

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

OA No. 3444/2014

This the 3rd day of September, 2015

Hon'ble Shri A.K. Bhardwaj, Member (J)
Hon'ble Shri K.N. Shrivastava, Member(A)

Mahender Prasad Ojha,

Aged about 38 years,

S/o Sh. R B Ojha

Working as Head Enquiry & Reservation Clerk,

At Northern Railway Station,

Delhi Sarairohilla,'

R/o H-234, First Floor, Karampura,

New Delhi.

...Applicant

(By Advocate: Mr. Yogesh Sharma.)

Versus

1. Union of India,
The General Manager,
Northern Railway,
Baroda House, New Delhi.
2. The Divisional Railway Manager,
Northern Railway, Delhi Division,
State Entry Road, New Delhi.
3. The Divisional Personnel Officer,
Northern Railway Delhi Division,
State Entry Road, New Delhi.

...Respondents

(By Advocate: Sh. Kripa Shankar Prasad)

ORDER (ORAL)

By Hon'ble Shri A.K. Bhardwaj, Member (J):

Despite repeated opportunities including last opportunity granted, the respondents have not filed any reply. The Order passed by this Tribunal on 17.11.2014, 06.1.2015, 19.02.2015, 15.04.2015, 01.07.2015 and 11.08.2015 read thus:

“On 17.11.2014

Counter is still awaited. The respondents are granted four weeks time for filing their counter. Rejoinder, if any, be filed within a period of two weeks thereafter.

List on 06.01.2015 for further orders.

On 06.01.2015.

Written statement is awaited. The respondents are granted three weeks time for filing their Written Statement. Rejoinder, if any, be filed within a period of two weeks thereafter.

Be listed on 19.02.2015 for further orders.

On 19.02.2015

Written statement is awaited. The respondents are granted two weeks time for filing their Written Statement. Rejoinder, if any, be filed within a period of two weeks thereafter.

Call on 15.04.2015.

On 15.04.2015:

Written Statements is still awaited, The same may be filed within a period of three weeks, as last opportunity. Rejoinder, if any be filed within a period of two weeks thereafter.

Call on 01.07.2015

On 01.07.2015

Written Statements is still awaited, The same may be filed within a period of one week, as last opportunity. Rejoinder, if any, be filed within a period of two weeks thereafter.

Call on 11.08.2015.

On 11.08.2015

Respondents have failed to file their reply despite last opportunity having been granted.

Let the matter be placed before the Hon'ble Bench for direction/appropriate orders on 03.09.2015."

2. Today again Mr. Kripa Shankar Prasad, learned counsel for the respondents sought further extension of time for filing the reply. In view of the aforementioned orders, the plea is rejected. The short issue arises to be determined in the present OA is, "whether the applicant who has recovered from Schizophrenia cannot be posted as Booking Clerk."

3. Mr. Yogesh Sharma, learned counsel for the applicant, submitted that in terms of para 574 (F) of Indian Railway Medicine Manual (IRMM) the staff recovered from mental disease should not be posted as Booking Clerk. The para reads thus:

"574. List of posts in which staff having recovered from mental diseases should not be employed:

- a) Any duty which will entail the charge of a-locomotive-or-a-moving-vehicle, for example driver, shunted Guard etc.,

- b) Any duties connected with locomotives or moving vehicles, where interference by the employee in charge may result in disaster.
- c) Any duties connected with signaling.
- d) Any duties in connection with running trains which would subject the individual to great mental strain for example “control duly”.
- e) Any technical duties involving more than ordinary strain and self control.
- f) Any duties connected with the travelling public which demand a firm control over temperament for example: **Platform Inspector, Assistant Station Master, Booking Clerk Ticket Collector**, etc.”
- g) Any duties which involve a higher financial responsibility than ordinary clerical duties, for example Pay clerk, Cash witness, etc.,
- h) Any duties in which loss of control or a relapse of the disorder may result in loss of life and damage to the property.
- i) Any other employments in the Railways, which although, not specified above, is considered by the head of the Department or the Divisional Railway Manager to be unsuitable for the Railway employee who has been subject to mental instability and is quite possibly liable to recurrence.”

4. The stand taken by the respondents is that the applicant could discharge the function on the post for six years, thus, it cannot be viewed that he is not suitable for the post. The order passed in the representation made by the applicant reads thus:

“Subject: Your representation regarding entitlement for the post of Hd. E &RC after Medically De-Categorization.

In reference to above it is submitted that, you were medically De- Categorized for the post of ASM on 16.1.2006 and found suitable for the post of Hd. E &RC grade 5000-80000 on 02.02.2007. Accordingly, you were directed to training at ZRTI/CH on 06.06.2007 and finally after completion of training successfully at ZRTI/CH posted as Hd. E &RC grade 5000-8000 on 14.02.2008 under SS/NDLS. Since then you are doing job of Hd. E &RC grade 5000-8000. You represented on 17.05.2010 that you were medically decategorized by imposing

para 74 from original post of ASM on 16.01.2006. Whereas you should raise this point when you were found suitable for the post of Hd. E&RC on 02.02.07. You Can also raise this point at the time of directing you for training at ZRTI/CH or before you're posting as Hd. E&RC. But you retained silent and represented on 17.05.2010, after a laps of six years of working as Hd. E &RC. At this stage it would not be possible to adjudge our suitability afresh."

5. Nevertheless, learned counsel for the applicant submitted that there is fresh medical opinion from the Ram Manohar Lohia Hospital, New Delhi that the applicant should be given job which has no public dealing. The opinion is on record at page 29 of the paper book.

6. In the circumstances, the OA is disposed of with directions to the respondents to re-examine the case of the applicant in view of the aforementioned medical reports afresh and take a decision whether he should be given such postings for which he is not required to deal with public. Let the exercises be completed within three weeks from the date of receipt of copy of this Order, under intimation to the applicant.

(K.N. Shrivastava)
Member (A)

(A.K. Bhardwaj)
Member (J)

Bhupen/