

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.309/95.

Dt. of Decision : 9-3-98.

R. Bhaskar Naik

Applicant.

Vs



1. The Union of India Rep. by
the Chairman, Railway Board,
Rail Bhawan, New Delhi.
2. The General Manager, SC Rly,
Rail Nilayam, Sec'bad.
3. The Chief Personnel Officer,
SC Rly, Rail Nilayam,
Sec'bad.

.. Respondents.

Counsel for the applicant : Mr. N. Rama Mohan Rao for
Mr. N. Raman
Counsel for the respondents : Mr. N. R. Devaraj, Sr. OGSC.

CORAM:

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

THE HON'BLE SHRI B. S. JAI PARAMESHWAR : MEMBER (JUDL.)

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when he is promoted to the Group-A service. But the applicant is to be promoted only to Group-B service and there is no necessity of higher medical standard presuming that he will be promoted to the Group-A service subsequently. It is also stated that the ~~Asst. Managers are not required~~ applicant was not ~~asked to submit~~ competency certificate for using the trolleys on the railway line. Hence the rejection of his candidature for Group-B service on account of medical test is unwarranted and uncalled for and against the rules.

5. The main reason given by the respondents in the reply for not calling the applicant for viva-voce for the Group-B service in the commercial department when he had passed the written examination, is due to the fact that he did not fulfil para-531 of the IRMM which prescribes proper colour vision. The respondents further submit that as he did not possess the requirement of the colour vision, if he is subsequently considered for promotion to the Group-A service, he cannot be promoted to the Group-A service and hence he was debarred from getting promotion even to Group-B service as Group-B service is a feeder category for promotion to the Group-A service.

6. We thought that in case the applicant fulfills the conditions required for promotion to the Group-B service, even though he has not passed the test for colour vision, he may be promoted as such debarring him from the promotion to the Group-A service. In order to ensure proper discharge of duties, the applicant while working in Group-B service will not be put to such jobs which require fulfilment of the colour vision as per para-531 of the IRMM.

7. The promotions to the cadre of ACS/AOS in the commercial and the operating branches were by a common selection till 1983. Thereafter the selection was bifurcated and a separate examination ^{was} to be conducted for promotion to the post of Asst. Commercial Manager of the commercial department and the Asst. Operating Superintendent of the Operating Branch. When such a bifurcation is made, the applicant who is posted to the

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called for the viva-voce. The applicant submitted a representation dated 7-12-94 (Annexure-III) protesting for not calling him for viva-voce even though he ^{had} passed the written test in the examination held for promotion to the post of ACM in commercial department against 70% quota. His representation was rejected on the ground that he had not passed the prescribed medical examination held by the Railway medical authorities and hence he ^{was} not eligible to be called for viva-voce.

3. This OA is filed for setting aside the impugned order No.P/(GAZ)6070CON/Comm1./94, dated 29-12-94 (Annexure-V) and also challenging the medical examination conducted by Railway and instructions of the Railway Board issued in their letter No.E(GA)80/2/8 dated 31-10-91 (Annexure-IV) whereby relaxation of the prescribed standard for appointment to Group-B service post was withdrawn even for promotion on adhoc basis.

4. The main contention of the applicant in this OA is that there is no reason for subjecting the applicant to medical test earlier to the viva-voce. Only if he qualifies in the viva-voce and found fit for promotion to the Group-B service, then only he should be subjected to the medical examination. As he was subjected to the medical examination earlier to the conduct of the viva-voce the ^{same} procedure is irregular. Further, the applicant submits that he being a commercial officer, the question of prescribing the medical standard following the para-531 of the IRMM does not arise. He is not to supervise the work in open line involving moving on trolleys and safety inspection. He is also not required to view the signals and hence deficiency in the colour perception will not in any way hamper the day today duties. It is also stated in the reply that the respondents have failed him in medical test as the colour perception is necessary

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by going on the foot plate and watching the signal. If one has poor colour vision, he may not be able to perform that duty and he may not be posted as a Safety officer in the operating section. It is further stated that since an officer promoted as ACS and further on promotion to the senior scale even in Group-B has to perform the duties of the officers belonging to the operating branch, ~~Hence~~ ^e insistence on the colour perception in accordance with para-531 of the IRMM is essential even for a commercial employee to be promoted to ACS. It is further stated that Mr.Palaniyappan is not yet promoted to the Group-A service of the Transportation Traffic ^{and} ~~of the~~ commercial department. Even in Group-B service he has to perform the duties of operating officer.

9. The second case quoted by them is that of Sri A.Laxman Rao. The said officer while working as Chief Parcel Supervisor, Bezawada was promoted as ACS on 20-03-89. He was posted as Area Manager on 13-12-96 and he is at present working as Divl. Safety Officer on 1-12-97. In this case also the said officer though promoted as ACS initially was posted in the operating branch to perform the duties of Area Manager and Divl. Safety Officer. Hence they submit that the officers promoted to the ACS cadre from the lower Group-C cadre of the commercial branch must fulfil all the conditions in medical examination as laid down in para-531 of the IRMM.

10. From the above explanation it is evident that the Assistant Commercial officer though promoted from a lower grade of Group-C of the commercial department even before his promotion to the Group-A status is likely to be posted in the operating branch which requires fulfilment of the conditions laid down in para-531 of the IRMM. If that be the case, the applicant cannot escape the rigours of the medical examination as laid down

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commercial branch may not be required to perform the duties of the operating branch while in Group-B service either as an assistant officer or a senior scale officer. We thought that the medical standards may not be strictly applied to Group-B officers of the commercial branch on par with the Group-B officers of the Operating Branch for above reasons. In order to assess whether the commercial officer when promoted to Group-B service was asked to discharge the duties in the operating branch also while working in Group-B service, we asked the learned counsel for the respondents to check whether there exists any case wherein a Group-B officer of the commercial branch was asked to perform the ^{while working in Group B} duties of Group-A officer of the operating branch either in the Asst. Officers cadre or in the senior scale of the Group-B service.

8. To-day Mr. Yesu Padam, SPO (Gazetted) of the SC Railway and Mr. P. Soma Sundaram, Sr. Commercial Manager (Claims) of the SC Railway were present. They have quoted the cases of two officers viz., Sri S. Palaniyappan and Mr. A. Laxman Rao. Though they were selected as ACS in the commercial branch they were asked to perform the duties in the operating branch also when they were promoted to the senior scale Group-B service, that is, both of them were to perform the duties in the operating branch even though they were working in Group-B service and were not promoted to Group-A service. The details given by them in regard to those two officials are as follows:-

Mr. S. Palaniyappan while working as Chief Law Assistant was promoted as Asst. Commercial Manager on 6-11-89 on the basis of the selection held. He was promoted to Group-B senior scale and posted as Divl. Safety Officer, Guntakal on 8-12-97. The post of Divl. Safety Officer is in the cadre of the operating branch and this officer has to perform the safety check duties ~~by~~

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-531 of the IRMM when considered for promotion as Asst. Commercial Manager though he was borne on the Group-C cadre of the commercial branch. Hence it has to be held that the rejection of the case of the applicant for consideration to the post of ACM is in order *as he is not medically fit*.

11. The learned counsel for the applicant himself submitted that it may not be incorrect if the applicant is subjected to medical test even before the viva-voce as even if he is subjected to the medical test after the viva-voce, he cannot be promoted because of the deficiency in medical standards. Hence he did not question the procedure adopted by the Railways in subjecting the aspirant for the Group-B service to medical test before viva-voce. This is the view taken by us also in some other OAs. Hence, there is no need to further consider this point as the applicant himself accepts that he can be put to medical test before the viva-voce conducted for promotion to the post of Asst. Commercial Manager in the Group-B cadre of the Commercial Branch.

12. In view of what is stated above, we find no merits in this OA. Hence the OA is dismissed. No costs.

प्रमाणित तथा
CERTIFIED TO BE TRUE COPY

S. A. D.
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Court Officer/Dy. Register
केन्द्रीय प्रशासनिक निवारण
Central Administrative Tribunal
हैदराबाद न्यायपाल
HYDERABAD BENCH