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**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Applicaton No.180/00620/2015

Friday this the 12th day of April 2019

C O R A M :

**HON'BLE Mr.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER
HON'BLE Mr.ASHISH KALIA, JUDICIAL MEMBER**

Udai Singh Meena,
S/o.Ram Bharosee Meena,
Track Maintainer III,
O/o Senior Section Engineer/Permanent Way/
Southern Railway/Quilandy.
Permanent Address: Shaharakar Village & P.O.,
Todabhin Tehsil, Karoli District, Rajasthan.

...Applicant

(By Advocate Mr.T.C.Govindaswamy)

V e r s u s

1. Union of India represented by the General Manager,
Southern Railway, Head Quarters Office,
Park Town P.O., Chennai – 600 003.
2. The Chief Personnel Officer,
Southern Railway, Head Quarters Office,
Park Town P.O., Chennai – 600 003.
3. The Chief Medical Director,
Southern Railway, Head Quarters Office,
Moore Market Complex, Chennai – 600 003.
4. The Chief Medical Superintendent,
Southern Railway Hospital, Olavakkode,
Palakkad – 678 002.
5. The Senior Divisional Personnel Officer,
Southern Railway, Palakkad Division,
Palakkad – 678 002.

...Respondents

(By Advocate Mr.Sunil Jacob Jose)

This application having been heard on 9th April 2019, this
Tribunal on 12th April 2019 delivered the following :

ORDER

HON'BLE Mr.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER

O.A.No.180/620/2015 is filed by Shri.Udai Singh Meena, Track Maintainer Grade III against the alleged denial of consideration for promotion as Assistant Station Master. The reliefs sought in the O.A are as follows :

1. Call for the records leading to the issue of Annexures A-2 and A-6 and quash the same.
2. Declare that the applicant is entitled to be considered for promotion as Assistant Station Master against the GDCE quota on relaxed medical standards as applicable to the serving Railway employees, and direct further to grant the applicant all the consequential benefits emanating therefrom.
3. Direct the respondents to subject the applicant for a re-medical examination for consideration for promotion as Assistant Station Master on relaxed Medical standards as applicable to serving Railway employees and direct further to grant the consequential benefits thereof, within a time frame as may be found just and proper by this Hon'ble Tribunal.
4. Award costs of and incidental to this application.
5. Pass such other orders or directions as deemed just fit and necessary in the facts and circumstances of the case.

2. The applicant had been appointed as Track Maintainer Grade IV in Palakkad Division of Southern Railway on 25.6.2008. He responded to a notification issued by the Southern Railway authorities for promotion as Assistant Station Master in PB1 + Grade Pay Rs.2800/- against General Departmental Competitive Examination quota. After participating in the selection process he was included in the panel published during the month of January 2014 and offered appointment as per communication dated 29.1.2014. As required under rules, the applicant presented himself for a medical examination during February 2014.

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3. True copies of the extract of relevant provisions of the Indian Railway Medical Manual Vol.I are produced and marked as Annexure A-1. As per para 512 of the said Manual he states that he is to be allowed to fulfil the required standard wearing glasses. He was declared as failed in the medical examination. But as a service candidate with 6 years service he ought to have been declared qualified with the relaxed standard as per para 512 (B) read with para 523 of the Indian Railway Medical Manual Vol.I. In February 2014 the applicant had service of about 5 years and 8 months and if the medical examination is to be conducted after another four months he was eligible to be considered with relaxed standard. As the panel of selected candidates was valid for two years the authorities ought to have given him a test after 4 months.

4. A copy of the communication indicating that the applicant was found unfit in A2 medical classification is produced as Annexure A-2. The applicant states that after a gap of 4 months he again approached the respondents and was asked to submit a written representation. The applicant acted as he was directed. But the 4th respondent returned the papers as per communication dated 19.11.2014, a copy of which is at Annexure A-4. He was informed thereby that the competent authority to take a decision in this case would be the 3rd respondent, Chief Medical Director and therefore the applicant must submit an appeal before the said authority. Accordingly the applicant submitted an appeal. But the 3rd respondent returned the papers as per communication dated 30.1.2015 (Annexure A-6). The applicant was informed through this communication

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that IREM para 522 1 (i) prescribes that any appeal for remedical examinations should be lodged by the employees within seven days from the date of adverse report. The applicant maintains that the authorities are refusing to exercise the jurisdiction which they have in the matter. He argues that Annexure A-1 and Annexure A-2 are liable to be set aside and that he is entitled to subject himself to remedical examination with relaxed standard.

5. As grounds, the applicant submits that in terms of para 512 (B) and 523 of IRMM Vol.I the applicant on completion of 6 years of service from 25.6.2008 is entitled to be considered for promotion with relaxed standard if he is not found fulfilling the medical standard at the first instance. The authorities citing irrelevant materials rejected his case. There are a large number of vacancies in the cadre of Assistant Station Master. The panel which included the applicant's name has a validity of two years from January 2014. Therefore the respondents ought to have considered the applicant on relaxed medical standard being an in service candidate with more than 6 years service. Further the applicant submits that in terms of Section 47 of the Persons with Disabilities (Equal Opportunity, Protection of Rights and Full Participation) Act, 1995 the respondents were not justified in denying and discriminating against the applicant.

6. The respondents have filed a reply statement disputing the contentions raised in the O.A. It is argued that the provisions of para 512 (B) and 523 of IRMM Vol.I relied upon by the applicant are not

applicable to the facts and circumstances of the case. Para 512 (B) of IRMM prescribes that the standard at re-examination would apply only for employees with not less than 6 years service. Para 514 (1) of IRMM lays down that in order to ensure continuous ability of Railways employees in Class A-1, A-2, A-3, B-1 and B-2 to discharge their duties with safety, they will be required to appear for re-examination at the prescribed intervals throughout their service. The applicant's case is not one of periodical examination and what he seeks is a re-examination with relaxed standard. Hence his case does not fall under the scope of para 512 (B) of IRMM. The applicant had been appointed as Trackman on 25.6.2008 and the prescribed medical classification for the post is 'Bee One'. He was subsequently promoted as Track Maintainer Grade III with effect from 29.3.2014 and his next promotional post in the hierarchy of posts is to Track Maintainer Grade II in PB1 with Grade Pay of Rs.2400/-. As such the applicant's case is not one of promotion. He was eligible for participating in the General Departmental Competitive Examination for filling up 25% direct recruitment vacancies of Assistant Station Master. But the post of Station Master being a safety category post, the prescribed medical classification for appointment is 'Aye Two'. The applicant who was provisionally empanelled was subjected to medical examination wherein he was found 'unfit' in 'Aye Two' classification, as per Annexure A-2 medical certificate. There is no provision for relaxation in medical standard in case of selection to existing railway employees as claimed by the applicant and the provisions of para 512 (B) and 523 of IRMM Vol.I are not applicable to this case. On a perusal of para 523 of IRMM Vol.I, the extract of which is

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placed by the applicant himself as Annexure A-1/5 it is revealed that it is applicable in the case of serving railway employees at the time of periodical medical examination and not for the purpose of medical examination at the time of selection for the post. Besides, he was not having 6 years of railway service at the time of his medical examination.

7. Heard Shri.T.C.Govindaswamy, learned counsel for the applicant and the Standing Counsel for the Railways. All pleadings were examined. The applicant who is a Track Maintainer had qualified in the written examination for selection to the 25% quota for posting as Assistant Station Master. However, he was required to pass the medical classification for the said post which was to the category of 'Aye Two'. To put it more clearly while the Track Maintainer medical category required was 'Bee One', the post of Assistant Station Master required 'Aye Two' medical category which was superior. He failed in obtaining the same. As per Clause 514 (2) *“the Railway employee may himself, on receiving the notice of failure to pass the examination, lodge an appeal within seven days from the date of adverse report, for reconsideration by the Chief Medical Director.”* The applicant did not do so. The apparent reason was that under para 523 which dealt with relaxation of standard under the head relaxation at re-examination the following is stated :

The standards at re-examination would apply only for employees with not less than six years service. This could be permanent or temporary, including continuous service as casual labour, **if in the same medical category.**

(emphasis supplied)

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8. Thus the applicant could have aspired for a relaxed standard if the above was fulfilled which was not the case. In so far as his attempt to invoke the provisions of Persons with Disabilities (Equal Opportunity, Protection of Rights and Full Participation) Act, 1995 is concerned, as a Track Maintainer Grade III his admitted channel for promotion is to Track Maintainer Grade II. He has not been denied a promotion to this category.

9. Under these circumstances, the applicant's claim is invalid. On considering the case as a whole, we conclude that the O.A lacks merit and is liable to be dismissed. We proceed to do so. There shall be no order as to costs.

(Dated this the 12th day of April 2019)

ASHISH KALIA
JUDICIAL MEMBER

E.K.BHARAT BHUSHAN
ADMINISTRATIVE MEMBER

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List of Annexures in O.A.No.180/00620/2015

1. Annexure A1 - True copy of extracts of the relevant provisions of the Indian Railway Medical Manual Vol.I.
 2. Annexure A2 - True copy of communication bearing No.J/P.268/VII/ASM/Vol.XII dated 12.2.2014 issued by the 5th respondent.
 3. Annexure A3 - True copy of letter bearing No.J/P/268/VIII/ASM/Vol.III dated 12.9.2014, issued by the 5th respondent.
 4. Annexure A4 - True copy of letter bearing No.J/MD/141/1/USM dated 19.11.2014, issued by the 4th respondent.
 5. Annexure A5 - True copy of communication bearing No.J/P 268/VIII/ASM/Vol.XXIII dated 23.12.2014 issued by the 5th respondent.
 6. Annexure A6 – True copy of letter bearing No.MD/141/GII/Vol/VIII dated 30.1.2015 issued by the 3rd respondent.
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