

(23)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : AT HYDERABAD

DA 48/94.

Dt. of Order:31-1-94.

S.Lakshminarayana

...Applicant

Vs.

1. General Manager,
SC Rlys, Rail Nilayam,
Sec'bad.
2. Chief Medical Officer, SC Rlys,
Rail Nilayam, Sec'bad.
3. Sr.Divisional Personnel Officer,
Sec'bad Division, Broad Gauge,
SC Rlys, Sec'bad.
4. Chief Hospital Superintendent,
Lalaguda Hospital, SC Rlys,
Sec'bad.

...Respondents

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Counsel for the Applicant : Shri S.Lakshma Reddy

Counsel for the Respondents : Shri C.V.Malla Reddy

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CORAM:

THE HON'BLE JUSTICE SHRI V.NEELADRI RAO : VICE-CHAIRMAN

THE HON'BLE SHRI R.RANGARAJAN : MEMBER (A)

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...2.

DA 48/94
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O.A.No.48/1994.

Date: 31.1.1994

J U D G M E N T

[as per Hon'ble Sri R.Rangarajan, Member(Administrative)]

The applicant who is working as Jeep Driver from the year 1969 under the control of Divisional Signal and Telecommunications Engineer (D.S.T.E.) (Micro-wave/Maintenance) was taken on sick list on 8.6.1993 after he has developed giddiness and slight convulsion at the time of resumption of his work on that day. The on-duty Doctor ~~of the~~ South Central Railway Hospital, Lalaguda examined the Blood-pressure of the applicant which was found normal but he was kept under observation for five days. After the observation period he was made fit for sedentary type of duties only and the authorities decided to keep him away from driving and machinery. He applied for review of his ^{medical classification} before the medical authorities. When he was examined by one Dr.R.Narsimha Murthy, who had earlier also examined him, he had confirmed the earlier report. Against this, the applicant represented to R-2. R-2 had constituted a Medical Board consisting of Dr.R.Narsimha Murthy, Dr.P.N.Rao and Dr.Sreedhar. Dr.R.Narasimha Murthy who had earlier recommended for Sedentary type of duties was also a Member of the Medical Board. The committee so constituted also confirmed the earlier report and advised R-3 accordingly. In the meanwhile the applicant was checked up himself with Expert Doctors in Gandhi Hospital as well as Nizam's Institute of Medical Sciences (NIMS). It is averred by the applicant that all the expert doctors found that the applicant had suffered

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22/9/94

only a slight convulsion which is non-epileptic and disagreed with the findings of the Railway Hospital. In view of this, the applicant once again made a representation to R-1 bringing to his notice of the facts including the findings of the Government Hospital and the manner in which he was examined by the same Doctor in the Railway Hospital. The said representation was forwarded pursuant to which the applicant was once again referred to a Medical Board consisting of the same two Doctors viz. Dr.R.Narsimha Murthy and Dr.Sreedhar. ~~In place of~~ Dr.P.N.Rao was replaced by Dr.Rama Rao, the Chief Hospital Superintendent, Railway Hospital, Lalaguda. The examination as alleged by the applicant was done by Dr.R.Narsimha Murthy, who has explained the case to other Doctors and the earlier report given by the panel of doctors was once again confirmed. The applicant states that there is no finding in regard to the different opinion taken by the Doctors of Gandhi Hospital. The applicant also further states that apart from making him fit^{only} for Sedentary duties ~~as~~ he is also visited with social and personal stigma because of the above findings. It is also stated that Dr.R.Narsimha Murthy ~~is~~ is biased against him and he influenced others to stick to his view in ~~regarding~~ making him fit only for Sedentary duties and make him unfit for being kept as Driver. The applicant further states that neither himself nor his forefathers suffered from 'Fits' or 'Epilepsy' and the finding of the medical board is without proper examination of the applicant. Under these circumstances he has filed this O.A. for declaration that the Medical Examination and

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the findings by the Medical Board in making him unfit to drive due to epileptic disorder through the impugned letters No.MD/84/1/Vol.22 dt. 30.9.1993 and No.Nil dated 11.1.1994 of 2nd respondent and Medical Superintendent, Office of the Chief Hospital Superintendent, Lalaguda Hospital, South Central Railway, Secunderabad respectively and the consequential action taken by R-3 for posting him

principles of natural justice and as such to set aside the same and further direct the respondents to send the applicant for re-medical examination by any Government Hospital other than the Railway Hospital.

2. The main contention of the applicant is that Dr.R.Narsimha Murthy, who had initially issued the medical certificate dt. 9.6.1993 was in the Medical Board when he ~~was~~ ^{on} subsequent two occasions on the basis of the instructions of R-2. The applicant also alleged bias against Dr.R.Narsimha Murthy who examined as Member in all the Medical Boards constituted to examine the applicant.

3. The principles of natural justice demands that no one should sit on judgment in his own case or ^{now} review the orders passed by him in any other case. In this case it is seen that Dr.R.Narsimha Murthy expressed his opinion and submitted the medical report initially when the applicant was referred to him on 8.6.1993 and later when he was nominated as Member of the Medical Board by R-2. Similarly Dr.Sreedhar was in the Medical Board twice and reviewed his own earlier report. This goes against the principles of natural justice as stated supra. It is also seen that the

Copy to:-

1. General Manager, SC Railways, Rail Nilayam, Secunderabad.
2. Chief Medical Officer, S.C.Railways, Railnilayam, Sec'bad.
3. Sr. Divisional Personnel Officer, Sec'bad Division, Broad Guage, S.C.Rlys, Sec'bad.
4. Chief Pospital Superintendent, Lalaguda Hospital, S.C.Rlys, Secunderabad.
5. One copy to Sri. S.Lakshma Reddy, Sec'bad.
6. One copy to Sri. C.V.Malla Reddy, Addl. CGSC, CAT, Hyd.
7. One copy to Library, CAT, Hyd.
8. One spare copy.

6/12/74
P. S. S. S. S.
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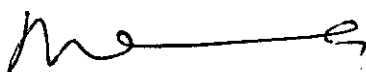
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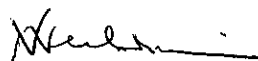
applicant alleged some bias against Dr.R.Narsimha Murthy because of some incidents and expressed reservations in regard to his medical examination and report thereof. The applicant also stated that he had underwent medical examination by expert Doctors of Gandhi Hospital and Nizams Institute of Medical Sciences (NIMS) who have differed in their opinion with the report in regard to his case. It is also stated that this different view was not taken note of by Railway Medical Board. Under the circumstances we feel that, to uphold the principles of natural justice, the following directions will be fit and proper.

4. ^{has to} The accompanying order is set aside.

4. A fresh Medical Board be constituted by R-2 wherein the Doctors who had examined the applicant earlier are not members. The Medical Board so constituted shall examine the applicant taking note of the opinion expressed by Expert Doctors of Gandhi Hospital and Nizams Institute of Medical Sciences (NIMS) and the documents, if any, submitted by the applicant in support of the same. On the basis of the fresh examination and after going through the documents in regard to the opinion expressed by the Expert Doctors of Gandhi Hospital and NIMS if submitted by the applicant, the fresh Medical Board has to submit its report regarding his medical fitness to R-3, within three months from the date of receipt of the copy of this judgment.

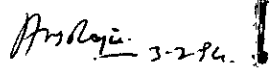
5. The O.A. is ordered accordingly at the admission state. No costs.


(R. Rangarajan)
Member (Admn.)


(V. Neeladri Rao)
Vice-Chairman

Dated 31st January, 1994.

Grh.


Dr. Registrar (Addl.) CC

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TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE-CHAIRMAN

THE HON'BLE MR. A. B. GORTHI : MEMBER(A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY
MEMBER(J)

AND

THE HON'BLE MR. R. RANGARAJAN : MEMBER(A)

Dated:

31/11-1994

ORDER/JUDGMENT:

M.A./R.A./C.A.No.

O.A.No.

in
48794

T.A.No.

(W.P.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions of administrative

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Rejected/Ordered.

No order as to costs.

pvm

