

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

Original Application No. 651/2011

Reserved on : 12th August, 2015

Date of order: 14th August, 2015

CORAM:

HON'BLE MR. JUSTICE HARUN UL RASHID, JUDICIAL MEMBER
HON'BLE MS. MEENAKSHI HOOJA, ADMINISTRATIVE MEMBER

Ramesh Chandra Faujdar s/o Shri Baldev Singh, aged 44 years, at present working on the post of Technician Gr.I, Office of the Senior Section Engineer (T&M), Kota r/o Gandhi Nagar, Bharatpur.

.....Applicant

(By Advocate : Mr.Ashok Joshi)

VERSUS

1. The Union of India through General Manager, Northern Western Railway, Headquarter Office, Jaipur
2. The Divisional Railway Manager, Kota Division, Kota Junction (Rajasthan).

.....Respondents

(By Advocate : Mr. M.K.Meena)

ORDER

Per Justice Harun Ul Rashid

The present applicant has filed this OA seeking to set-aside order dated 21.10.2011 (Ann.A/1) and for directions to the respondents to conduct the second medical examination of the applicant and in case the applicant successfully pass the medical examination, he may be given consequential reliefs.

2. The applicant is an employee working under the respondent Railways. The respondents issued a notification dated 28.9.2010 for conducting a selection to prepare a panel for the post of J.E.-II (TM) scale Rs. 5000-8000 through LDCE. The said notification dated 28.9.2010 is marked as Ann.A/2.

3. Written test for the post of J.E.II (TM) was held on 8.12.2010 and the result was declared on 1.2.2011. The applicant was declared qualified in the said test and he was sent for training of eight weeks at Allahabad. Thereafter, the applicant was sent for medical examination at Divisional Hospital, NWR, Kota on 6.4.2011. During the medical test the vision of left eye of the applicant was not found. A medical certificate was issued by the Senior Divisional Medical Officer, Hospital, Kota on 23.6.2011 certifying that the applicant was not found fit for B-1 category but found fit for C-1 and below category. Ann.A/6 is copy of the medical certificate.

4. Subsequent to the examination by the Senior Divisional Medical Officer, Kota (stated supra), the applicant, himself got examined by Dr. Ashish Nagpal of Ahmedabad on 19.5.2011 and 4.8.2011. His left eye was operated by Dr. Ashish Nagpal. According to the applicant, after surgery of left eye, he was declared fit for duty by Dr. Ashish Nagpal. Therefore, the applicant requested the respondents that he may be subjected to re-examination. An application to this effect was sent on 21.9.2011 and copy of the

same is marked as Ann.A/7. The certificate issued by Dr. Nagpal certifying that the vision of left eye is 6/6 and vision of right eye is 6/9 is produced at Ann.A/8.

5. The applicant submits that vide order dated 2.5.2011 person having lower merit was promoted on the post of J.E.II (TM) vide order marked as Ann.A/9. The applicant further submits that 10 persons declared passed in the written examination have completed training successfully and except the applicant, all were promoted on the post of J.E. II (TM). The applicant, therefore, approached this Tribunal for the reliefs aforesaid.

6. The respondents in their counter maintained the fact that the employee is unfit in A-3 Medical Category for his poor vision of eye sight due to cataract. The report of the Chief Medical Superintendent, W.C. Railway, Kota is extracted below:-

"As per IRMM (Medical Manual Part I) of Indian Railway page No.63. Heading Cataract sub heading Employee with pseudophakia only posterior chamber IOL is permitted in higher categories while other are only made fit in Cee One and under. Moreover, as the name suggests IOL in these cases are only held in eye with the help of acrylic glue with haptics bound to sclera pockets with glue which makes it less stable and this technique is still not time tested. This technique is only performed in case where it is not possible to posterior chamber IOL most probably due to absence of posterior capsule support."

The applicant's case was examined by the Chief Medical Superintendent, W.C. Railway, Kota who reported that the applicant was not fit for A-3 medical category, which is mandatory for the post of J.E.-II (TM). The report dated 21.10.2011 (filed with

Ann.A/1) states that the employee is a case of chronic uveitis which is a relative contradiction to IOL implantation and vitrectomy may also lead to complications later on. The report of the Chief Medical Superintendent, Kota was issued after considering the medical certificate of Dr. Ashish Nagpal of Ahmedabad, which was submitted by the applicant for consideration before the authorities.

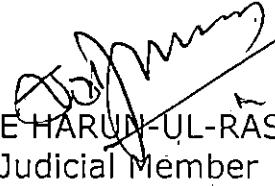
7. The department has considered the medical fitness of the applicant after conducting medical examination and was found unfit for A-3 medical category because of his poor vision of eye sight. Subsequently, the matter was again considered after the employee submitted medical certificate from private hospital issued by Dr. Ashish Nagpal. Another report was prepared on 21.10.2011 by the Chief Medical Superintendent reporting that it is not advisable to upgrade his medical category and also reporting that the applicant is a case of chronic uveitis which is a relative contraindication to IOL implantation and vitrectomy may also lead to complication later on.

8. In these circumstances, we are not inclined to accept the contentions raised by the applicant in the OA. The applicant being medically unfit could not be promoted to the post of J.E.II (TM) after examination of his vision and the department has taken a considered view that the applicant is not found medically fit for the promotion. Accordingly, we find that the applicant is not entitled to any relief claimed in the OA.

9. We also noticed that the applicant had not preferred any appeal before the appropriate authority challenging the decision of the Senior Divisional Medical Officer, Kota finding him medically unfit in A-3 medical category.

10. The OA thus, stands dismissed with no order as to costs.


(MEENAKSHI HOOJA)
Administrative Member


(JUSTICE HARUN-UL-RASHID)
Judicial Member

R/