

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

LIBRARY

No. O.A. 350/00037/2014

Date of order : 15.10.2015

Present : Hon'ble Mr. Justice G. Rajasuria, Judicial Member
Hon'ble Ms. Jaya Das Gupta, Administrative Member

Pran Krishna Biswas (SC),
Son of Late Kshitish Biswas,
Aged about 44 years,
Residing at Village and Post Office - Kalupur,
Police Station - Bongoan,
District - 24 - Parganas (North),
Pin - 743235;

.. Applicant

- V E R S U S -

1. Union of India,
Service through the General Manager,
South Eastern Railway,
Garden Reach,
Kolkata - 700 043;
2. The Chief Personnel Officer,
South Eastern Railway,
Garden Reach,
Kolkata - 700 043;
3. The Assistant Personnel Officer (Recruitment),
South Eastern Railway,
Garden Reach,
Kolkata - 700 043;
4. The Deputy Chief Materials Manager (GSD),
Kharagpur, South Eastern Railway,
Kharagpur, Purba Medinipur,
Pin - 721 302.

.. Respondents

For the Applicant : Mr. P.C. Das, Counsel

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

O R D E R (Oral)

Per Mr. Justice G. Rajasuria, Judicial Member:

Heard both.

2. This O.A. has been filed seeking the following reliefs:-



"a) To pass an appropriate order directing upon the respondent authority to give effect to the appointment order dated 26.10.2013 being Annexure A-4 of this original application by allowing the applicant to resume duty to the post of Clerk-cum-Typist in terms of the employment notification dated 7-13th July, 2012;

b) To pass an appropriate order directing upon the respondent authority to forthwith allow your applicant to resume duty to the post of Clerk-cum-Typist in terms of the appointment order dated 26.10.2013 along with all consequential benefits;

c) Costs;

d) Any other appropriate relief or reliefs;

e) To quash and/or set aside the impugned order No. NA/V.H/02/73/13 dated 18.12.2013 issued by the Senior DMO/PME/KGP, South Eastern Railway, Kharagpur being Annexure A-7."

3. The Ld. Counsel for the applicant would echo the heart burns of his client that his client is a handicapped person so to say the percentage of his disability is 40 as his left eye got damaged. The Railway authorities after adhering to the preliminaries, subjected him to medical examination. However, the medical board of Railways hospital assessed him as the person having only 20% disability, whereupon his candidature under the quota of handicapped persons was rejected. Subsequently this O.A. has been filed seeking the aforesaid relief.

4. During pendency of this O.A. this Court passed an interim order to the effect that the applicant could obtain medical certificate from a Government hospital and produce the same before us.

5. Today at the hearing Ld. Counsel for the applicant would produce a medical certificate issued by the same hospital which ^{gave} ~~garle~~ earlier in his favour at the time of he applying for the post. In the present certificate produced, there is no specification to the effect that the medical authority which medically examined the applicant was put on notice about the previous rejection of the applicant's candidature by the Railway authorities on the ground of he having only 20% disability.

6. The Ld. Counsel for the respondents would submit that there are procedures to be adhered to by the Railway authorities. Simply because the certificate is obtained



from a Government hospital, the same cannot be taken for gospel truth by the Railway authorities and straightway give appointment to him.

7. The point for consideration is whether the applicant is justified in seeking the reliefs as contained in the application and what steps he should take before getting opportunity for his second medical examination at the hands of the Railway authorities.

8. Axiomatically and obviously in matters of this nature, once the medical board of the Railway hospital opines that a candidate is having lesser percentage of disability then quantum of disability which he claims for seeking employment, then the applicant is having the opportunity of obtaining medical opinion from any reputed medical institution about his disability after informing the medical authority about the assessment made by the medical Board of the Railway respondent. After that if that authority issues certificate assessing him as of the one having 40% or more disability, then he would be entitled to approach the Railway authority with that certificate for subjecting him to a second medical examination at the hands of the medical authorities in the Railway hospital.

9. As such, the above procedure, is applicable in the case of the applicant also.

10. Accordingly, we pass the following direction:-

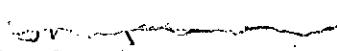
The applicant is directed to subject himself to a medical examination at the hands of either of the medical institutions in Calcutta, namely (i) Medical College & Hospital (Ophthalmology Department) or (ii) SSKM hospital (Ophthalmology Department) and the applicant is enjoined to inform such medical authority to record in the medical certificate to be issued by them that before examination they were provided with the information concerning rejection of his candidature on the ground of medical opinion given by the medical Board of Railway hospital and that fact should be recorded in the said certificate and thereafter if they give 40% or more disability certificate then the same could be given to the Railway authority and thereupon the applicant shall be subjected to a second medical examination at the hands of the



experts of the Railway Hospital and after obtaining the certificate from them it is for the Railway authorities to consider his appointment and pass appropriate order. The applicant is directed to obtain such certificate within a period of two months from the date of receipt of a copy of this order and the railway authorities shall process it as contemplated above within a period of two months from the date of handing over of certificate to them by the applicant.

In the event of the applicant approaching either of these hospitals namely (i) Medical College & Hospital (Ophthalmology Department) or (ii)SSKM hospital (Ophthalmology Department), he shall be examined as per medical rules and certificate issued.

11. The O.A. is accordingly disposed of. No costs.


(Jaya Das Gupta)
MEMBER(A)


(G. Rajasuria)
MEMBER(J)

SP