

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 4th day of May, 2011

Original Application No.326/2007

CORAM:

**HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)
HON'BLE MR. ANIL KUMAR, MEMBER (ADMV.)**

Premraj Singh Verma
s/o Shri Jagannath B.Verma,
r/o Meena Bhawan, Sunder Nagar,
Kota, presently directed to be
absorbed on the post of
Chief Booking Clerk as
Decategorised employee in
Kota Division of West Central Railway.

.. Applicant

(By Advocate: Shri Mukesh Kumar Goyal, proxy counsel for Shri R.N.
Mathur)

Versus

1. Union of India
through the General Manager,
West Central Railway,
Bombay.
2. Divisional Railway Manager,,
West Central Railway,
Office of D.R.M., Kota.

.. Respondents

(By Advocate: Ms. Sonal Singh, proxy counsel for Shri Alok Garg)

ORDER (ORAL)

Brief facts of the case are that the applicant was initially appointed on a Group-D post of Khalasi in the Signal Telecommunication Department of the Railway. While serving on the above post, the applicant submitted an application for appointment on the post of Ticket Collector (TC) to the Railway Recruitment Board, Ajmer and he was selected on the post of TC. He was given appointment on the said post vide order dated 21.8.1990 and allotted to Kota Division for posting. He was later on confirmed on the post of TC and further promoted as Ticket Traveling Examiner (TTE) vide order dated 4.11.1996.

2. While serving as TTE, the applicant submitted applicant for appointment on the post of Goods Guard, which is a cadre post in the Operative Branch of Railways. According to para 124 (1) of the Indian Railway Establishment Manual (IREM) Vol.I (Revised Edition 1989) vacancies in the category of Goods Guard in the pay scale of Rs. 1200-2040 can be filled in by direct recruitment and promotion. 15% of the posts are to be filled in through direct recruitment whereas 85% posts are to be filled in by promotion. Out of 85% quota for promotion, 31% posts are filled in by selection from amongst Senior TC/Train Clerks and 54% posts are filled in by selection from TC etc. The applicant being qualified to be appointed on the post of Guard against 54% quota as provided in Para 124(1)(ii)(b) and was promoted on the post of Guard vide order dated 17.7.1997.



3. The applicant underwent periodical medical check up and was not found medically suitable to be included in the category of Goods Guard by the Divisional Railway Medical Officer. His case was sent for further medical examination to the Railway Hospital at Bombay where he was given treatment. After examination of eye vision of the applicant, the Railway Doctor at Bombay found that the vision of both near and distance is 6x6. However, in the colour vision test applicant was declared fail. On 26.6.2001 the Divisional Railway Manager, Kota Division sent a letter to the Station Superintendent Kota with direction not to entrust duty on the post of Guard to the applicant as the applicant is medically de-categorised. The applicant was screened by the Screening Committee for absorption on an alternative post in accordance with Chapter 123 of the IREM. The Screening Committee recommended his case for appointment on the post of Chief Booking Clerk (CBC) vide order dated 13.9.2004 (Ann.A/1).

4. It is also not disputed that considering the application of the applicant he was temporarily transferred in the office of Commercial Inspector (CMI). The applicant reported on duty in the office of CMI after being relieved by the Station Superintendent, Baran.

5. Now the grievance of the applicant is that the respondents may be directed to absorb the applicant in the Ticket checking branch in the office of Commercial Inspector.

6. We have gone through the judgments of Rajasthan High Court and Delhi High Court referred to by the applicant but in the



facts and circumstances of the present case the ratio decided in the above case is not applicable.

7. Having heard the rival submissions of the respective parties and upon carefully perusal of the relevant para of IREM and advance correction slip No.71, Indian Railway Establishment Code Vol.I it is evident that after the medical examination, the applicant was medically de-categorized and accordingly he was absorbed as CBC and on his request he was transferred in the office of CMI (C), Kota. Since the relief claimed at the level of respondents has been given and, in our considered view, it is not the domain of this Tribunal to direct the respondents to absorb the applicant in the Ticket Checking Branch, but we are of the view that this OA does not survive since as per provisions of the IREM he has been absorbed after declaring him medically de-categorised and on his request he has been transferred to CMI, Kota, as such, no legal cause of action at this stage is made available to the applicant and consequently, the OA is dismissed being bereft of merit.

8. The OA stands disposed of in the above terms with no order as to costs.

Anil Kumar
(ANIL KUMAR)
Admvt. Member

K.S.Rathore
(JUSTICE K.S.RATHORE)
Judl. Member

R/