

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

OA 77/2001

DATE OF ORDER: 01.07.2003

Lakhan Lal son of Shri Mohar Singh, Water Boy (M.N.A.C),
resident of Village Singhada, Tehsil Bayana, Distt. Bharatpur.

..... Applicant.

VERSUS

1. Union of India through the General Manager, North-West Railways, Jaipur.
2. The Divisional Railway Manager, (Establishment), Western Railways, Kota.
3. The Station Master, Railway Junction, Bayana, District Bharatpur.
4. The Station Superintendent, Railway Station, Shyamgarh, District Kota.

..... Respondents.

Mr. Dinish Yadav, Counsel for the applicant.

Mr. S.S. Hassan, Counsel for the respondents nos. 1 to 3.

None present for respondent No. 4.

CORAM:

Hon'ble Mr. M.L. Chauhan, Member (Judicial)

ORDER (ORAL)

The present application has been filed by the applicant whereby praying, inter-alia^{for}, the following reliefs :-

"A. By an appropriate order or direction, the respondents be directed to appoint the applicant on the post of Water Boy on regular basis with consequential benefits.

B. By an appropriate order or direction, the respondents be directed to appoint the applicant on the post of Water Boy from the date from which persons junior to the applicant have been appointed alongwith all consequential benefits."

2. The case, as set out by the applicant, is that he was appointed on the post of Water Boy (M.N.A.C.) during summers w.e.f. 8.6.81 and since then he was regularly working on the said post till his transfer on 26.5.98 to Railway Station Shyangarh. The case of the applicant is that respondent No. 2 vide order dated 24.5.98 (Annexure A/1) decided to regularise the services of Water-Boys who were working prior to 14.7.81 and for that purpose, the requisite information was called from the subordinate offices. The name of the applicant was sent to the office of DRM (Estt.), Kota (Respondent No. 2) by the Station Superintendent, Shyangarh vide letter dated 17.11.98 (Annexure A/2). According to this list, the name of the applicant appeared at sl. No. 39 and the applicant was found suitable. Further case of the applicant is that inspite of selection of the applicant, no appointment has been offered to him. Further grievance of the applicant is that he is 40% handicapped with locomotor disability and in terms of provisions contained in the persons with disabilities (Equal opportunities, Protection of Rights and Full Participation) Act 1995, 3% of the vacancies ought to have been reserved for persons of disability category. On this count, the applicant was entitled for regularisation. Further case of the applicant is that he has also served a notice of demand of justice dated 03.7.2000 (Annexure A/5) but no reply has been received as yet from the respondents. Thus the applicant has filed the present application whereby praying for the aforesaid reliefs.

3. The notices of the application were given to the respondents. The respondents have filed the reply. By way of preliminary submissions it has been stated that representation filed by the applicant against his grievance is still pending consideration by the Department and as such the present application is premature. On merits, it has been stated that the applicant was screened and allotted the post of Gangman in the Engineering Department. He was sent for medical examination

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in B-1 Medical category but he could not found suitable for that post and for alternative job, subsequently he was sent for C-1 Medical category wherein also the applicant was declared unfit under Medical Certificate No. 369457 dated 20.6.2000 in C-1 Medical category. It is further stated that under Para 2007 (4)(a) & (b) of the IREM and as per letter of Headquarter dated 6.12.1973, at the time of first appointment, if a screened candidate is not found fit under the concerned medical category then alternative job can be given provided that such a candidate must have completed six years of regular or broken service. The applicant did not fulfill this condition also as such he was not given alternative job.


4. The applicant has filed rejoinder whereby reiterating the same grievance raised in the OA. It is further submitted by the applicant that the respondents have intentionally not provided 3% reservation for the physically handicapped persons as provided in the Act of 1995 and respondents ought to have given effect to this provision of reservation.

5. I have heard the learned counsel for the parties and have perused the records. From the material placed on record, it is evident that respondents have not controverted the allegations of the applicant regarding providing 3% reservation to physically handicapped persons against identified posts which can be reserved for such persons in terms of Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995. Further from the stand taken by the respondents, it is also quite clear that the representation of the applicant is still pending and the same has not been disposed of.

6. The learned counsel for the applicant submits that he will be satisfied if the directions are given to the respondents to decide the representation/notice for demand of justice (Annexure A/5) at this stage by speaking order.

6. In the circumstances and in view of the stand taken by the respondents that the present application is pre-mature, it will be in the interest of justice, if directions are given to the respondents to decide the representation/notice for demand of justice (Annexure A/5) at this stage by a speaking and reasoned order. Accordingly, Divisional Railway Manager, West Central Railway, Kota (Respondent No. 2) is directed to decide the representation/notice for demand of justice dated 03.7.2000 (Annexure A/5) within two months from today by a speaking and reasoned order and communicate the same to the applicant within ten days thereafter.

7. With these directions, the OA is disposed of. No order as to costs.


(M.L. CHAUHAN)
MEMBER (J)