

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 240 of 2003

Original Application No. 242 of 2003

Original Application No. 245 of 2003

Jabalpur, this the 1st day of July 2003.

Hon'ble Mr. D.C. Verma, Vice Chairman (Judicial)
Hon'ble Mr. Anand Kumar Bhatt, Administrative Member

(1) Original Application No. 240 of 2003

Ram Kishore Prasad aged 31 years,
Son of Shri Dasaw Prasad,
P/o Q.No.K- 16-D Shivjee Nagar,
Lal Bag Burhanpur

APPLICANT

(By Advocate - Shri H.R. Bharti)

VERSUS

1. Union of India,
through General Manager
Central Railway,
Mumbai (CST)
2. Divisional Railway Manager,
Central Railway Bhusawal
3. Section Engineer,
P. Way C. Rly Burhanpur (M.P.)

RESPONDENTS

(By Advocate - Shri M.N. Banerjee)

(2) Original Application No. 242 of 2003

Ambuj Kumar son of Shri Bishnudeo
aged about _____ years, Aprentic
Supervisor (P.Way) alias Masson under
S.S.E (P. Way) C. Rly. Burhanpur
(M.P.)

APPLICANT

(By Advocate - Shri H.R. Bharti)

VERSUS

1. Union of India,
through General Manager,
Central Railway,
Mumbai (CST).
2. Divisional Railway Manager,
Central Railway Bhushabal.
3. Section Engineer,
P.Way C.Rly. Burhanpur
(M.P.)

RESPONDENTS

(By Advocate - Shri M.N. Banerjee)

(3) Original Application No. 245 of 2003

Surjeet Kumar son of Shri
Nepali Prasad (OBC) aged 33
years, Apprentice Supervisor (P.Way)
alias Mason under S.S.E. (P.Way) C.Rly.
Mirtizapur, District Akola MH

APPLICANT

(By Advocate - Shri H.R. Bharti)

VERSUS

1. Union of India,
through General Manager,
Central Railway Mumbai (CST)
2. Divisional Railway Manager,
Central Railway Bhusawal
3. Section Engineer
P. Way C. Rly Bhusawal-
(M.P.)

RESPONDENTS

(By Advocate - Shri M.N. Banerjee)

O R D E R (ORAL)

By D.C. Verma, Vice Chairman (Judicial) -

In all the three cases the applicants are diploma holders and in pursuance to the advertisement for the post of Supervisor they all applied for the same. They appeared in written and oral examination. After the selection procedure, on basis of medical report, the applicants were given the post of Masson Grade-III in the scale of Rs. 3050-4500/- instead of post of App. P. Way Supervisor in the scale of Rs. 4500-7000/-. Thereafter all the three applicants joined as Masson in the year 2001. The grievance of the applicant is that as the applicants had applied for the post of App. P. Way Supervisor they could not have been appointed in a lower post of Masson. Hence the said appointment is illegal and void. By way of amendment application in all the three OA's a prayer has been made that the applicants cases be referred to Civil Surgeon Medical Board,

Victoria Govt. Hospital, Jabalpur for correct eye sight.

2. We have also heard the learned counsel for the applicant on the amendment application and we are of the view that the amendment application cannot be allowed as it has no substance so far the facts of the present case is concerned.
3. All the three applicants have claimed appointment in the Railway Department. For medical they are governed by Indian Railway Medical Ma-nual Volume-I (hereinafter to be referred as the Ma-nual). Para 522 of the Manual is with regard to the provisions of reconsideration of adverse reports. In case of fresh candidates it provides that ordinarily, there is no right of appeal against the findings of an examining medical authority, but if the Government is satisfied, based on the evidence produced before it by the candidate concerned, of the possibility of error of judgement in the decision of the examining medical authority, it will be open to it, to allow re-examination. Such evidence, should be submitted within one month of the date of communication in which the decision of the first medical authority is communicated to the candidate. Admittedly the applicants were medically examined in the year 2001 and all the three were found not fit for the post of Supervisor. Consequently the applicants were offered a lower post of Masson. If the applicants had any grievance against the medical report, it was open for them to apply within one month as provided in Para 522 of the Medical Manual. All the three applicants have now come in the year 2003 after joining the post of Masson in the year ²⁰⁰¹.

The appeal could have been entertained within one month as provided in Para 522 of the Manual and that period expired in 2001. Besides ^{this there} is no evidence to show that there is any possibility ^{of error} in the decision of the first medical authority. The amendment cannot be allowed and the relief claimed in the OA is also without merit. When appointment on Masson was given it was open for the applicants not to accept the offer. Once they have joined the post they cannot come to the Tribunal asking higher post for which they were found medically unfit.

4. In view of the discussions made above, all the three OA's are dismissed at the admission stage itself. Copies of this OA be kept in the other OA's.

Sd/—

(Anand Kumar Bhatt)
Administrative Member

Sd/—

(D.C. Verma)
Vice Chairman (J)

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