

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH : HYDERABAD**

**Original Application No. 715/2012**

**Date of C.A.V. :29.08.2017**

**Date of Order :10.10.2017**

**Between :**

Vinod Kumar Singh, S/o Sri Shyam Bihari Singh,  
Aged about 33 years, Occupation – Unemployed,  
R/o Sri B.P.Yadav, Arms Store, Club Road,  
Near D M Kothi, P.O. Ara Nawada,  
Bhojpur District, Bihar.

... Applicant

**And**

1. The Union of India, rep. by  
The General Manager,  
South Central Railway,  
Rail Nilayam,  
Secunderabad.

2. The Chief Medical Director,  
South Central Railway,  
Rail Nilayam,  
Secunderabad.

3. The Medical Director,  
Central Hospital, Lallaguda,  
Secunderabad.

4. The Senior Divisional Personnel Officer,  
South Central Railway, Secunderabad Division,  
Sanchalan Bhavan, Secunderabad.

5. The Senior Divisional Medical Officer,  
South Central Railway, Secunderabad Division,  
Secunderabad.

... Respondents

Counsel for the Applicant	...	Mr.M.V.Krishna Mohan, Advocate
Counsel for the Respondents	...	Mr.V.Vinod Kumar, S.C.for Rlys.

***CORAM:***

*Hon'ble Mr.Justice R.Kantha Rao* ... *Member (Judl.)*  
*Hon'ble Mrs.Minnie Mathew* ... *Member (Admn.)*

**ORDER**

*{ As per Hon'ble Mr.Justice R.Kantha Rao, Member (Judl.) }*

This Original Application is filed challenging the memo dated 14.03.2012 where under the applicant was declared medically unfit for employment to the post of Assistant Station Master (ASM) in the respondent railways, to set aside the same by declaring the action of the respondents as arbitrary, illegal and consequently to direct the respondents to issue appointment to the applicant as ASM in pursuance of his appointment order dated 27.12.2010.

2. The version of the applicant is that in response to an advertisement for various posts in railways vide notification No.JEN 1/2008 by RRB, Secunderabad the applicant applied for the post of ASM, appeared for and passed the requisite written examination conducted by the railways and was issued an appointment order dated 27.12.2010. His certificates were verified and he was sent for medical examination which was held between 01.02.2011 and 04.02.2011 at Chilakalguda medical dispensary, Secunderabad. He was told to attend the office of the respondents on 17.02.2011 for joining in the railway department as ASM. He attended the office on 17.02.2011 for reporting duty. He however was informed by the Senior DMO who told him that his blood sugar reading was 295 mg and was directed to approach the Chief Medical Superintendent on 18.02.2011 at Central Hospital, Lallaguda for further examination.

3. It is submitted by the applicant that on 25.02.2011 medical test was conducted at Central Hospital, Lallaguda and his blood sugar levels were found to be normal. However on 08.03.2011 the Chief Medical Superintendent told him that he is medically unfit, despite the fact that it was transpired in the medical report that the applicant was medically fit. It is alleged by the applicant that due to non fulfilment of unusual demand of the respondents he was declared medically unfit.

4. Nextly it is submitted that he preferred an appeal on 11.03.2011 against the memo where under he was declared medially unfit. The respondents without taking any proper action on the appeal informed the applicant by letter dated 20.06.2011 that he was declared medically unfit under A-2 category. In the said letter it was further informed that he can submit medical fitness certificate from any Government hospital. Accordingly the applicant submitted a medical fitness certificate issued by the Gandhi Hospital, Secunderabad where his blood sugar levels were found to be quite normal and he was medically fit to perform the duties. The said certificate was not accepted by the respondent railways. The applicant further stated that the respondent no.4 advised him to apply for re-medical examination directly to the CDM enclosing the certificate issued by the medical officer in the private hospital. The respondents issued a letter dated 23.09.2011 stating that re-medical examination could not be considered as the appeal was not forwarded through proper channel and the private medical certificate enclosed was not as per IRMM standards. The applicant again on 27.09.2011 resubmitted his application for re-medical examination through proper channel by enclosing a private medical certificate as per IRMM standards. The

applicant was examined by Medical Board from 02.02.2012 to 17.02.2012 and ultimately the Medical Board declared the applicant unfit for all categories with a remark that there is a strong suspicion of usage of oral hypoglycemic agent by the patient in view of low blood sugar reading (FSB-46 Mg%). Basing on the initial blood sugar reading and the opinion of the endocrinology consultant the respondents declared that the applicant has been suffering from diabetic mellitus and therefore unfit for recruitment to railway service. It is submitted by the applicant that in the first medical test he was found fit for railway services. When the Medical Board conducted re-medical examination his fasting blood sugar was recorded in the register as 80 mg% in his presence. However, the report given by the Medical Board has shown that the fasting blood sugar was recorded as 46 mg%. His contention is that the Medical Board with an ulterior motive to declare him unfit got mentioned in the medical report that he had very low percentage of blood sugar levels. It is stated that the reconstituted Medical Board did not consider the case objectively and has rejected his case for appointment in all categories in railways in an illegal manner. He asserted that he is not diabetic, his blood sugar levels were found to be normal at the initial examination. In the alternative he contended that the diabetes is not a disease which effects the normal functioning of an individual, he is in a position to discharge the duties of the ASM effectively and therefore he questioned the action of the respondents in rejecting his candidature for railway service as arbitrary, illegal and unjust.

5. The claim of the applicant is resisted by the respondents in their counter affidavit on the following grounds :

Rule 511 (1) of Railway Medical Manual – 2000 deals with general physical examination which lays down that a candidate as well as a serving railway

employee must be in good mental and bodily health and free from any defect likely to interfere with the effective performance of the duties of his appointment.

As per Rule 511 (2) it is stated that examiners will use their own discretion as to the scope of the general physical examination in each case and will judge cases on their merits, taking into consideration the prospective duties of the examinee as also the age of the examinee and need for continued fitness for the remaining years of service.

511 (2) says that when there is any acute or chronic disease pointing to an impaired constitution the candidate is not fit for railway service.

6. In the medical examinations conducted by the respondents the blood sugar and urine sugar levels of the applicant were found to be fluctuating. The reports of HbA1C test indicated that the applicant was a diabetic. The Medical Board came to the conclusion that there is a strong suspicion of oral hypoglycemic agent intake in the patient and in view of very low blood sugar reading, which is not possible in normal individuals. As per pathological examinations done, the applicant was found to be suffering from diabetes mellitus since a long time and therefore, he was found to be unfit for railway service. It is further contended that the post of Assistant Station Master is a safety category post and the nature of duties involve the safety of the travelling public and therefore the person working on such post should have a very high standard of physical and mental fitness. The post of ASM carries the responsibility of safety of travelling public and public property, as such there can be no compromise on issue of physical/mental fitness of the candidate who are aspiring for such posts. It is further submitted that even the persons who are already in employment would be subjected to periodical medical

examination at regular intervals and if they are detected suffering from such disabilities, they would be declared medically unfit and discharged from holding such posts. Contending as above, the respondents sought to dismiss the Original Application.

7. We have heard Sri M.V.Krishna Mohan, learned counsel for the applicant and Sri V.Vinod Kumar, learned standing counsel for the respondents.

8. The only reason assigned by the respondents to reject the candidature of the applicant for appointment as ASM is that he has found to have been suffering from diabetes which according to the respondents is a chronic disease and the applicant could not be in a position to discharge the duties of ASM or that of any category in railway service.

9. From the facts of the case it can be understood that sometimes the blood sugar levels of the applicant were found to be normal and sometimes they were not within the prescribed limits. The applicant produced a medical certificate issued by the Medical Officer, Gandhi Hospital, Secunderabad, according to which the blood sugar levels of the applicant are normal. The railway administration however rejected the candidature of the applicant for any post in railways on the ground that the medical examinations conducted by them indicated that he was diabetic. The question therefore would be as to whether a person suffering from diabetes is totally disqualified for holding the post of ASM in railways.

10. Identical issue fell for consideration before the Division Bench of the

***Hon'ble High Court of Madras in W.P.No.21082/2013.*** The division bench

expressed its view in the following words :

*“Medical experts opine that diabetes is a condition where the body fails to utilise the ingested glucose properly. Further, there is a strong school of thought that a diabetic is not suffering from a disease, but only a disorder that could be managed. Approximately, as of 2011 as per survey 62.4 million (as against 1.2 billion Indian population) are diabetics, which is stated to increase in 2030 to 110.1 million from the large work force of our Country. Diabetes usually has no impact on an individuals ability to do a particular job, and in most cases the employer may not even know that his employee has diabetes. As the impact of diabetes and its management varies among individuals there cannot be a blanket ban on giving public employment to persons with diabetes.” It was further observed that “therefore to deny employment to the second respondent on speculation that might occur in future is unreasonable. Medical experts state that blood glucose levels fluctuate throughout the day, which is also the case of people without diabetes, and one test result cannot be an assessment of the overall health of a person with diabetes.”*

11. Rule 511 (1) only lays down that a candidate as well as the railway employee must be in quite mental and bodily health and free from any defect likely to interfere with the effective performance of the duties of his appointment. Presumably the railway administration in the instant case gave an interpretation that a person having diabetes cannot be considered to be possessing good mental and bodily health and his condition is likely to interfere with the effective performance of duties in railways. It cannot be laid down as a general proposition that a person having the diabetes cannot work in any kind of job in any department. In the strict sense, diabetes is not a disease, but only a disorder which can be put under control even without medication. The rejection order passed by the respondents holding that the applicant who is a diabetic is unfit for railway service does not stand to reason and cannot be approved in the light of the information relating to the medical science concerning the disorder of the diabetes.

12. Therefore, the memo dated 14.03.2012 declaring the applicant medically unfit for employment in railways being unsustainable in law is hereby set aside. Consequently the respondents are directed to appoint the applicant as ASM in pursuance of his appointment order dated 27.12.2010 within a period of two months from the date of passing of this order.

13. O.A. succeeds and is therefore allowed. The parties shall bear their own costs.

***(MINNIE MATHEW)***  
***MEMBER (ADMN.)***

***(JUSTICE R.KANTHA RAO)***  
***MEMBER (JUDL.)***

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