

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

O.A.No.323/98

Date of order: 11/4/2001

Lekhraj, S/o Sh.Parshadi Lal, R/o D293, Anand Vihar,
Railwaymen's Housing Cooperative Society, Jagatpura,
Jaipur.

...Applicant.

Vs.

1. Union of India through General Manager, W.Rly Headquarters Office, Churchgate, Bombay.
2. Divisional Rly. Manager, DRM Office, W.Rly, Power House Road, Jaipur.
3. Sr.Divisional Mechanical Engineer, W.Rly, Divisional Rly. Manager's Office, Jaipur.

...Respondents.

Mr.M.M.Bharathan - Counsel for applicant

Mr.Hemant Gupta,Proxy of Mr.M.Rafiq - Counsel for respondents.

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member

Hon'ble Mr.N.P.Nawani, Administrative Member.

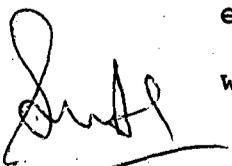
PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER.

In this O.A under Sec.19 of the Administrative Tribunals Act, 1985, applicant makes a prayer to direct the respondents to treat him on duty as he was working prior to Agust 1996 and to pay him salary from June 1996 with all consequential benefits.

2. Facts of the case as stated by the applicant are that the applicant is a permanent employee and working for the last 25 years. It is stated that the applicant fell ill in 1993 and he was referred to J.R.Hospital, Bombay, for investigation who prepared a report Annx.A1 and advised the applicant not to do train working and train passing duties for two years. It is stated that after completion of 2 years, the case of the applicant was again referred to Medical Supdt, W.Rly, Jaipur,

who submitted report Annx.A2 and on the basis of the report Annx.A2, the case of the applicant was referred to J.R.Hospital, Bombay, vide Annx.A3. When the applicant returned from Bombay, he was not allowed to join the duties. It is stated that the applicant was examined by SMS Hospital, Jaipur and a certificate Annx.A4 was issued which clearly states that the applicant may be considered for reinstatement at his old job but the applicant was not taken on duty. The applicant approached Employees Union and also approached to the SMS Hospital, Jaipur who constituted a Medical Board and after examination, did not find any abnormality rather found the applicant fit for duty but the applicant was not taken on duty. Therefore, the applicant served notice through his counsel to respondents No.2 & 3 but with no result. It is stated that the action of the respondents in not taking him on duty is clearly illegal, arbitrary and unreasonable. Therefore, the applicant filed the O.A for the relief as above.

3. Reply was filed. It is stated in the reply that the applicant has been medically declassified and his case was periodically reviewed for providing him alternate job. It is denied that no abnormality was found. The Medical Board in its report dated 31.8.96 opined that the applicant was not fit for train running and train passing duties even if he is symptom free for 2 years as is evident from Annx.R1. It is stated that the Railway has its own medical establishment with highly skilled and experienced Doctors for treatment and medical examination, therefore, the certificate Annx.A4 was ignored in view of the opinion given by the Railway Medical Board. It is stated that in view of Para 573 of IREM, the applicant was not employed in train running/train passing duties and efforts were made to find out a suitable alternate job for the



applicant, therefore, he was asked to appear before the screening committee on 19.8.97 but the applicant did not appear. It is stated that the Sr.DMO, Jaipur, has declared the applicant permanently medically unfit for duties of his original post and recommended to provide him suitable alternate job. Therefore, the applicant cannot be taken on duty on the original post and he is not entitled to the relief sought for.

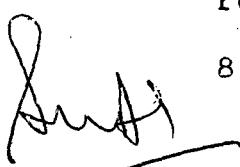
4. Rejoinder, Additional reply and additional rejoinder has also been filed which are on record.

5. Heard the learned counsel for the parties and also perused the whole record.

6. The applicant has been medically decategorised and order of Sr.DMO, Jaipur, who has declared the applicant permanently medically unfit for the duties of his original post has not been challenged in this O.A. It also appears that attempts have also been made by the department to provide alternate job to the applicant but the applicant did not like to appear before the screening committee.

7. In the order dated 16.1.2001 passed by this Tribunal in C.P.No.10/99, Lekhraj Vs. Sh.Arjun Tebiyar & Ors, it is clear that the department has paid Rs.1,45,848/- in lieu of pensionary and other benefits. The counsel for the applicant has argued that the applicant has not been paid the full amount of pensionary benefits and amount of pay and allowances to the applicant. The aforesaid order dated 16.1.2001 makes it very clear that if the applicant has any grievance regarding the payment of pensionary benefits and other benefits, he may file a representation to the department and the department may examine and pass a reasonable and speaking order on such representation, within a reasonable time.

8. The counsel for the applicant also submits that the



daughter of the applicant has moved an application for appointment on compassionate ground but she has not been provided appointment on compassionate grounds so far. In this connection, the order dated 16.1.2001 makes it very clear that this Tribunal has already been observed vide the aforesaid order dated 16.1.2001 that the respondent department will consider the case of the applicant on merits and pass suitable orders within a reasonable time and no further order is required to be passed in this connection again by this Tribunal. However, it is made clear that if the applicant has any grievance after the disposal of the representation of the applicant and regarding the appointment on compassionate grounds, the applicant will be at liberty to approach the appropriate forum if he is so advised.

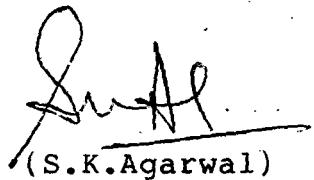
9. In view of the above, we are of the opinion that the applicant has no case for interference by this Tribunal.

10. We, therefore, dismiss the O.A with no order as to costs.



(N.P.Nawani)

Member (A).



(S.K.Agarwal)

Member (J).