

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. OA. 1506 of 2017

Date of Order: 20.04.2018

Present: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Ms. Jaya Das Gupta, Administrative Member

Subhas Chandra Das aged about 57 years, son of late Abhimannya Das, Chowkidar under SSE/P.Way Bandel residing at Village- Sija, Post Office- Khamargachi, District-Hoogly, Pin- 712515.

.....Applicant.

-versus-

1. Union of India service through the General Manager, Eastern Railway, Fairlie Place, Kolkata- 700 001.
2. Divisional Railway Manager, Eastern Railway, Howrah, District- Howrah, Pin- 711 101
3. The Chief Medical Director, Eastern Railway, New KG Building, 14, Strand Road, Kolkata- 700 001
4. Senior Divisional Personnel Officer, Eastern Railway, District-Howrah, Pin- 700 101.

.....Respondents.

For the Applicant : Mr. A.P. Deb, Counsel

For the Respondents : Mr. A. K. Guha, Counsel

ORDER

Per Ms. Jaya Das Gupta, Administrative Member:

The applicant Shri Subhas Chandra Das had approached before this Tribunal under Section 19 of Central Administrative Tribunals Act, 1985 seeking the following reliefs:

“8(a) To pass an order or direction upon the Respondent authorities particularly the Respondent No. 3 for re-medical of the applicant immediately and either to change the category of job or declare him totally medically unfit for all categories of job in the Railways.

(b) Costs or incidental to add arising out of this application.

(c) Any other order or orders as your Lordships may deem fit and proper by way of molding reliefs.”

2. Heard both sides in extensively.

3. The applicant joined the Railway service on 17.11.1986. While working as Cabin man under Station Manager, Tribeni, he fell ill on 03.06.2016 and he was referred to B.R. Singh Railway Hospital for treatment. It appears from the discharge certificate (Annexure A-1) that “it is unlikely that his condition will improve in near future. He must avoid strenuous job and do his HD as per schedule”.

4. It appears from Annexure A-3, issued by Orthopaedic Hospital, Eastern Railway, Howrah that a special medical examination was held from 11.07.2016 to 17.08.2016 which was conducted at Orthopaedic Hospital/E.Rly/Howrah and the findings had been finalized. Accordingly, the applicant was requested to attend to Sr. DPO/HWH for further necessary action.

It also appears from Annexure A-4 which is a letter of the authority dated 18.10.2016, that Shri Subhas Chandra Das/Ex.Cabinman, Tribeni was spared on 18.10.16 as transferred on administrative ground (D/Category as Track maintainer-II(Chowkidar). Such letter dated 18.10.16 is set out below:



“EASTERN RAILWAY

TRIBENI/E.RLY

AB/Transfer/10/2016

To
The SSE(P.WAY)/BDC
Eastern Railway

From :-
Station Manager,
TRIBENI
Eastern Railway,
DT:- 18.10.2016

Sub:- Sparing of Staff.

Ref. :- Docket No.W.II/Gr.D/T &P/PT-XVI
Dated. 29.09.16 SI. No.02.

With reference to above SRI SUBHASH CH. DAS/EX. C/MAN, TRIBENI is hereby by compared on 18.10.16 as transferred on Administrative ground (D/Category as Track Container –II(Chowkider) and report to you for further necessary action. His master Roll is maintained here up to 18.10.2016 from 19.10.2016 at your end.

His service particulars as available in this office are furnished below & other records if require please be obtain from DPO/HWH.

The specimen signature of staff is attested below.

1	NAME	SUBHASH CH. DAS	13.	Rly. Quarter	Not Provided
2	FATHER'S NAME	Lt.ABHIMANYU DAS	14.	Medical Card.	SUPPLIED
3	DESIGNATION	CABIN MAN	15.	Identity Card	SUPPLIED
4	DEPT.	OPTG.	16	P. M. E. Done	12.08.2016
5.	Pay & Scale	5200 -20200	17.	P. M. E. Done	12.08.2016
6.	P. F. No.	50204611949	18.	Refresher Done	NIL
7.	Date of Birth	07.01.1960	19.	Refresher Done	NIL
8.	D. O. A.	17.11.1986	20	Safety Camp Done	NIL
9.	CL & LAP DUE	CL : NIL; LAP : 315	21	Safety Camp Due	NIL
10	P/PASS DUE	2 Sets DUE AT 2016	22	Uniform Summer	Due on 18.03.17
11	P.T.O.DUE	ALL DUE AT 2016	23.	Uniform Winter	Due on 11.11.16
12	QUALIFICATION	S. F. Appeared	24.	PAN Card No.	ADMPD7312K

FAMILY DECLARATION OF THE STAFF FOR DRAWING PASS/PTO

NAME	Father/Husband's NAME	Relation With Employee	Date of Birth
NIGDHA DAS	SUBHASH CH. DAS	WIFE	29.12.1970
MITA DAS	SUBHASH CH. DAS	DAUGHTER(U/M)	08.09.1991
NEHA DAS	SUBHASH CH. DAS	DAUGHTER(U/M)	24.09.2000

N. B. :- Identification Marks :- (1) One cut mark on left thigh.
(2) One cut mark on right knee.

STATION MANAGER."

The relevant portion of Annexure A-4 is also set out below:

"Eastern Railway
OFFICE ORDER

Consequent on the approval of DRM/HWH the competent authority has passed the following orders to take immediate effect.

On being screened by the screening committee the following Medically Decategorised Staff of this Division have been order to be rehabilitated in an alternative post as indicated below :

S I. N o .	Name (S Sri)	Design ation & poste-d at	Date Of Birth	Date of Appoint ment	Date of Decate gory	Previous Medical Category	Present Medical Category	Pay & Scale	Educatio nal Qualifica tion	Remarks	Poste d under
2	Subhash Ch. Das	Chair- man Under SM TBAE	07.01. 60	17.11.86	17.08.1 6	A-2	<u>DMC</u> <u>recommends for</u> <u>sedentary</u> <u>nature of job in</u> <u>A-2</u> and below medical category as suitable AEMG	Rs. 5200/- 20200 /-	Appear- ed in S.F. Exam.	Track Maintai-n er-II (Chowkid er in Engg. Deptt. In GP Rs.2400- (Sub)	SSE/P Way BDC

5. Therefore, it is abundantly clear that his prayer for giving him lighter job have been considered sympathetically by the Railway authority and he was given the sedentary job in A-2 category and below medical category as suitable AEMG as Chowkidar in Engineering Department.

6. We do not understand when a sedentary type of work has already been assigned to the applicant by the Railway authorities why he is asking for re-medical examination to further lighten his job from that of a job of sedentary nature as he is suffering from renal problems. After all he has to perform some job in order to justify receiving his salary.

7. This Court does not agree that the applicant shall get his salary without giving his service to the respondent authority. Therefore, we leave this matter entirely on the respondent authority as to whether still further lighter work if it exists can be assigned to the applicant as per the rules. If so, they may consider the matter.

8. With the above directions, OA is disposed of. No order as to costs.

(Jaya Das Gupta)
Member (A)

(Bidisha Banerjee)
Member (J)

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