

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.218 of 2012
Cuttack this the 30th day of October, 2017

CORAM:

HON'BLE SHRI S.K.PATTNAIK, MEMBER(J)
HON'BLE DR.MRUTYUNJAY SARANGI, MEMBER(A)

Chandramani Sethy, aged about 42 years, S/o. Bauri Bandhu
Sethy, At-LP No.2/Angul, Railway Colony, PO/PS/Dist-Angul

...Applicant

By the Advocate(s)-Mr.A.Kanungo

-VERSUS-

Union of India represented through:

1. The General Manager, E.Co. Railway, , Chandrasekharpur,
At/PO-Bhubaneswar, Dist-Khurda
2. Chief Personnel Officer, E.Co. Railway, Chandrasekharpur,
At/PO-Bhubaneswar, Dist-Khurda
3. Chief Medical Director, E.Co.Railway, Chandrasekharpur,
At/PO-Bhubaneswar, Dist-Khurda
4. Division Personnel Officer, East Coast Railway, Khurda
Road, Dist-Khurda
5. Chief Medical Superintendent, E.Co.Railway, Khurda
Road, Dist-Khurda

...Respondents

By the Advocate(s)-Mr.M.K.Das

ORDER

DR.MRUTYUNJAY SARANGI, MEMBER(A):

Applicant was initially engaged as a Licensed Porter at
Kendrapara Railway Station in 1985 and subsequently moved
to Angul and worked as Licensed Porter there bearing L.P. No.2.

The Railways had decided to appoint Licensed Porters as Gangmen as an one time measure in the year 2008 for those Licensed Porters who held a license as on 26.02.2008. The applicant was called for the screening test held on 6.2.2009. He was directed to undergo fitness test vide Memo dated 18.3.2009. However, he was declared unfit along with 14 others in Bee.One test. The Union took up his case. The Chief Medical Director had written to the CPO, East Coast Railway vide his letter dated 5.1.2010 that appeal should be as per the provision laid down at Para-522(1)(i) of IRMM. However, on 27.1.2010, the O/o. the Divisional Personnel Officer informed the Station Manager, Angul that the applicant was found unfit in Bee.One medical category for posting as Junior Gangman in Khurda Division. The applicant was spared for re-medical examination by the Station Manager, Angul vide his letter dated 8.2.2010. the applicant was again found unfit in the re-test done on 9.2.2010. He has not been given an appointment as Junior Trackman. He also claims that since he was sent for selection for the post of Junior Trackman he has also been discontinued from his job as Licensed Porter with effect from 12.11.09. He had submitted a representation to the DRM(Personnel), East Coast Railway on 18.7.2011 and has not got any reply on that. He has filed this O.A. praying for the following reliefs:

- i) Declare the refusal of engagement to the applicant as license porter w.e.f. 12.11.2009 is illegal, arbitrary and malafides.

- ii) Direct and/or direction be issued to the Respondents to appoint the applicant in the post of Jr.Trackman in exercise of the power of relaxation as provided under the standard relaxation.
- iii) Any other direction and/or direction be issued in this Hon'ble Court deem fit and proper.

2. The applicant has based his prayer on the following grounds:

- i) Non-consideration of his representation dated 18.7.2011 is illegal, arbitrary, mala fide and contrary to law.
- ii) Refusal to engage him as Licensed Porter with effect from 12.11.2009 and his rejection for the post of Junior Trackman on medical grounds is also arbitrary, illegal and violation of the service and industrial jurisprudence.
- iii) His case should be considered with relaxed medical standard for the post of Junior Trackman.
- iv) Denial of a job to him is violative of Articles 14 and 16 of the Constitution of India.

3. Respondents in their counter filed on 10.5.2013 have contested the claim of the applicant. It is their contention that the applicant was declared medically unfit for appointment as Junior Trackman as he had failed in Bee. One medical category. He was sent for re-medical examination. As communicated by Chief Medical Superintendent, East Coast Railway, Khurda Road vide his letter No.M/8/603 dated 31.3.2009, he was sent for medical examination and was found unfit in Bee. One medical

category. Again vide letter No.M/8/662 dated 16.03.2010 the Chief Medical Superintendent, East Coast Railway, Khurda intimated the DRM(P), Khurda that the applicant was found unfit in B1 medical category. Therefore, he could not be offered appointment to the post of Junior Trackman. Only the certificate issued by the Medical Board is considered for appointment. Certificate issued by any other authority is not acceptable. The recruitment to the post of Junior Trackman was an one time measure introduced in 2008. There is no provision to consider the applicant again for the said post. The representation dated 18.7.2011 is not available in the office of the Divisional Personnel Officer, East Coast Railway. However, to consider him for the work of Licensed Porter, he was advised to attend the office of the Divisional Personnel Officer through a letter dated 27.3.2013, but he has not appeared so far. His case can be examined and considered for taking him back as Licensed Porter as per the extant rules.

4. We have heard the learned counsel for both the sides and perused the documents. The scheme for recruitment as Junior Trackman from amongst the Licensed Porters was as an one time measure introduced in 2008. The scheme is no longer available. The condition for the appointment to the post of Junior Trackman is that a candidate should have a valid license as on 26.2.2008 and he should also be medically fit for the post of Junior Trackman. This condition has been universally and

uniformly applied to all the candidates. The applicant having failed in the medical test conducted by the medical authorities of the Railways two times, there is no scope for further consideration for the post of Junior Trackman at this stage. However, the respondents have admitted that if the applicant approaches them with a prayer to work as Licensed Porter, they will consider his case.

4. Under the circumstances, we are of the considered view that the applicant having been found medically unfit, we are unable to interfere in the rejection of his candidature for the post of Junior Trackman. Respondents are, however, directed to consider him for the work of Licensed Porter if he approaches them. In the event he submits an application, the respondents are directed to issue appropriate orders in the matter within a period of four weeks from the date of receipt of the application.

5. The O.A. is disposed off as above, with no order as to costs.

(DR.MRUTYUNJAY SARANGI)
MEMBER(A)

BKS

(S.K.PATTNAIK)
MEMBER(J)

