

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No.41/99

Date of Order : 10.3.99

BETWEEN :

P.Kondaiah

.. Applicant.

AND

1. The Chief Medical Director,  
S.C.Railway, Secunderabad.2. The Chief Medical Superintendent,  
S.C.Railway, Vijayawada,  
Krishna District, A.P.

.. Respondents.

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Counsel for the Applicant

.. Mr.P.Venkateswarlu

Counsel for the Respondents

.. Mr.C.V.Malla Reddy

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CORAM :

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

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

- - -

O R D E R

X As per Hon'ble Shri R.Rangarajan, Member (Admn.) X

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Mr.P.Venkateswarlu, learned counsel for the  
applicant and Mr.Venugopal for Mr.C.V.Malla Reddy, learned  
standing counsel for the respondents.

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2. The applicant was initially appointed as Attender in the 2nd respondent hospital. He was promoted as Dresser Gr-II. While working as Dresser Gr-II he suffered from pain in Knees. He was granted one month medical leave. As per the opinion of the Doctors he was advised to undergo surgery. As per the findings of the medical board letter No.90/H/5/14 dated 15.10.92 <sup>it was</sup> ordered to refer the case to Jagjivan Ram Railway Hospital, W.Railway, Bombay for total knee replacement surgery since the Ortho specialist who examined the applicant has advised so in the case. Accordingly the applicant was referred to JagjivanRam Railway Hospital, W.Railway, Bombay where all the facilities for the surgery <sup>and</sup> ~~were~~ available. However the applicant discharged himself on 12.11.97 from the said hospital without the surgery as he did not <sup>give</sup> gave his willingness for the surgery.

3. Since he has not been paid pay and emoluments in December 1997 and has been continuing in the sick list he has filed this OA for declaring him as medically fit ~~and~~ <sup>and</sup> permit the applicant to join the duty as the Dresser Grade-II with salaries from 1.12.97 after calling for the records.

4. The respondents have stated that as per the medical board his case was recommended for unfitness for further railway service in all categories. But the final authority namely R-2 herein who has to approve the findings of the medical board in terms of Railway Board's letter No.90/H/5/14

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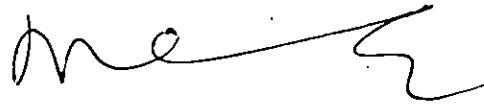
dated 15.10.92 ordered to refer the case to Jagjivan Ram  
~~Railway~~ Hospital, W. Railway, Bombay for total knee replacement  
 surgery since the Ortho specialist who examined the applicant  
 has advised so in this case. Though the applicant admitted  
 in Jagjivan Ram Railway Hospital, ~~he was~~ refused to give  
 willingness. *for surgery.*

5. No patient can be forced to undergo surgery without  
 his willingness. The applicant it appears is afraid of  
 surgery for the reasons best known to him. Hence it is  
 not proper to compel him to undergo surgery if he feels to <sup>that it is</sup>  
 his disadvantage. Hence R-2, <sup>should</sup> to reconsider his earlier decision  
~~and~~ in regard to the recommendations of the medical board  
 and advise the applicant suitably in this connection. If  
 R-2 decides that the recommendations of the medical board  
 should be adhered to then the applicant should be deemed to  
 have been medically unfitted for all categories in the railway  
 services w.e.f. the date of issue of the recommendations of  
 the <sup>Medical</sup> ~~Railway~~ Board. Time for compliance is 3 months from  
 the date of receipt of a copy of this order.

6. With the above direction the OA is disposed of.

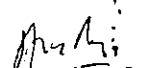
No costs.

  
 ( B.S. JAI PARAMESHWAR )  
 Member (Judl.)  
 10/3/99

  
 ( R. RANGARAJAN )  
 Member (Admn.)

Dated : 10th March, 1999  
 ( Dictated in Open Court )

sd

  
 12-388

Copy to:

1. HDHND
2. HHRP M(A)
3. HBSJP M(J)
4. D.R.(A)
5. SPARE

IST AND IIND COURT

TYPED BY  
COMPARED BY

CHECKED BY  
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH : HYDERABAD.

THE HON'BLE MR. JUSTICE D.H. NASIR:  
VICE - CHAIRMAN

THE HON'BLE MR. H. RAJENDRA PRASAD:  
MEMBER (A)

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

THE HON'BLE MR. B. S. JAI PARAMESWAR  
MEMBER (J)

DATED: 10/3/99

ORDER/ JUDGEMENT

MA./RA./CP.No.

IN

O.A. NO. 41/99

ADMITTED AND INTERIM DIRECTIONS  
ISSUED.

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

SRR

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