

**Central Administrative Tribunal  
Principal Bench**

**OA No.1894/2015**

Reserved on : 31.07.2018  
Pronounced on : 13.08.2018

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman  
Hon'ble Ms. Aradhana Johri, Member (A)**

Shelke Pratap Ramchandra  
aged 27 years,  
R/o A/P Kasbe Diugraj  
Tal.Miraj Distt Sangli (MH)  
Assistant Executive Engineer.

.... Applicant.

(By Advocate: Shri S. K. Bhargava)

Versus

1. Union of India through  
Chairman,  
Railway Board,  
Railway Bhawan,  
New Delhi 110 001.
2. The Director  
Establishment,  
Railway Board,  
Railway Bhawan,  
New Delhi.
3. Chief Medical Officer,  
G.M's Office, Western Railway,  
Church Gate,  
Mumbai.

.... Respondents.

(By Advocate: Ms. Geetanjali Mohan)

**: O R D E R :****Justice L. Narasimha Reddy, Chairman :**

The Union Public Service Commission issued a notification dated 10.03.2012 inviting applications for the purpose of selection to the post of Assistant Executive Engineer (Civil), Group 'A'. The applicant participated therein. The results were declared, and on the basis of the rank secured by the applicant, he was allotted to Engineering Service of Railways. As directed, he appeared before the Railway Board, and there he was required to undergo medical fitness test at the Railway Hospital, Mumbai on 19.07.2013.

2. He was issued a communication dated 30.07.2013, wherein he was declared as "temporarily unfit" for appointment to the service on account of Hypertension. Through another communication dated 04.09.2013, the applicant was informed that the nature of unfitness mentioned in the communication dated 30.07.2017 may be read as "Unfit for all services on account of Hypertension". He was also advised to avail the facility of appeal.

3. The applicant contends that he has undergone treatment with a private medical practitioner, and as a result, he was cured of the Hypertension, and accordingly

appeared before the Babu Jagjivan Ram Hospital, Western Railway, Mumbai. Once again he was issued a letter dated 10.10.2013 stating that he was declared “Unfit for all services on account of Hypertension”, and no appeal lies against the same. The applicant pleads that the nature and scope in the medical examination were not indicated to him, and in identical circumstances, the CAT, Jaipur Bench of this Tribunal passed an order in OA No.291/2014 on 10.10.2013 directing the Railway Administration to conduct a re-medical examination by constituting an Appellate Medical Board as per the provisions of Railway Medical Manual, within 45 days. He submits that similar facility was not extended to him, and on account of arbitrary action on the part of the respondents, his valuable rights have been taken away.

4. The respondents filed two counter affidavits, one on 07.08.2015, narrating the sequence of events, and another on 21.01.2016. In the second counter affidavit, after mentioning the various developments, it is ultimately stated that another round of medical board can be conducted in view of the order of the Tribunal, and the report of such medical board needs to be treated as final.

5. Heard Shri S. K. Bhargava, learned counsel for the applicant and Ms. Geetanjali Mohan, learned counsel for the respondents.

6. The applicant was able to make it up to the level of selection in the UPSC examination. Except that he was treated as temporarily medically unfit, on account of his Hypertension, he was successful all through. Stating that he is suffering from Hypertension, the Railway Board did not appoint him. It may be true that after the initial test, another opportunity was also given to the applicant. However, the Board does not appear to have been constituted as per the prescribed procedure. Had it been a serious ailment, the Tribunal could certainly have treated the findings of the Medical Board as final. In respect of the applicant, it is stated that he is suffering from Hypertension, which is almost common. Much would depend upon the extent thereof, or the circumstances under which the reading is recorded.

7. In all fairness, the respondents in their counter affidavit filed on 21.01.2016 stated as under:-

“...However another round of medical Board can be conducted in view of Hon’ble CAT-NDLS’s order and the report of such medical Board would be abiding and final.”

8. In that view of the matter, the respondents shall convene a Medical Board for testing the medical fitness of the applicant within two months from the date of receipt of copy of this order. If the applicant is found fit, the order of appointment shall be given to him duly maintaining his place in the merit list. However, he shall not be entitled to the back wages, for the period anterior to the date of his appointment. There shall be no order as to costs.

**(Aradhana Johri)**  
**Member (A)**

**(Justice L. Narasimha Reddy)**  
**Chairman**

/pj