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**CENTRAL ADMINISTRATIVE TRIBUNAL,
CHANDIGARH BENCH,
CHANDIGARH.**

O.A.No.060/01009/2014

Decided on : 26.03.2015

**CORAM: HON'BLE MRS. RAJWANT SANDHU, ADMINISTRATIVE MEMBER
HON'BLE DR. BRAHM A. AGRAWAL, JUDICIAL MEMBER**

1. Bala Ram, aged 55 years, working as Gateman, Northern Railway, Bassi Pathana, resident of House No. 1000, Vedant Nagar Colony, Ravi Das Mandir, Saha, District Ambala (Haryana).
2. Paramjeet Singh, aged 33 years, S/o Sh. Bala Ram, resident of House No. 1000, Vedant Nagar Volony, Ravi Das Mandir, Saha, District Ambala (Haryana).

Applicants

Versus

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. Senior Divisional Personnel Officer, Northern Railway, Ambala Cantt.
3. Chief Medical Superintendent, Northern Railway, Ambala Cantt. Haryana.
4. Railway Medical Officer, Northern Railway, Ambala Cantt., Haryana.

Respondents

Present: Mr. Parveen Kumar, proxy counsel for Mr. R.K. Sharma, counsel for the applicant
Mr. Lakhinder Bir Singh, counsel for the respondents

ORDER

HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)

1. This Original Application has been filed under Section 19 of the Administrative Tribunals Act, 1985, seeking the following relief:-

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- (i) Quash order dated 12.3.2014 issued by Respondent No. 4 (Annexure A-1) whereby applicant No. 2 has been held 'unfit for Aye-Three medical category and has been held ineligible for the post requiring A-3 medical certificate, though not mentioned but on the ground of colour blindness.
- (ii) Quash medical certificate No. 351730 dated 04.08.2014 issued by respondent No. 3 (Annexure A-2) whereby applicant No. 2 has been declared unfit for appointment as Gateman Class Aye Three category due to detection of colour perception.
- (iii) Issue directions to the respondents to consider case of the applicant No. 2 for medical fitness in view of the certificate issued by the Post Graduate Institute of Medical Education and Research, Chandigarh and other private doctors and to consider the claim of the applicant for appointment to the post of Gateman under Northern Railway, Ambala under the Liberalized Active Retirement Scheme for Guaranteed Employment for Safety Staff (LARSGESS).
- (iv) Alternatively direct the respondents to get applicant medically examined from any Medical Institute other than Railways and then to consider his case for appointment under Liberalized Active Retirement Scheme for Guaranteed Employment for Safety Staff (LARSGESS).

2. The background of the matter is that the applicant No. 1 who was within the age limit and had completed 20 years of service in 2013, applied under LARSGESS for voluntary retirement and submitted the name of his son Paramjeet Singh, applicant No. 2 for appointment to the post of Gateman. The applicant No. 2 cleared the written test and was directed to CMS/UMB for medical examination in Aye-Three Category vide DPO/UMB letter No. 220-E/LARSGESS/Rectt./Jan-13/Optg./ET/GM/2014 UMB dated 05.03.2014. But the applicant came to know that he had been declared unfit for Aye-Three Medical category by Railway Hospital, Ambala Cantt on grounds of Eye-Colour Vision by the DMO/UMB vide unfit Certificate No. 322274 dated 12.03.2014 (Annexure A-1). Aggrieved on

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this account, applicant No. 2 got his eyes examined from three independent medical authorities including PGIMER Chandigarh and he was found fit as per certificates attached as Annexures A-7, A-8 and A-9.

3. The applicant No. 2 submitted representation dated 27.3.2014 in this regard (Annexure A-10), but he was informed by respondent No. 2 vide Memo No. 54-med Candidate/PS/UMB/2014 dated 03.04.2014 (Annexure A-11); that his case will be dealt as per para number 522(i) of IRMM 2000. The applicant further sent a representation as per the provisions of para No. 522(i) of IRMM 2000. Respondent No. 3 replied vide Memo No. 220-E/LARSGESS/Rectt/Jan-2013/Optg/ET/GM/2014, dated 23.04.2014 (Annexure A-12). Vide Memo No. 54-Med/Candidate/PS/UMB/2014 dated 05.05.2014, respondent No. 2 delivered the photocopy of provisions of para No. 522(i) of IRMM 2000. In spite of all the steps directed by the respondents being taken by the applicant and submitting his representations under the relevant provisions of IRMM 2000, the applicant No. 2 had been declared unfit in Medical Category Aye-Three because of deficiency of colour perception vide Medical Certificate dated 04.08.2014 (Annexure A-2).

4. In the grounds for relief it has been stated as follows:-

"Because it is on the record of the respondents that applicant No. 1 is working as Gateman under the respondents and applicant No. 2 applied for appointment under the scheme known as Liberalized Action Retirement Scheme for Guaranteed Employment for Safety Staff (LARSGESS) and he qualified the written test and was directed to get himself medically examined from the Railway Hospital. However, he was declared medically unfit vide impugned order A-1 by the doctors of the Railway. However, when he got examined

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from private doctors as well as from the PGIMER, which is a premium institute in medical sciences, he was declared fit. Hence, the applicant submitted appeal to the respondents. However, the medical authorities of the Railways again declared the applicant unfit. Medical authorities of the Railway cannot be above the premium institute like PGI. Hence, action of the respondents in declaring the applicant unfit is illegal, arbitrary and without any justification."

5. In the short reply filed on behalf of the respondents, the facts of the matter have not been disputed. It has been stated that the candidate was examined for colour perception by EGL and Ishihara Colour plate Tests. The candidate was unable to read many Ishihara colour plates and was declared unfit for medical category Aye-Three (due to colour deficiency) vide medical unfitness memo No. 322274 dated 12.03.2014 (Annexure A-1). The applicant claims that aggrieved by unfitness certificate issued by Railway Medical Officer, he got his eyes examined by Dr. Narendra Garg, Ex-Eye surgeon Civil Hospital, Ambala Cantt, Advance Lab, Bharat Vikas Parishad, Chandigarh and the PGI Chandigarh. All these authorities issued only a prescription (OPD slip) without a proper Medical Fitness Certificate by a competent Medical Board indicating the tests conducted to check the colour perception and without a declaration that the prescription was issued after conscious knowledge that the candidate had been declared unfit by a Railway Medical Officer. The prescription slips do not bear even an identification mark, thumb impression, photograph or attested signature of the candidate. In the absence of these security checks, the possibility of impersonation cannot be ruled out. Even the PGI prescription dated 5.5.2014 does not indicate if

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the candidate was examined by a Senior Consultant or a Trainee Doctor. May private eye specialists and even some Government institutions do not have proper equipment to thoroughly check colour vision.

6. Rejoinder has been filed on behalf of the applicants enclosing copy of judgement of Hon'ble Delhi High Court in Lekh Raj & Ors. Vs. UOI & Ors. in W.P.(C) 8673/2014 dated 16.12.2014 wherein directions were issued to the Railway medical authorities for re-examination of the petitioners who were similarly situated as the applicant. Annexure A-24 has been attached with the rejoinder which is an out patient record of the PGIMER Chandigarh regarding examination of the applicant No. 2 for colour blindness.

7. Arguments advanced by the learned counsel for the parties were heard. Learned counsel for the applicants reiterated the facts and grounds taken in the OA and stated that from the content of the out patient record maintained by the PGI, it was clear that colour vision of the applicant No. 2 had been examined as per Ishihara Chart and it had been concluded that the same was within normal limits. He requested that he would be satisfied if the applicant is re-examined by a different set of doctors as the report of the Railway Medical doctors and PGI were contradictory.

8. Learned counsel for the respondents stated that the judgement of Delhi High Court was distinguishable on facts as it related to the selection of Constables for the RPF while in the present OA, the

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applicant had applied under LARSGESS for the post of Gateman which was under safety category where there can be no compromise regarding the colour vision.

9. We have given our thoughtful consideration to the matter. From the content of Annexure A-24, it is clear that the PGIMER has assessed the colour vision with reference to the Ishihara Chart and the same methodology is adopted by the Railway authorities. While the findings of the Railway Medical Board was that the applicant's colour perception was not satisfactory, PGIMER had recorded that the colour vision of the applicant is within normal limits. Hence, we are of the view that the ends of justice will be met if the respondents constitute a Medical Board at the Central Railway Hospital in Delhi to re-examine the applicant regarding his fitness in the Aye-Three Medical Category. Action in this regard may be completed within two months of a certified copy of this order being served upon the respondents. No costs.

(RAJWANT SANDHU)
ADMINISTRATIVE MEMBER.

(DR. BRAHM A. AGRAWAL)
JUDICIAL MEMBER

Place: Chandigarh
Dated: 26.3.2015

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