

CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, INDORE

O.A.NO.412/98

This the 21<sup>st</sup> day of February, 03

**Hon'ble Shri Justice N.N. Singh, Vice Chairman (J)**  
**Hon'ble Shri Govindan S. Tampi, Member (A)**

Fakirchand s/o Nanuram Lapiwala  
C&W Deptt. W. Rly. Ratlam

(By Advocate: Shri K.C. Raikwar)

..Applicant

Versus

1. Union of India through  
General Manager, W. Rly.  
Churhgate, Mumbai
2. DRM, DRM Office  
Western Railway, Do Batti, Ratlam
3. CMS W. Rly Hospital  
Ratlam (MP)

(By Advocate: Shri Y.I. Mehta, Senior Advocate with Shri H.Y. Mehta)

..Respondents

**ORDER**

**Shri Govindan S. Tampi:**

The applicant is aggrieved by order No. E/C&W/891/3/1, RTM dated 17.2.1996 passed by the ADRM (E), Western Railway, Ratlam declining to empanel the applicant as a regular employee.



2. Shri K.C. Raikwar, learned counsel appeared for the applicant while Shri Y.I. Mehta, learned Senior Advocate assisted by Shri H.Y. Mehta, represented the respondents.

3. The applicant, who was appointed as a casual worker on 25.9.1980 in the C&W Department of Western Railway at Ratlam on the post of Lapiwala, was granted temporary status on 2.8.1987. Though in terms of respondents' own order dated 11.3.1984, a casual labour acquiring temporary status would have to be sent for medical examination within fifteen days, but the same was not done in this case. He was sent for medical examination after eight years when he was declared as falling B/1 medical category, following which his name was removed from the panel by order dated 7.3.1995. On being medically tested on 13.8.1994, he was found to be colour blind only with regard to green colour and accordingly, he was shown as being fit for B/2 medical category, but he was not absorbed against the regular post that he had not worked for 2190 days for getting B/1 category. This was wrong as the criterion of days is only for grant of temporary status and for consideration for passing in B/1 category. The applicant's representation dated 23.1.1995 seeking reexamination of his case and that dated 13.11.1996 against the deletion of his name did not receive any favourable response. On 17.12.1996, ADRM (Estt.), Western Railway, Ratlam has passed the impugned order, rejecting his claim on the ground that he had not completed 2190 days for being sent for medical category B/1. He is a poor scheduled caste candidate and if he is declared unfit for any particular category, he should have been considered for alternative category. This has

not been done, in spite of there being directions of the General Manager to the above effect.

4. During the oral submissions, Shri Raikwar, learned counsel stated that the applicant has been denied the benefit of his proper categorisation by the inaction of the respondents in not sending his name immediately after granting temporary status. The action of the respondents in this matter was to their determent and was mala fide, especially as after serving for eight years, it was natural that the eyesight of the employee would become construed. This shows that the respondents have been prejudiced against the applicant, who was a poor SC/ST candidate whose interests have been totally neglected and wantonly disregarded by the administration. Tribunal should, therefore, intervene and render justice to him, pleads Shri Raikwar.

5. According to the respondents, whose pleadings were strongly reiterated by Shri H.Y. Mehta, learned Senior Advocate, the applicant had been engaged on 5.9.1980 and granted temporary status on 2.8.1980 when he completed 120 working. He was a seasional employee and not a regular one. Such a person does not have any right for regularisation and has to wait for his turn after passing the medical examination under category B/1. The applicant, who was screened by the Committee for regularisation, was sent for medical examination but was found unfit by the DRM, Ratlam for category B/1, in terms of certificate 29.12.1994 issued by him. As he had put in only 1348 working days, he was not entitled for consideration for lower medical categorisation and was, therefore, not empanelled. In terms of Railway

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Board's letter dated 30.8.1973, only a candidate, who has done 2190 working days or had completed six years of continuous service could be sent for medical examination for lower examination and latter job. The applicant did not fulfill this condition and, therefore, he was not empanelled. The applicant's averment that he was sent for private medical examination was wrong and the certificate of private examination, he relies upon, has no validity and it has not been received by the Railway authorities. As the applicant has been a casual labour and had been granted a temporary status, his case for medical recategorisation for lower category was permitted only in terms of the instructions of the Railway Board on 10.5.1973. The respondents had acted only in accordance with the above instructions and the applicant cannot, therefore, plead that the Tribunal should interfere in the matter and give him benefit.

6. We have carefully considered the matter. While the applicant claims that he has been denied regularisation by him being sent for medical examination on a much later date against the Railways' own instructions, which had resulted in his being denied proper categorisation, the respondents state that not having completed the requisite period of service which alone would have permitted his case being sent for lower category. Railways' letter No. E(NG)/II71/CL/84 dated 10.5.1973 provides that the benefit of medical examination with relaxed standard is to be sent to the casual labourers, who have minimum of six years of service whether continuous or in broken periods. The said letter does not anywhere states that the person should have completed 1348 days. That being the case, the

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contention of the respondents that the applicant was not entitled for being sent for medical re-categorisation for B/2 category cannot be endorsed in law. In the absence of any specific provision, which prohibits cases of individuals, like the applicant, being denied referral for medical re-categorisation/categorisation. The respondents were under obligation to consider his case.

7. In the result, the OA succeeds and is accordingly allowed. The respondents are directed to consider the case of the applicant for referral to the medical board for medical re-categorisation to B/2 category. If the result thereof is in the favour of the applicant, respondents may grant him consequential benefits. No costs.

(Govindan S. Tampi)  
Member (A)

/sunil/

(N.N. Singh)  
Vice Chairman (J)

पूरांकन सं ओ/न्या.....जबलपुर. दि.....  
पतिलियि अचो धित :-

- (1) सचिव, उच्च न्यायालय वार एसोसिएशन, जबलपुर
- (2) आदेशक श्री/श्रीमती/कु.....को काउंसल
- (3) सचिव श्री/श्रीमती/कु.....को काउंसल
- (4) वॉयसल, को एस. जबलपुर न्यायालय  
सूचना एवं आवश्यक कार्यवाही हेतु

1) Shri Y. M. Mehla Achar  
2) Shri K. C. Rautwara Achar

25/1/03

Issued  
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