

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.260/00622/2015

Date of Order: 20.02.2019

CORAM:

HON'BLE MR.GOKUL CHANDRA PATI, MEMBER(A)
HON'BLE MR.SWARUP KUMAR MISHRA, MEMBER(J)

Gompa Laxman@ Lakshmana, aged about 25 years, S/o. Venka Naidu, Vill-Ravalamma Palam, PO-Anthakapalli, PS-Sabbavaram Mandal, Dist-Visakhapatnam, Andhra Pradesh-531 015.

...Applicant

By the Advocate(s)-M/s.N.R.Routray
Smt.J.Pradhan
S.K.Mohanty
T.K.Choudhury

-VERSUS-

Union of India represented through:

1. The General Manager, East Coast Railway, E.Co.R.Sadan, Chandrasekharpur, Bhubaneswar, Dist-Khurda.
2. Chairman, Railway Recruitment Cell, 2nd Floor, Rail Sadan, Chandrasekharpur, Bhubaneswar-751 017.
3. Chief Medical Superintendent, East Coast Railway, Khurda Road Division, At/PO-Jatni, Dist-Khurda.

...Respondents

By the Advocate(s)-Mr.D.K.Mohanty

ORDER (Oral)

PER SWARUP KUMAR MISHRA, MEMBER(A):

In this Original Application under Section 19 of the A.T.Act, 1985, applicant has prayed for the following reliefs:

- i) To quash the order of cancellation of candidature dtd. 14.10.2014 & order of rejection dtd. 21.08.2015 under Ann.-A6 & A/13 respectively.
- ii) And to direct the Respondents to call for the applicant for re-medical examination for the post of Junior Trackman & Helper-II.

2. Shorn of unnecessary details, it would suffice to note that in response to Employment Notice dated 31.07.2012, applicant had submitted an

application for recruitment to the post of Jr.Trackman & Helper. He having been qualified in the written test and Physical Efficiency Test, was provisionally short listed for document verification and medical examination. After verification of documents the applicant was sent for medical examination at the Railway Hospital, Khurda Road. In the said medical examination he was declared unfit in B-1(Bee-One) category vide medical certificate issued 25.07.2014 issued by the Medical Authority. In order to give one more opportunity, the applicant was advised vide letter dated 21.08.2014 for re-medical examination in case of possibility of any error in the judgment in taking decision by the medical authorities inter alia, with an instruction for submission of appeal duly enclosing a medical certificate as an evidence to that effect. The applicant submitted his appeal along with the medical certificate to Respondent No.3 on 24.02.2015 followed by another appeal dated 16.03.2015 to Respondent No.2 with a request to allow him to participate in the re-medical examination and since there was no response from the Respondents, he approached this Tribunal in O.A.No.260/00470/2015. This Tribunal vide order dated 5.8.2015 disposed of the said O.A. in the following terms:

"4.Since the representation of the applicant is stated to be pending with the authorities, we dispose of this O.A. with direction to the Respondent No.2 to consider the representation as per rules, if at all pending, and communicate the result thereof to the applicant in a well reasoned order within a period of one month from the date of receipt of a copy of this order. However, the points raised by the applicant in his representation are kept open for the authorities to consider the same as per law. If in the meantime, the said representation has already been disposed of then the result thereof be communicated to the applicant within a period of two weeks from the date of receipt of a copy of this order".

3. In compliance of the above direction of this Tribunal, the respondents passed a speaking order dated 11.08.2015(A/13) whereby the applicant's requested has been rejected. Aggrieved with this, the applicant has approached this Tribunal int his O.A. praying for the reliefs as mentioned above.

4. Opposing the prayer of the applicant, respondents have filed a detailed counter.

5. We have heard the learned counsels for both the sides and perused the records. We have also gone through the impugned order dated 11.08.2015(A/13). For the sake of clarity, the relevant part of the impugned order reads as under.

"...You had submitted your appeal for medical re-examination on 21.08.2014. Your appeal was considered and examined. Your appeal was not in compliance to this office letter No.ECoR/RRC/D/2012/Re-Med. Exam dated 21.08.2014. It was found that "Medical Certificate enclosed with your appeal in support of your claim was not endorsed by the doctor even though clear instruction was given in the advice letter issued by this office". Therefore, you had failed to comply the instructions of Railway Administration. And as such, you had failed to pass the prescribed medical standard and therefore, you could not find place in the final merit list.

It is clearly mentioned in para 8(viii) of the Employment Notice No.ECoR/RRC/D/2012 dated 31.07.2012 that "The candidates in the zone of consideration after Written Examination, PET will be subjected to Document Verification and Medical Examination of prescribed medical standard and only those who qualify in the medical examination will be considered for empanelment subject to fulfilment of other conditions". You were not found fit in the prescribed medical standard, i.e. Bee-One (B-1). Hence, your candidature against Employment Notice No.ECoR/RRC/D/2012 dated 31.07.2012 could not be considered as per extant rules and procedures.

Hon'ble Tribunal has mentioned in the order that "He has submitted that in similar circumstances, other candidates have been allowed to appear before the medical board for

re-medical examination. Having received no response, he has moved this Tribunal with the aforesaid prayers".

The above aspect is also examined. It is mentioned here that all such appeal cases regarding re-medical examination against the Gr.D Recruitment 2012 vide E.N.No.ECoR/RRC/D/2012 dated 31.07.2012, which were similar to your case, were rejected unanimously. So, rejection of your appeal was not done in isolation. It was done on the basis of extant provisions. Hence, your request for calling you further for re-medical examination cannot be considered".

6. We have considered the submissions made by the learned counsels for both the sides at great length. It is an admitted fact that the respondents had instructed the applicant to prefer an appeal enclosing thereto a medical certificate for the purpose of re-examination. According to respondents, the medical certificate enclosed to the appeal had not been endorsed by the doctor as per the stipulation contained in letter dated 21.08.2014, as communicated to the applicant and therefore, his candidature was not considered. Be that as it may, the respondents should not have weighed with such a hyper-technical point. In our considered view, the ends of justice would be met, if the applicant is called for a re-medical examination on a date to be fixed by the respondents and further follow up action is taken in pursuance of such re-medical examination. Accordingly, it is ordered. The respondents shall comply with the above direction within a period of 45 (forty-five) days from the date of receipt of this order.

7. With the above observation and direction, the O.A. is allowed as above.
No costs.

(SWARUP KUMAR MISHRA)
MEMBER(J)

(GOKUL CHANDRA PATI)
MEMBER(A)

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