

LIBRARY

AN APPLICATION :

MA 197/2017
(CA 313/2017)

Under Section 19 of the Administrative Tribunals Act, 1985.

BETWEEN

1. KUNDAN KUMAR,
Son of Late Kaushal Kumar,
Permanently residing at Vill & PO Jalpura,
PS & Distt. Arwal , PIN : 804401,
Presently residing at 5/H/1, Brindaban Basak Street,
Kolkata - 700 005.

.....Petitioner/Applicant

AND

1. Union of India through the
General Manager, Eastern Railway,
17, N.S. Road, Fairlie Place,
Kolkata 700 001.
2. Chief Personnel Officer,
Eastern Railway,
17, Netaji Subhas Road,
Kolkata - 700 001.
3. Sr. Personnel Officer/M&E,
Eastern Railway,
17, Netaji Subhas Road,
Kolkata-700 001.

012

:: 2 ::

4. Medical Director,
B.R. Singh Hospital,
Eastern Railway, Sealdah,
Kolkata – 700 014.

5. Assistant Secretary,
Railway Recruitment Board,
Malda, Kalibari Railway Colony,
P.O. Jhaljhliā, Distt. Malda, PIN : 732102.

.....Respondents.

No. M.A. 350/00197/2017
O.A. 350/00313/2017

Date of order: 12.9.2017

Present : Hon'ble Dr. Nandita Chatterjee, Judicial Member

For the Applicant : Mr. B.R. Das, Counsel
Mr. S. Bhattacharya, Counsel

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

ORDER (Oral)

Nandita Chatterjee, Administrative Member:

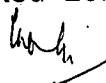
The applicant submits that this is a matter of recruitment to the post of Assistant Loco Pilot under the respondents for which the applicant have been informed that he had been recommended for the said post vide respondents' memo dated 3.9.2013 (A-3) subject to fulfilment of formalities. It is further submitted that the documents as called for by the respondents vide further memo dated 18.7.2014 (Annexure 'A-4') had been duly furnished by the applicant. Reportedly the applicant was verbally directed to appear for a medical examination. The applicant was rejected in the medical examination in terms of the instructions of Railway Board's circular No. 82/2014.

2. Ld. Counsel for the respondents draws attention to the Railway Board's circular No. 82/14 where para 7 categorically states as follows:-

"Once a decision has been taken at the level of the Divisional / Production Unit in charge and the candidate has been declared fit / unfit by the three members committee, no further appeal shall lie with any higher authority including Railway Board."

3. The Ld. Counsel for the respondents also submits the report of the medical department in this regard.

4. An M.A. has been filed for condonation of delay which is significant considering the cause of action had arisen on 3.11.2014. It is the case of the applicant, however, that the applicant had submitted a representation dated 26.11.2014 appealing against the impugned order



which according to the respondents has never been received by the respondent authorities as per records.

5. As per Section 20 of the AT Act, 1985 the applicant has to avail of all the remedies available to him under relevant service rules as to redressal of grievances.

6. In the instant case, although objected to by the respondents, the appeal made by the applicant itself appears to be in dispute as the same has purportedly not been received by the authorities. Ld. Counsel for the applicant, however, vehemently insisted that such appeal had indeed been submitted to the respondents.

7. In this context, as the applicant's appeal itself was never on record so as to be considered, the cause of action dated 3.11.2014 cannot be taken to be final and the delay is condoned as a very special case.

8. The applicant is at liberty to make another representation to the appropriate authorities of the respondents. Service upon the respondents is to be on record. Respondent No. 2 is hereby directed to dispose of his appeal within a period of three months from the date of this order. Ld. Counsel for the respondents is also directed to furnish copies of the medical report to the Ld. Counsel for the applicant.

9. With this direction, the O.A. is disposed of.

(Dr. Nandita Chatterjee)
Administrative Member