

**Central Administrative Tribunal
Principal Bench, New Delhi**

OA No.1262/2014

New Delhi this the 25th day of October, 2016

Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Dr. B.K. Sinha, Member (A)

Pradeep Kumar Verma, Age 35 years,
S/o Sh. Sahab Singh Verma,
R/o Vill. Nathupur, PO Sahawar (UP) - Applicant

(By Advocate: Mr. Yogesh Sharma)

VERSUS

1. Union of India through
The General Manager,
Northern Railway,
Baroda House, New Delhi
2. The Director General (RHS),
Railway Board, Rail Bhawan,
New Delhi
3. The Divisional Railway Manager,
Northern Railway, Division Bench,
State Entry Road, New Delhi
4. The Chief Medical Director,
Northern Railway, Headquarter Office,
Baroda House, New Delhi
5. The Chief Health Director,
Northern Railway, Headquarter Office,
Baroda House, New Delhi
6. The Medical Director,
Northern Railway Central Hospital,
Near New Delhi Railway Station,
New Delhi
7. The Chief Medical Superintendent,
Northern Railway Hospital,
Near Old Delhi Railway Station,
Delhi - Respondents

(By Advocate: Mr. Shailendra Tiwary)

O R D E R (Oral)

Mr. V. Ajay Kumar, Member (J):

Heard both sides.

2. Though the applicant satisfied all other requirements, his candidature was rejected for the selection to the post of Assistant Loco Pilot vide letter dated 09.11.2009 issued from DRM Office, as he was medically unfit for Aye-one Category in terms of unfit memo No.285325 dated 20.10.2009.

3. On an appeal preferred by the applicant, the respondents once again re-examined him on 11.12.2009 and even at that time also, he was declared unfit for Aye-one Category. Further considering the representation of the applicant, the respondents constituted a four member Medical Board and even the said four member Medical Board, vide their order dated 09.01.2012, opined that the applicant is having corneal findings and evidence of myopia (myopic disc both eyes) and accordingly declared him unfit for Aye-One category.

4. Again, the respondents, vide Annexure A/14 dated 20.09.2012, decided to constitute a fresh Medical Board consisting of seven doctors to examine the applicant afresh.

However, the said decision has not been implemented by the respondents, till date.

5. Since the applicant questions the action of the respondents on various grounds, including that one Dr. P.S. Negi, who originally examined the applicant and had taken the opinion that the applicant was not fit for Aye-one category, was also part of the subsequent Medical Boards and hence, he is not getting proper justice. Accordingly, the applicant relies upon the various certificates issued by various Hospitals, like AIIMS, VMC & Safdarjung Hospital, Guru Nanak Eye Centre, District Hospital, Etah where Doctors, after examining the applicant, opined that there is no defect in the applicant's vision. The applicant also submits that if he is examined by an independent Medical Board where Dr. P.S. Negi is not a member, justice will be done to him.

6. It is contended on behalf of the respondents that though the respondents have taken a decision to constitute a fresh Medical Board consisting of seven doctors, however, since the rules are not permitting them to do so, the respondents have not implemented the said decision.

7. We cannot express any opinion on the grounds raised by the applicant, including allegation against Dr. P.S. Negi, without examining the said allegation in detail. However,

the respondents themselves have taken a decision to constitute an independent Medical Board consisting of seven doctors way back in the year 2012 itself. There may not be any rule for a fresh medical examination, but at the same time, there is no prohibition for the same, in the circumstances of a particular case. Since, reputed Hospitals such as AIIMS etc. opined that applicant has no defect in his vision, we deem it fit to dispose of this OA as under:

8. The OA is disposed of, without going into the merits of the case, by directing the respondents to constitute an independent Medical Board which does not include the doctors, who earlier examined the applicant and to examine the applicant afresh. If the applicant is found fit by the said Medical Board, the respondents shall consider his case as per his merit and as per rules, for appointment as Assistant Loco Pilot, however, in view of the peculiar facts of the case, with prospective effect. This exercise shall be completed within 90 days from the date of receipt of a copy of this order. No costs.

(Dr. B.K. Sinha)
Member (A)

(V. Ajay Kumar)
Member (J)

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