

CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

O.A.No.291/00482/2015

Orders pronounced on: 25.10.2016
 (Orders reserved on : 04.10.2016)

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &
HON'BLE MRS. MEENAKSHI HOOJA, MEMBER (A)**

Tara Chand Sharma S/o

Shai Dhanna Lal Sharma

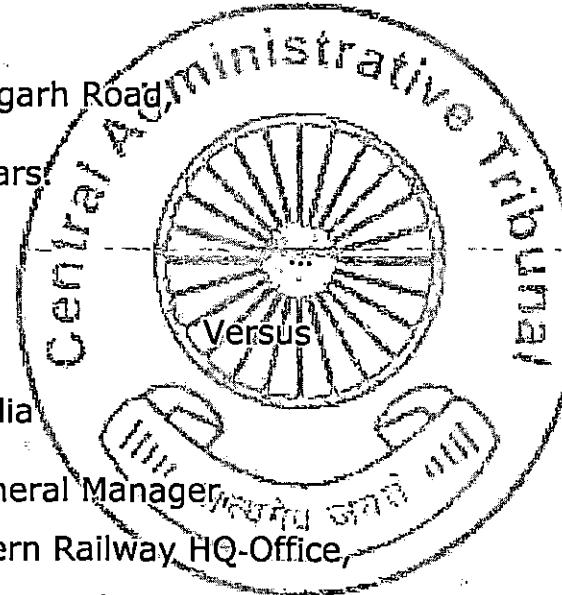
R/o Village Badi Ka Bas,

Nai Ka Thadi,

Post Ialwas,

Tehsil Amer, Ramgarh Road

Jaipur. Age 25 years.



Applicant

1. Union of India

through General Manager

North Western Railway HQ-Office,

Near Jawahar Circle,

Jaipur.

2. Chairman,

Railway Recruitment Cell,

North Western Railway,

1st Floor Railway Staff Rest House,

Opposite DRM Office,

Power House Road,

Jaipur.

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Respondents

Present: Mr. Dharmendra Jain, Advocate, for the applicant.
 Mr. Anupam Agarwal, Advocate, for Respondents.

ORDER
HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)

1. The applicant has filed this O.A., inter-alia, for issuance of direction to the respondents to give him appointment on a post in the pay band of Rs.5200-20200 with grade pay of Rs.1800 with all consequential benefits.
2. The facts leading to the filing of the case are that the respondents issued an advertisement on 14-12-2013 on line for certain posts in the pay band of Rs.5200-20200 with grade pay of Rs.1800. The applicant is a matriculate and is physically handicapped as per Certificate issued by the Government of Rajasthan Annexure A-3. The applicant submitted his application on line and was issued admission card for participation in the selection. He was called for document verification and was told that he is ineligible as in terms of advertisement, the certificate of disability issued by Government of Rajasthan is not signed by Three Members. The applicant again appeared before Medical Board and got issued a medical certificate signed by three Members (Annexure A-5) but despite submission of representation the applicant has not been given any positive response, hence the O.A.
3. The respondents have opposed the O.A by filing a detailed reply. The objection taken by them is that as per para 14.3.2 of notification, competent authority to issue Disability certificate is a Medical Board consisting of at least three

Doctors and out of which at least one is to be specialist in the particular field for possessing locomotor / cerebral / visual / hearing disability. Since the certificate produced by applicant was not in terms of these instructions, he was not eligible for the post in question. Placing reliance on judicial pronouncement it is claimed that selection process has to be conducted strictly in accordance with stipulated selection procedure which needs to be scrupulously maintained.

4. No rejoinder has been filed by the applicant.
5. We have heard the learned counsel for the parties at length and examined the material on-file.
6. We find that the applicant had been issued Medical Certificate dated 4.10.2012 by the Government of Rajasthan, Medical & Health Department terming the same as "Medical Board Certificate on Permanent Disability" and as specified in Section 2 (b)-(e)(1)(n)(o)(q)(i) and (ii) of the Persons with Disabilities Act, 1995, CII, II of the person with disabilities Rules, 1996 and Notification of the Govt. of India, the Ministry of Welfare No. 4-2-83-HW III dated 6th August, 1986 and Circular No. P.16 5 MH/2/98 dated 30/6/2001 of Medical Health Department, Govt. of India. The certificate is signed by the Chief Medical Officer, Jaipur and counter-signed by the Chairman, who appears to be of ENT Department. On the basis of this certificate the applicant was issued roll number for participating in the selection in question and then he was called for document verification wherein he was informed that as per para 14.3.2 of Notification, the competent authority to issue Disability

Certificate is Medical Board consisting of at least three Doctors and out of which at least one shall be specialist in the particular field for possessing Locomotor / Cerebral / Visual / Hearing Disability. The applicant has submitted a representation explaining that when he confronted the Doctors about irregularity in certificate, he was informed that the rules had been amended on 25.5.2010 as per which only two stamps, one of Hospital and another of CMO is to be affixed and certificate is in order. It is not the case of the respondents that the applicant did not have the certificate at relevant point of time. Their only objection is that it was not in prescribed proforma. Upon this, the applicant swung into action and got issued another certificate from same authority duly signed by three Doctors. The question arises as to whether the Hospital Authorities were not aware that they were to issue earlier certificate in prescribed proforma and why the innocent citizens should be allowed to suffer for laxity on the part of the authorities. In any case, one thing is sure that there is no dispute qua the applicant being a physically handicapped person and it was an irregularity which has been corrected by issuance of a fresh certificate. It is not a case that the applicant has indulged in preparation of a certificate of P.H. after the cutoff date. He did have a certificate which was not issued by the relevant authority in proper proforma and in the facts of this case we do not find any grounds made out to reject the candidature of the applicant. The case law cited by the respondents would

have applied to the facts of this case had the applicant applied for issuance of a certificate after the cut off date.

7. In view of the above, this O.A is allowed. The respondents are directed to treat the applicant as eligible in terms of the PH certificate and take further action accordingly. The needful be done within a period of 3 months from the date of receipt of a certified copy of this order. No costs.

[Signature]
(SANJEEV KAUSHIK)
MEMBER (J)

[Signature]
(MRS. MEENAKSHI HOOJA)
MEMBER (A)

Place: Jaipur
 Dated:

HC*

