

Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 439/91.

Date of Decision : 28-4-92

~~T.A.No.~~

D.V.S.Siva Prasad Petitioner.

Shri N.Ram Mohan Rao Advocate for the
petitioner (s)

Versus

Union of India, Rep. by its Secretary, Respondent.
Railway Board, New Delhi & 3 others

Shri N.R.Devaraj, SC for Railways Advocate for the
Respondent (s)

CORAM :

THE HON'BLE MR. R.Balasubramanian : Member(A)

THE HON'BLE MR. C.J.Roy : Member(J)

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes.
2. To be referred to the Reporter or not? Yes.
3. Whether their Lordships wish to see the fair copy of the Judgment? No
4. Whether it needs to be circulated to other Benches of the Tribunal? No
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)

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M(A).

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HCJR
M(J).

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.439/91.

Date of Judgement 28-1-92

D.V.S.Siva Prasad

.. Applicant

Vs.

1. Union of India,
Rep. by its Secretary,
Railway Board,
New Delhi.

2. The General Manager,
Central Railways,
Bombay.

3. The Divl. Rly. Manager,
Central Railway,
Nagpur.

4. Chief Medical Supdt.,
Railway Hospital,
Nagpur.

.. Respondents

Counsel for the Applicant : Shri N.Ram Mohan Rao

Counsel for the Respondents : Shri N.R.Devaraj, SC for Rly

CORAM:

Hon'ble Shri R.Balasubramanian : Member(A)

Hon'ble Shri C.J.Roy : Member(J)

[Judgement as per Hon'ble Shri R.Balasubramanian, Member(A)]

This application has been filed by Shri D.V.S.Siva Prasad under section 19 of the Administrative Tribunals Act, 1985 against the Union of India, Rep. by its Secretary, Railway Board, New Delhi & 3 others, praying for a direction to the respondents to appoint the applicant as a Probationary Guard.

2. The applicant responded to Employment Notice No.2/88 issued by the Railway Recruitment Board, Bombay. He was selected and intimated of the fact vide Railway Recruitment Board, Bombay letter dt. 29.11.90. He was subsequently examined medically and eventually disqualified as he was suffering from slight stammering. The applicant represented against this without success and hence this application.

3. The respondents have filed a counter affidavit and oppose the application. It is admitted that the applicant was duly selected and recommended by the Railway Recruitment Board but was found medically unfit since he did not possess the required level of medical fitness. According to them, the Chief Medical Supdt., Railway Hospital, Nagpur examined him with reference to A-2 standard and he was not considered fit. It is their case that according to item 5 of para 511 of the Indian Railway Medical Manual stammering is a disqualification. Hence, their cancellation of the selection of the applicant for the post of Guard.

4. We have examined the case and heard the rival sides. It is stated by the applicant that the medical standard required and indicated in the Employment Notice was A-2 without glasses. It is the contention of the applicant that stammering is not ^{shown} ~~listed~~ as a disqualification in the A-2 standard. It is his contention that he fully meets the medical requirements of A-2. On the other hand, the respondents contend that stammering is a disqualification and quote item 5 of para 511 of the Indian Railway Medical Manual. From the extract of this para furnished by the respondents at page 3 of the counter affidavit we find that stammering is not to be considered a serious defect disqualifying a candidate if ^{he} ~~they~~ do not have to come in direct contact with the public. A Guard of a train does not come in direct contact with the public in the normal course unlike Counter Clerks, Ticket Examiners and those in the Public Relations Department. Therefore, para 511 of the Indian Railway Medical Manual does not come in the way of the applicant being selected. We have only to see whether A-2 standard prescribed for the post and indicated

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To

1. The Secretary, Union of India, Railway Board, New Delhi.
2. The General Manager, Central Railways, Bombay.
3. The Divisional Railway Manager, Central Railway, Nagpur.
4. The Chief Medical Superintendent,
Railway Hospital, Nagpur.
5. One copy to Mr.N.Rammohan Rao, Advocate, CAT.Hyd.
6. One copy to Mr.N.R.Devraj, SC for Rlys, CAT.Hyd.Bench.
7. Copy to All Reporters as per standard list of CAT.Hyd.
- 8 One copy to Deputy Registrar(J)CAT.Hyd,Bench.
9. One spare copy.

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in the Employment Notice disqualifies a person with stammering and that too slight and only in the initial stages of speech as certified not by one doctor but by two doctors - Dr. Bahadur and Dr. Anil Sastry. For this purpose, we have asked the learned counsel for the respondents to produce a copy of the A-2 standard which he promised to produce before 7.4.92. Shri N.R.Devaraj, learned counsel for the respondents could only produce the Indian Railway Medical Manual which we have referred to in the previous para. He also drew our attention to the A-2 standard which we have perused. The A-2 standard ~~show~~ refers only to vision and is silent on the speech requirement let alone stammering. In view of this and in the face of the contention of the applicant that the A-2 standard does not specify stammering as a disqualification, we have to proceed on the assumption that stammering is not a disqualification according to the A-2 standard. Since the Railways have indicated a certain medical standard, it is not for them to go back on this. It is contended by them that the Honorary Physicians do not know the nature of the job of a Guard and also the standard of medical fitness required of a person for a particular job. If that is the case, why should the Chief Medical Supdt., of the Railway Hospital, Nagpur refer the cases at all to these two doctors only to obtain their opinion and then disregard the same when it did not fall in line with his thinking? We cannot help remarking that the case had been dealt with in a cavalier fashion by the Railway and we consider that the action of the Railways in this case is indefensible. We, therefore, hold that the applicant fulfils the requirement of the medical standard of the Railways. We direct the respondents to depute the applicant for the next training class in the Zonal Training Centre, Bhusaval and consider appointing him in accordance with the rules. There is no order as to costs.

R. Balasubramanian
(R.Balasubramanian)
Member(A).

C. J. Roy
(C.J.Roy)
Member(J).

Dated: 28th April, 1992.

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