

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDERS OF THE BENCH

Date of Order: 01.05.2012

OA No. 272/2012

Mr. Amit Mathur, counsel for applicant.

Heard learned counsel for the applicant.

O.A. is disposed of by a separate order on the separate sheets for the reasons recorded therein.

K.S. Rathore
(JUSTICE K.S. RATHORE)
MEMBER (J)

Kumawat

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 272/2012

CORAM

DATE OF ORDER: 01.05.2012

HON'BLE MR. JUSTICE K.S. RATHORE, JUDICIAL MEMBER

Gopal Lal S/o Shri Chhitar Lal, aged around 50 years, R/o Shivaji Chowk, Post Anta, District Baran, presently working as C-Helper, Senior Section Engineer, Kota Division, Kota (Rajasthan).

...Applicant
Mr. Amit Mathur, counsel for applicant.

VERSUS

1. Union of India through General Manager, (West Central), Jabalpur (MP).
2. Divisional Railway Manager, West Central Manager, Kota Division, Kota (Rajasthan).
3. Depute, CSTE (Control), West Central Railway, Near Microwave Tower, Kota Junction, Kota (Rajasthan).

...Respondents

ORDER (ORAL)

The present Original Application has been preferred by the applicant praying for the following reliefs:

"(A) The respondents may be directed to pass final order in the light of opinion given by the Medical Board after taking into consideration the physical incapability of the applicant and also the provisions of Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation), Act, 1995;

(B) The respondents may be directed not to force the applicant for joining the duties;

(c) Any other appropriate relief, which this Hon'ble Tribunal may feel proper in the facts and circumstances of this case, may kindly be allowed."

2. Brief facts of the case, as stated by the applicant, are that the applicant is presently working as Helper-C in the office of the

respondent no. 3. In the year 2010, the applicant sustained eye injuries. Due to the said injury, the applicant completely lost his eye sight. The medical examination of the applicant was conducted. He underwent various tests and inspection in the Railway Hospital and subsequently he was referred to Chennai. Meanwhile, applicant was declared medically de-categorized. The applicant because of the medical problem was not at all in a position to perform duty without any obstacles. Due to his illness, he remained on medical leave. The applicant time and again submitted the medical certificate to the respondents requesting the respondents to take final decision in regard to his working in the Railway and also in regard to allotment of the work. Despite the fact that respondents were well aware about the health of the applicant, they served a notice to the applicant asking him to give joining in the office. The said notice was replied by the applicant vide reply dated 04.05.2011 (Annex. A/1). The respondents have not taken any action on the reply submitted by the applicant, as such on 30.05.2011 (Annex. A/2), the applicant submitted a representation before the respondents. In the representation, it was stated by the applicant that he appeared before the competent authority for joining the duty on 04.05.2011, however, from there, he was referred to CMS Hospital, Kota. The applicant is continuously under observation in the hospital and no fitness certificate has been issued by the Hospital. As such, the applicant prayed in the representation that he may be allowed to join duty and appropriate decision may be taken considering his medical incapacity.



3. The applicant further stated that since no decision was taken by the respondents, as such a legal notice dated 22.06.2011 (Annex. A/3) was served to the respondents through his counsel. In the legal notice dated 22.06.2011, it was stated that the applicant filed a reply to the notice and again submitted representation. He also stated that no action has been taken on the notice submitted by the applicant; and he also stated that his request may be considered for formation of the medical Board to ascertain the medical capacity of the applicant.

4. The applicant also submitted that since no decision was taken by the respondents on the legal notice, as such he appeared before the Medical Board in the Maharaval Bhim Singh Government Hospital, Kota. The Medical Board declared the applicant unfit for services. Further, the applicant sent legal notice dated 29.07.2011 (Annex. A/4) through his counsel praying that medical board has declared the applicant unfit to perform duty, as such all the benefits may be allowed to the applicant.

5. Upon careful perusal of the pleadings as well as documents, it is evident that legal notice dated 22.06.2011 (Annex. A/3) and legal notice dated 29.07.2011 (Annex. A/4) have not yet been decided by the respondents and the same are pending consideration before the respondent-authority.

6. Having considered the aspect that the legal notice dated 22.06.2011 (Annex. A/3) and legal notice dated 29.07.2011 (Annex. A/4) are still pending consideration before the



respondents, I deem it just and proper that the ends of justice would be met if the respondents are directed to consider and decide the said legal notice by passing a reasoned and speaking order.

7. Consequently, the respondents are directed to consider and decide the legal notice dated 22.06.2011 (Annex. A/3) and legal notice dated 29.07.2011 (Annex. A/4) by passing a reasoned and speaking order and communicate the decision so taken to the applicant expeditiously but in any case not later than a period of two months from the date of receipt of a copy of this order.

8. If any prejudicial order against the interest of the applicant is passed by the respondents, the applicant will be at liberty to challenge the same by way of filing the substantive Original Application.

9. With these observations and directions, the Original Application stands disposed of with no order as to costs.

K.S. Rathore
(JUSTICE K.S. RATHORE)
MEMBER (J)

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