Deputy Chief Mechanical Engineer, C.R.W., Tirupathi in TR/P.563/DR/Sk/Mech. dt. 23.6.1988 and TR/P.563/DR/Sk. Mech/CAT dt. 1.12. '88, stating that he has been found medically unfit for appointment to the post of skilled artisan.

2. The applicant states that he had undergone 2 years training course in I.T.I Fitter during the period 1980-82. He also underwent training as a Fitter Instructor in the Advanced Training Institute, Vidyanagar, Hyderabad in the year 1984-85. He was sponsored by the Employment Exchange, Cuddapah for the refresher course and underwent the course in the trade of fitter during the period 24.9.83 to 3.11.83 at I.T.I., Kurnool. The respondent issued an employment notice No.1/84 on 18.1.84 inviting applications from eligible candidates for recruitment to the post of skilled artisan in the scale of Rs.260-400/- in carriage repair shop at Tirupathi. The qualifications prescribed to the post are that one should be between 18 years to 25 years of age as on 1.1.'87 and they should have passed 8th Standard and certificate course of I.T.I., in the concerned trade. He must have also completed and possessed specified course for act apprentice. The applicant states that he possesses all the required qualifications. He suffers from a partial disability of his leg and that there was no condition in the advertisement that those persons who are physically handicapped are not eligible for applying to the post. The applicant was allowed to sit for written examination and

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(Contd....)

oral interview and aptitude, and he secured 63% of the maximum marks in the written test. He was called for viva voce test and he was successful in viva voce also. The respondent by proceedings No. TR/P.563/DR/Skilled dt. 29.6.87 informed the applicant that he has been selected for appointment to the post of skilled artizan on temporary basis stipulating a condition that he has to pass the necessary medical examination before appointment. The applicant was examined medically and was declared medically unfit. Thereafter the respondent issued the impugned order No. TR/P.563/DR/Sk.Mech dt.23.6.'88 cancelling the appointment orders issued. Aggrieved by this order the applicant has filed this application.

3. The respondent filed a counter stating that in the advertisement calling for the applications for the post of Skilled Artisan dt.18.1.84 the following was mentioned.

"PHYSICAL STANDARD

Candidates ^{Selected} will be required to pass the prescribed medical examinations as per rules of the Railway."

As per the rules of Railways, the Department has recruited only persons who are medically fit. Against the order of the A.D.M.O., declaring him physically unfit the applicant did not make any appeal enclosing the opinion of other Doctors within the stipulated time as per rules. It is only in the O.A., that the applicant states that two experts viz., 1) Dr. K. Ranga Rao and another Doctor R.H. Chowdhari have certified the applicant to be fit to discharge the function of a Fitter. He did not furnish these certificate to the authorities concerned. Even in his representation sent through his advocate in Nov.1988 he never made any mention about the opinions of these Doctors. He also did not enclose these certificates.

b/w

The contention of the applicant that another candidate by name Sri Umamaheswara Rao, who was selected along with him is more disabled is not relevant. Shri Umamaheswara Rao was found medically fit by the prescribed authority viz., Asst. Medical Officer, Renigunta. The post of Fitter is not a sedentary job and he has to move from one place to another and to work with moving machines. The respondent therefore opposes the application.

4. We have heard Shri P. Veera Reddy, learned counsel for the applicant and Shri N.R. Deva Raj, Standing Counsel for Railways. The main arguments of Shri Veera Reddy is that the applicant had successfully undergone the apprentice course and his physical disability did not come in the way of his qualifying in the apprentice course. He therefore contends that the action of the respondents in rejecting him on medical grounds is arbitrary. Shri Deva Raj contends that a medical examination is compulsory for all candidates, even to persons who were not physically handicapped. The medical examination is intended to ascertain the physical fitness of the candidates for the jobs they are required to perform. Persons who are not physically handicapped but otherwise found unsuitable by the Medical Board are not offered appointment. He therefore states that the fact that the applicant was admitted to apprentice course and he has qualified in the same does not automatically imply that he is physically fit for the job proposed to be filled. The job itself entails movements from place and working amidst moving machines. The Medical Board has to assess every candidates physical fitness for the specific job. Separate posts are earmarked for physically handicapped persons, keeping the safety and other aspects

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WJ

We have considered these rival contentions. Admittedly the applicant is physically disabled and the Medical Board after examining has come to the conclusion that he is not fit for appointment to the post in question. In selecting the candidates, the safety requirements have to be taken into consideration. The contention that the applicant has arbitrarily been rejected is therefore without any merit.

In the result, we dismiss the application.

No order as to costs.

B.N.Jayasimha

(B.N. JAYASIMHA)
VICE CHAIRMAN

N.S.

(J. NARASIMHA MURTHY)
MEMBER (JUDICIAL)

Dated 4th April 1991.

Devaraj
8/4/91
DEPUTY REGISTRAR (J)

Mvs.

TO:

1. The Deputy Chief Mechanical Engineer, (south central Railway), Carriage Repair ^{work} Shop, Tirupati.
2. One copy to Mr. P. Veera Reddy, Advocate, 10-1-18/16, Shyam nagar colony, Hyderabad-500 004.
3. One copy to Mr. N. R. Devaraj, SC for Railways, CAT, Hyderabad.
4. One spare copy.
5. One copy to Hon'ble Mr. J. Narasimha Murthy, Member: (J) CAT., Hyderabad. . . .

pvm.

Subba Rao
8/4/91