

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH

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No. O.A. 350/00407/2018

Date of order: 20.4.2018

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

Bikash Chandra Ray,
 S/o. Late Fanindra Chandra Ray,
 Aged about 55 years,
 Working as Chief Office Superintendent
 Under the overall control of
 Divisional Railway Manager,
 Eastern Railway, Sealdah,
 At present residing at 26, SMP Sarani,
 J.P. House, Flat No. 2F, Barrackpore,
 Kolkata – 700 120, West Bengal.

.. Applicant

1. The Union of India
 Through the General Manager
 Eastern Railway
 Fairlie Place,
 Kolkata – 700 001.

2. Chief Personnel Officer,
 Eastern Railway
 Fairlie Place,
 Kolkata – 700 001.

3. Chief Electrical Engineer,
 Eastern Railway,
 Fairlie Place,
 Kolkata – 700 001.

4. Divisional Railway Manager,
 Eastern Railway,
 Sealdah,
 Kolkata – 700 014.

5. Senior Divisional Personnel Officer,
 Eastern Railway,
 Sealdah,
 Kolkata – 700 014.

6. Senior Divisional Electrical Engineer (TRS),
 Eastern Railway, Sealdah,

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Kolkata – 700 014.

.. Respondents

For the Applicant : Mr. C. Sinha, Counsel

For the Respondents : Mr. P.B. Mukherjee, Counsel

O R D E R (Oral)

Per Dr. Nandita Chatterjee, Administrative Member:

Ld. Counsel for the applicant is present. Mr. P.B. Mukherjee, Ld. Counsel for the respondents appears and files memo of appearance.

2. This original application has been filed seeking the following relief:-

"a. To direct the respondents to hold a re-medical examination by constituting a medical Board under the provisions as laid down in the Indian Railway Medical Manual and is declared fit in the said re-medical examination in B-1 category grant posting as Senior Section Engineer i.e. the post which the applicant was holding prior to medical decategorisation with immediate effect.
 b. That in alternative to prayer (a) above direct the respondents to hold re-medical examination of the applicant in terms of Para 522 of IRMM 2000, Correction Slip No. 01/2014 circulated under CPO Sl. No. 82/2014 on producing a certificate from a Registered Medical practitioner Government/Private Specialist containing a note that the Government/Private Specialist was aware of the fact that the candidate has already been declared unfit during medical examination conducted by the Govt. in this regard. The Government/Private Specialist should also certify that he is fully aware that the candidate has already been certified as unfit according to the standard and if declared fit in the said re-medical examination in B-1 category grant posting as Senior Section Engineer i.e. the post which the applicant was holding prior to medical decategorisation with immediate effect.
 c. To set aside and quash impugned letter No. E-1/ELECT/G/MISC/12 dated 20.3.2017 issued by Sr. Divisional Personnel Officer, Eastern Railway, Sealdah.
 d. Any other order or orders as the Hon'ble Tribunal deems fit and proper."

3. Ld. Counsel for the applicant submits that the applicant, upon Special Medical Examination (Annexure "A-2" to the O.A.), had been carefully examined and found fit in B-1 (Bee One) & below with glasses from eye point of view but due to hearing defects he was fit in C-1 (Cee one) and below with Hearing Aid.

4. Accordingly, the applicant was thereafter posted as Chief OS as documented in "Annexure A-3" to the O.A.

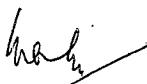
[Signature]

5. That, thereafter, the applicant got himself treated at one St. Thomas Hospital at Chennai whose treatment results are annexed at Annexure "A-5" to the O.A. and that the applicant has been representing for re-medical examination (Annexure "A-6" to the O.A.) which has been forwarded to the competent authority for consideration. The applicant's representation is on the subject of re-medical examination and for re-consideration of previous medical report. The applicant has also produced in his favour the Annexure "A-10" to the O.A. wherein one M/s. C.C. Saha Ltd. has issued an audiological evaluation report of the hearing ability of his left ear.

6. Ld. Counsel for the applicant also draws our attention to Annexure "A-9" to the O.A. which is a direction of the Railway Board dated 7.3.2012 on the procedure for certification for alternative employment on medical grounds.

7. Ld. Counsel for the applicant submits that, at this stage the applicant's purpose will be served if he is allowed to make a representation to the concerned respondent authority to arrange for his re-examination based on the audiological evaluation report and the circulars of the Railway Board at Annexure A-9 to the O.A. along with certificate from specialists as laid down in the respondents' communication dated 20.3.2017 annexed as Annexure "A-8" to the O.A.

8. Accordingly, without entering into the merits of the case, we grant the applicant liberty to make a comprehensive representation with relevant documents to the respondent No. 3, who is the competent authority, within 16 weeks of the date of receipt of this order. Once respondent No. 3 / competent authority receives such representation, he will dispose it of according to rules and regulations of the respondent authority. At the same time, as the applicant concerned has undergone a surgical treatment leading to reported improvement of his hearing faculties, this Tribunal would expect that the respondent authorities would treat the representation with the due consideration that it deserves, particularly in view of amelioration of his hearing defects.



9. Hence, without entering into the merits of the case, I direct that, upon receipt of such representation, the concerned authority would dispose of the same within 4 weeks of receipt of such representation and decision arrived at be communicated to the applicant immediately.
10. In case the decision arrived at is in favour of the applicant, the applicant may be provided the relief sought for within six weeks from such decision.
11. The O.A. is disposed of accordingly. No costs.

(Dr. Nandita Ghatterjee)
Administrative Member

SP

