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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A. 1205/95.

Dt. of Decision 19-10-95.

Mrs. Rajinidevi

.. Applicant.

Vs

1. Sr. Accounts Officer (Admn.)
Indian Audit and Accounts Department,
O/o the Accountant General (A&E),
Andhra Pradesh, Hyderabad-500 463.

2. The Regional Medical Board,
Rep. by the Superintendent,
Gandhi Hospital,
Secunderabad.

.. Respondents.

Counsel for the Applicant : Mr. J.C. Francis

Counsel for the Respondents : Mr. G. Parameswara Rao,
Addl. CGSC.

CORAM:

The Hon'ble Shri Justice V. Neeladri Rao : Vice Chairman
The Hon'ble Shri A.B. Gorthi : Member (Admn.)

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O.A.NO.1205/95.

JUDGMENT

Dt: 19.10.95

(AS PER HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN)

Heard Shri J.C.Francis, learned counsel for the applicant and Shri G.Parameswara Rao, learned standing counsel for the respondents.

2. The applicant is Senior Accountant in the office of R-I. She applied for invalidation on medical grounds. Then she was referred to the Medical Board appointed by the Superintendent, Gandhi Hospital, Secunderabad. The applicant was informed by the letter No.Admn.I/A&E/IV/8-131/95-96/23, dated 18.8.1995 that the Medical Board found her fit and hence she was asked to report to duty forthwith. But the applicant had not reported for duty and she applied for leave. She filed this OA on 14.9.95 praying for quashing the proceedings dated 18.8.95 referred to supra and for consequential direction to the respondents to constitute a separate Medical Board for examination of the application.// Para 7(1) under Part 'D' of Document No.124 of Ministry of Finance Est.(Spl.) G.I., M.H., O.M.No.F.7(1)-27/51-M.II, dated the 18th January, 1952, and G.I., M.H.A., Endt.No. 38/5/52.Ests., dated the 1st February, 1962, read with G.I., M.H., O.M.No.F.5(11)-45/56, M.II, dated the 17th November, 1956, received with G.I., M.F., O.M.No.F. 43(20)-E. V/56, dated the 28th November, 1956 referred to at Pages 307 and 308 of Swamy's Compilation of FR & S 12th Edition of 1994, states that "Ordinarilly there is

no right of appeal from the findings of an examining medical authority; but if Government are satisfied on the evidence placed before them by the candidate concerned of the ~~xxx~~ possibility of an error of judgment in the decision of the examining medical authority it will be open to them to allow re-examination." But the above OMs are in regard to a case where Medical Board/District Medical Officer/Civil Surgeon found the employee unfit for retention in service. We feel that it is just and proper to hold that the said OMs are applicable even in case of a finding by the Medical Board/District Medical Officer/Civil Surgeon finding the employee fit, in case where the employee seeks invalidation on medical grounds.

3. Hence, if the applicant feels that there was an error of judgement in the decision of the Medical Board which examined her, then she has to produce a fresh x evidence before the respondents and then it is for the respondents to decide whether it is a case for examination by another Medical Board or not. It is needless to say that such a decision of the Government will be subject to judicial review.

4. In the result, the OA is disposed of as under at the admission stage:-

As and when the evidence as contemplated in the ^{endorsement} ~~OM~~ dated 1.2.1962 ^{V/W 657 dated 18.1.1952} is produced before the respondents, necessary decision has to be taken by the

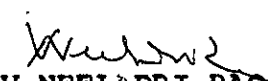
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.. 4 ..

concerned respondent within one month from the date of receipt of that evidence from the applicant. In the meanwhile, applica^{-tion} of the applicant for leave already applied or going to be applied, has to be considered. If the applicant is not going to submit the evidence as referred to, by 30.11.1995, this OA stands dismissed.

5. The OA is ordered accordingly at the admission stage. No costs.//


(A.B.GORTHI)
MEMBER (ADMN.)


(V.NEELADRI RAO)
VICE CHAIRMAN

DATED: 19th October, 1995.
Open court dictation.


Deputy Registrar(J)CC

vsn

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To

1. The Senior Accounts Officer(Admn.)
Indian Audit and Accounts Department,
O/o the Accountant General(A&E)
A.P.Hyderabad-463.
2. The ~~Regional Medical Board~~
Regional Medical Board,
Gandhi Hospital, Secunderabad.
3. One copy to Mr.J.C.~~Rao~~ Francis, Advocate,
3-3-389/B, Chappal Bazar, Hyderabad.
4. One copy to Mr.G.Parameswara Rao, SC for AG, CAT.Hyd.
5. One copy to Library, CAT.Hyd.
6. One spare copy.

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Urgent
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

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

AND

AB. Goyal

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

DATED: 19 - 10 - 1995

~~ORDER~~/JUDGMENT

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

in
O.A.No. 1205/95.

T.A.No. (W.P.No.)

Admitted and Interim directions
Issued.

Allowed.

Disposed of with directions.

Dismissed. *at the admission stage.*

Dismissed as withdrawn.

Dismissed for default.

Ordered/Rejected.

No order as to costs.

pvm.

No spare copy

Central Administrative Tribunal
DESPATCH
3 NOV 1995
HYDERABAD BENCH