

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

ORIGINAL APPLICATION NO. 060/00940/2016

Chandigarh, this the 4th day of April, 2018

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**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &
HON'BLE MRS. P. GOPINATH, MEMBER (A)**

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Yogendra Singh, S/o Sh.Sompal Singh, aged 34 years, Group-C) R/O Vill. P.Shekhpura, P.O Kandela, Shamli, Uttar Pradesh, Pin 247774 Roll No.24056237 selected/Shortlisted for the panel for the post of Assistant Loco Pilot.

....APPLICANT

(Argued by: Ms. Savita Bhandari, Advocate)

VERSUS

1. Union of India Through Secretary Ministry of Railways North Block New Delhi.
2. General Manager, Northern Railway Baroda House, New Delhi.
3. Divisional Personnel Officer, Northern Railway, Ambala Cantt.
4. Chief Medical Director, N. Railway Baroda House, N Delhi.
5. Sr. DMO Medical Examiner Divisional Railway Hospital/Northern Railway Ambala Cantt.

....RESPONDENTS

(By Advocate: Shri Lakhinder Bir Singh)

ORDER (Oral)

SANJEEV KAUSHIK, MEMBER (J)

The present Original Application (O.A) has been filed by the applicant against impugned order dated 20.5.2016 (Annexure A-2), declaring him unfit for the post of Assistant Loco Pilot (ALP) on medical ground and order dated 1.8.2016 whereby his appeal against the impugned order has been rejected on technical ground.

2. Facts are not in dispute. From the conjunctive perusal of pleadings, makes it clear that the applicant is against impugned order dated 20.5.2016 whereby he has been declared medically unfit for the post of ALP being substandard vision. The only submission put forth by the learned counsel for the applicant that he was declared medically unfit on the basis of report of the medical board, in which there was no specialized doctor, from the eye discipline. Thus the view taken by the respondents, while declaring him medically unfit of substandard vision is not called for, thus their view is liable to be set aside. Learned counsel vehemently argued that once there was no specialized doctor in the particular field, then the view expressed by general doctor cannot made basis to declare him unfit for employment. She argued that applicant got himself examined from other hospital where he was declared medically fit. Thus, she prayed that let the applicant be again got medically re-examined from the board other than that of Railways for a fair-play otherwise the impugned order will take away his rights for employment in an arbitrary manner.

3. Learned counsel appearing on behalf of respondents did not dispute this fact that the Medical Board, who has examined the applicant and have submitted report does not include an eye specialist. But, he argued that there is no provision in the rules for re-examination of a candidate from other hospital than that of Railways. Therefore, he submits that the O.A. is without merit and be dismissed.

4. We have given our thoughtful consideration to the entire matter. Conjunction perusal of pleadings makes it clear that the impugned order cannot sustain in the eyes of law. The rights of employment of a candidate cannot be taken away on the basis of medical board report by declaring him medically unfit by not including a doctor of particular stream in which the applicant was found medically unfit. In the present case, admittedly there was no eye specialist when the applicant was medically examined by a Board. Contrary to that there are reports submitted by the applicant from other hospital which declaring him fit. Therefore, in the interest of justice and equity, we deem it appropriate that let the applicant be medically re-examined from PGIMER, Chandigarh in which a doctor from Railways of a specialized field in eye will also participate. The doctor from Railways will inform the PGIMER, Chandigarh about the prescribed standard meant for the post in question and thereafter the applicant be re-examined. It is also made clear that the expenses to be incurred for facilitating the constitution of a Board are to be borne by the applicant as admitted by his counsel.

5. Therefore, the respondents are directed to request the PGIMER, Chandigarh to facilitate constitution of a medical board which shall also include the doctor of the Railways to re-examine the applicant and the date so fixed be communicated to the applicant. The applicant, be also informed about the expenses to be incurred by him prior in time. It is after his consent, he will be

examined by the Board. After having the report from the medical board to be constituted, the case of the applicant be decided.

6. The O.A. is disposed of in the above terms.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 04.04.2018

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