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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 18.4.91.

OA 531/93

LAXMAN SINGH

... APPLICANT.

Vs.

UNION OF INDIA & OPS.

... RESPONDENTS.

CORAM:

HON'BLE MR. JUSTICE D.L. MEHTA, VICE CHAIRMAN.

HON'BLE MR. B.B. MAHAJAN, MEMBER (A).

For the Applicant

... SHRI W. WALES.

For the Respondents

... SHRI M. RAFIQ.

PER HON'BLE MR. B.B. MAHAJAN, MEMBER (A).

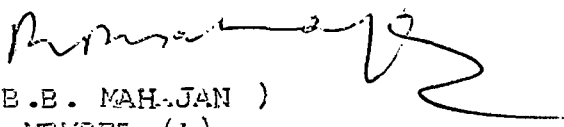
Applicant Laxman Singh has filed this application u/s 19 of the Administrative Tribunals Act, 1985, against the verbal order dated 1.7.91. The applicant was working as Asstt. Halwai in the GLO Co-operative Canteen, Western Railway, Ajmer, since 1.11.78. In pursuance of the judgement of the Hon'ble Supreme Court, instructions were issued by the Railway Board on 18.5.90 (Annexure A-3) stating that the employees of the Non-Statutory recognised canteens should be treated as Railway servants w.e.f. 1.4.90. Thereafter, the respondents sent the applicant for medical examination. The Medical Officer vide his report found him unfit for category C-2. The applicant submitted a representation dated 24.4.91 (Annexure A-4). On the same he was re-examined and was again found medically unfit for Category C-2 (Annexure A-6). The applicant's services were accordingly terminated from 1.7.91. The applicant has challenged the order of termination and has prayed that he may be treated as continuing in service with all consequential benefits.


2. The respondents in their reply have stated that the ex-employees of the Non-Statutory Recognised Co-operative Canteen ~~should be~~ treated as Railway servants w.e.f. 1.4.90 were also subject the rules of railway administration applicable to the other railway employees of the comparable status.

The applicant, as such, was sent for medical examination against the lowest medical category but was not found fit for any medical category by the competent Railway Doctor.

3. We have heard the learned counsel for the parties. The learned counsel for the applicant has stressed that no standards of medical fitness have been prescribed for Assistant Halwai. The learned counsel for the respondents has however explained that C-2 is the lowest category for medical fitness and in the absence of any specific <sup>provision</sup> ~~reason~~ the applicant was required to pass the medical examination in the lowest category. Since the applicant has been found by the Medical Officer to be unfit for even the lowest category of medical examination for the railway employees, it is not proper for the Tribunal to interfere in the matter. The applicant has not alleged any violation of the Industrial Disputes Act in his application. The learned counsel for the applicant wishes to raise the objection regarding non-payment of the retrenchment compensation and other violation of Section 25 of the Industrial Disputes Act, but this cannot be permitted as no such ground has been taken in the OA. However, he will be at liberty to file a fresh application on these grounds, if he <sup>s</sup> so advised, in accordance with law.

4. There is no force in the OA and the same is dismissed accordingly, with no order as to costs.

  
( B.B. MAHAJAN )  
MEMBER (A)

  
( D.L. MEHTA )  
VICE CHAIRMAN