

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR

Original Application No. 19 of 2004

(Guaranteed) this the 7th day of December, 2004

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

Manish Kumar Mishra, S/o. Shri
J.P. Mishra, Date of Birth 15.9.1973,
LIG-I/14/184, Indira Nagar,
Rewa (MP).

.... Applicant

(By Advocate – Shri V. Tripathi)

V e r s u s

1. Union of India, through its Secretary,
Ministry of Railway, Railway Board,
New Delhi.
2. Railway Recruitment Board, through
its Secretary, Divisional Office Compound,
Mumbai.
3. Divisional Railway Manager,
West Central Railway, Bhopal. Respondents

(By Advocate – Shri S.P. Sinha)

O R D E R

By Madan Mohan, Judicial Member –

By filing this Original Application the applicant has claimed the following main reliefs :

“(b) upon holding that the action of the respondents department in declaring the applicant as unfit is bad in law, command the respondents to declare the applicant fit in view of various medical opinion issued by the Doctors and accordingly issue an appointment order on the post of ASM in favour of the applicant forthwith;

(c) the respondents be further commanded to grant seniority and other benefits to the applicant on the post of ASM

(Signature)

from the date other candidates were selected and appointed pursuance to same selection with all consequential benefits;

In alternatively

Command the respondents to constitute a new independent and impartial Medical Board to retest the applicant so far as the eye vision is concerned within a stipulated time and thereafter on find the applicant as fit, an appointment letter be issued in favour of the applicant on the post of ASM by giving him all seniority and other consequential benefits from the date other candidates were appointed by the respondent department.”

2. The brief facts of the case are that the applicant is an unemployed youth and pursuant to an advertisement published in Rozgar Samachar dated 11th July, 2002 he submitted his candidate for the post of Asstt. Station Master (ASM). He qualified in the written examination and was required to undergo a Psychological test. He appeared in the said test and was later called for vision test. The applicant undergone the routine medical examination from expert eye specialist time to time. Various eye specialists have issued certificates in favour of the applicant wherein it is certified that the applicant has the vision which makes him fit as per the requirement for the post of ASM. The applicant also got his eyes tested from Dr. P.S. Hardia an Eye Surgeon of international fame at Indore. The applicant was shocked to see the result of vision test published in Rozgar Samachar dated 8th to 14th November. The applicant's name figured amongst the candidates who were declared unfit in the vision test. Aggrieved with it he preferred a detailed representation to the Chairman, Railway Recruitment Board, Mumbai but it was not considered. It appears that the applicant was not properly examined by the Doctors of the Railway and only because of an improper, arbitrary, extraneous, unjust valuation, the applicant was declared as unfit in the vision test. Hence, he has filed this Original Application.

3. Heard the learned counsel for both the parties and perused the records carefully.



4. It is argued on behalf of the applicant that his case is covered by the judgment of this Bench of the Tribunal in the case of Rajendra Kumar Vs. Railway Recruitment Board & Ors., in OA No. 100/2004 dated 4th August, 2004 and also the judgment passed by the Hon'ble High Court of Madhya Pradesh in the case of Ravindra Prasad Vs. Union of India & Ors., in WP No. 4371/1997 dated 4.12.2001.

5. The learned counsel for the respondents argued that this case is not covered by the aforesaid judgment of the Tribunal as well as the Hon'ble High Court.

6. We have perused the aforesaid judgments of the Tribunal as well as of the Hon'ble High Court and we find that the case of the present applicant is squarely covered in all fours by the judgments cited above by the applicant and the aforesaid cited judgments shall mutatis-mutandis apply to the present case. Accordingly, the present Original Application is disposed of with a direction to the respondents to conduct re-medical examination with regard to the vision of the applicant by the appropriate Doctors as per rules and instructions on the subject relating to re-medical examination. The respondents shall ensure that the said medical examination is done within a period of three months from the date of receipt of a copy of this order. The respondents are further directed to convey the outcome of the re-medical examination and also consequential action if any on the basis of the aforesaid medical examination within another two months from the date the re-medical examination is completed. There shall be no order as to costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman

“SA”