

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
KOLKATA

LIBRARY

OA. 350/01500/2015

Date of Order: 01.09.2016.

Present : Hon'ble Justice Shri Vishnu Chandra Gupta, Judicial Member
Hon'ble Ms. Jaya Das Gupta, Administrative Member

Abhijit Biswas
Vs.
E. C. Rly.

For the Applicant : Mr. A. Chakraborty, Counsel

For the Respondents : Mr. BL Gangopadhyay, Counsel

O R D E R (Oral)

Per Justice Shri Vishnu Chandra Gupta, JM:

The respondents have already filed the counter affidavit. No rejoinder has been filed nor the learned counsel for applicant intended to file the rejoinder. He wants to disposal of the case. Hence heard learned counsel for applicant and respondents and perused the records.

2. The sole applicant Shri Abhijit Biswas appeared in the examination for the post of Technician Gr. III. He was declared successful in the written examination but his candidature was rejected on the ground that he was declared medically unfit due to Diabetes Mellitus under Insulin.

3. Our attention has been drawn towards the Railway Board Circular dated 08.01.2016 issued by the Railway Board with regard to fitness of candidates including cases of compassionate ground appointments, PWD (non-gazetted) & land losers etc. found diabetic in first medical examination. The relevant Railway Board orders dated 08.01.2016 is extracted hereinbelow:

"No. 2008/H/5/18

New Delhi, dated: 08.01.2016

General Manager
All Indian Railways (Including Pus & RDSO)

Sub: Fitness of candidates including cases of compassionate ground appointments, PWD (non-gazetted) & land losers etc. found diabetic in first medical examination.

(Signature)

In the recent past, it was observed that in a number of cases, especially in cases of compassionate ground appointment, Hon'ble Courts have ordered that the candidates suffering from Diabetes Mellitus are to be taken in Railway Service even though they were declared unfit for Railway services by the Competent Medical Authorities. The Hon'ble Courts in their various judgments have held that Diabetic Mellitus is not a disease. Keeping in view the persistent observations coming from Hon'ble Courts, a three member committee was constituted to examine the issue.

The Committee has recommended the following parameter for diagnosing Diabetes Mellitus and deciding of fitness candidates:-

1	Fasting Plasma Glucose	More than or equal to 126mg/dl.
2	Two-Hours Post-Prandial Plasma Glucose level	More than or equal to 200mg/dl.
3	Hb A1 C	More than or equal to 6.5%

In view of the above established facts the following procedure for deciding medical fitness of candidates suffering from diabetic conditions (diagnosed as per above parameters) is laid down:-

1. For different types of appointments including compassionate, PWD (Non-gazetted) etc., candidate if found diabetic in first examination (as per above parameters) should be re-examined.
2. Re-examination would be done by a "THREE MEMBER MEDICAL COMMITTEE" comprising of one physician of P.G. Qualification/Endocrinologist if available; one ophthalmologist & headed by a SAG medical officer of the divisional/zonal hospital. Recommendation of the Committee will be accepted by CMS/MD/CMO/ACMS in-charge as the case may be.
3. Purpose of re-examination will be the thorough clinical evaluation and investigation to rule out any complication of Diabetes or involvement of any End Organ.



4. If some investigations are to be performed for which the facility is not available in-house, the same should be arranged from recognized private labs/clinic & the charges for the same are to be paid by the candidate only.
5. If there is no complication or involvement of End organ, the candidate will be declared "FIT IN CEY ONE OR BELOW".
6. Establishment Directorate has to readjust those candidates as per available vacancy..

This has the approval of Board (MS).

(R.S. Shukla)
Joint Director (Health)
Railway Board"

4. In view of this circular it cannot be said that a person have diabetes cannot be allowed to join the railway service. It contains certain criteria for judging suitability of debatic person. In other words when the person have qualifying parameters to the circular would not be medically unfit and shall not be treated as diabetic as nothing on record demonstrate this circular is taken note.
5. Learned counsel for respondents submitted that he is not aware whether the circular has followed or not. Hence, we disposed of the OA finally with a direction to the respondents, if the applicant is entitled to get the benefit of circular of the Railway Board, he shall be re-examined in the light of the circular and it found fit he shall be given appointment within a period of 3 months.
6. OA is accordingly disposed of with no order as to costs.

(Jaya Das Gupta)
Member (A)

(Vishnu Chandra Gupta)
Member (J)

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