

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT COURT & BILASPUR (CHHATTISGARH)

Original Application No.437 of 2000

Bilaspur, this the 26th day of September, 2003

Hon'ble Mr.Justice V.S.Malimath, Chairman
Hon'ble Mr.Anand Kumar Bhatt, Administrative Member

Damsai, S/o Samaru, aged about 56 years,
Ex-CPC, Khalasi working under AEN/CPH,
South Eastern Railway Champa, Distt.Janggir - APPLICANT

(By Advocate- Shri Ashish Shrivastava)

Versus

1. Union of India through Secretary, Ministry of Railways, Rail Bhawan, New Delhi.
2. Divisional Railway Manager, South Eastern Railways, Bilaspur Division, Bilaspur.
3. Sr.Divisional Personnel Officer, South Eastern Railway, Bilaspur Division, Bilaspur.
4. Sr.Divisional Engineer (East), South Eastern Railway, Bilaspur Division, Bilaspur.
5. Sr.Assistant Engineer, South Eastern Railway, Champa, Bilaspur Divn.Bilaspur.
6. Medical Superintendent, South Eastern Railway Hospital, Bilaspur (M.P.) - RESPONDENTS

(By Advocate - Shri M.N.BANERGI)

ORDER (ORAL)

Justice V.S.Agarwal-

The applicant was working since 24.3.1972 as CPC Khalasi though he was initially appointed as a casual labourer on 24.5.1969. According to the applicant in the year 1987 he was deputed by the Supervisor of his unit for white washing of quarter no.27/3-H. While discharging the said duty some liquid lime water or distemper drops fell into his eyes which affected his eyes. The doctor advised him to get the treatment at Calcutta. After getting the treatment for more than a month, the applicant came back to Bilaspur and joined his service. On 29th July, 1986 the Medical Superintendent had issued a memo declaring the applicant to be medically unfit. Despite that, the applicant continued

MS Agarwal

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to serve for another 12 years.

2. The grievance of the applicant is that suddenly vide the impugned order without affording any opportunity the applicant has been declared medically unfit and discharged from service. By virtue of the present petition, he assails the said order.

3. In the reply filed the respondents do not dispute the basic facts. However, it has been pointed out that he was allowed to continue on humanitarian grounds and subsequently vide the impugned order he was discharged from service.

4. During the course of submission, the learned counsel of the applicant urged that though the applicant contend that he was declared medically unfit but still he served the department for next 12 years and suddenly by virtue of the impugned order he has been again declared medically unfit without any fresh medical examination.

5. We have carefully considered the said submissions. It is a fact that the applicant was declared medically unfit in July, 1986 but thereafter admittedly he served the respondents for another 12 years. Our attention has not been drawn to any fact that the applicant was not able to discharge his duties for those 12 years, or there was any complaint against the applicant against his performance. Suddenly he was again declared medically unfit vide impugned order Annexure-A-3 and discharged from service. These facts do not speak well for the respondents. If after 12 years it was deemed appropriate or felt that the applicant was medically unfit, in all fairness with lapse of such long period another medical examination should have been conducted. The impugned order, therefore, cannot be justified in the peculiar facts of this case.

6. Accordingly, we quash the impugned orders and direct that the applicant shall be allowed to join his duties. However,



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the respondents may subject the applicant to another medical test and thereafter if he is found medically unfit appropriate orders may be issued. The applicant will not be entitled to any arrears. The OA is disposed of.

Anand
(Anand Kumar Bhatt)
Administrative Member

Ag.
(V.S. Aggarwal)
Chairman

rkv.

पूरांकन तं ओ/ज्ञा.....जवलपुर, दि.....

का. नं. १०८ अप्रैल २०१३:-

(1) नं. १०८ अप्रैल २०१३ तारीख पर एक्सीजन, जवलपुर
(2) नं. १०८ अप्रैल २०१३ तारीख पर एक्सीजन
(3) नं. १०८ अप्रैल २०१३ तारीख पर एक्सीजन
(4) नं. १०८ अप्रैल २०१३ तारीख पर एक्सीजन

सूचना एवं आवश्यक कार्यकारी हेतु

*Shrivastava Aditya
Banerjee P.C.*

6/18/13

*Keel
7/10/13*