

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Dated the Monday 28th day of January Two Thousand And Ninteen

PRESENT:

THE HON'BLE MR. R. RAMANUJAM, MEMBER (A)

THE HON'BLE MR. P.MADHAVAN, MEMBER (J)

O.A. 310/63/2019

Smt. D. Hemalatha

D/o. Dorai Raj, Aged 41 years,

No. 572, Jayalakshmi Nagar,

Veppampattu, Thiruvallur- 602 024.

....Applicant

(By Advocate: M/s. Lavan/M. Ramamoorthy)

Versus

1. Union of India Rep. by its,
General Manager,
Personnel Branch, South Central Railway,
Rail Nilayam, Secunderabad- 500 071,
Telangana State;
2. The Chief Personnel Officer,
Personnel Branch, Rail Nilayam,
Secunderabad- 500 071,
Telangana State;
3. The Senior Divisional Personnel Officer/
South Central Railway,
Secunderabad Division,
O/o. the Divisional Railway Manager/P,
Personnel Branch, Sanchalan Bhavan,
Secunderabad- 500 071.

...Respondents

(By Advocate: Mr. Su. Srinivansan)

ORAL ORDER

[Pronounced by Hon'ble Mr. R. Ramanujam, Member (A)]

Heard. The applicant has filed this OA seeking the following relief:-

“to call for the records of the third respondent relating to his letter communication in SCR/P.SC/135/Rectt/ACT.APP/Sub- Khalasi/Gr.-D/2010 dated 28.02.2018 and quash the same and consequently direct the respondents to appoint the applicant in any one of the vacant & suitable post of sub-Khalasi in Group “D”.”

2. The Learned counsel for the applicant would submit that the applicant came under Physically Handicapped category with a deficient vision of 40%. She had completed the course for Apprentices and was entitled to be appointed as Substitute against the erstwhile Group D vacancies in the pay scale of Rs 5200-20,200/Grade Pay of Rs. 1800/-. The applicant applied for engagement in response to Annexure-A/7 call letter dated 20.11.2010 and applied as a normal candidate. However, subsequently she sought to be considered under Physically Handicapped quota for the Visually Handicapped. She produced Annexure A-10 certificate in this regard following Annexure-A/11 communication dated 14.09.2012 received by her. She was clearly informed that her request for appointment on physically handicapped quota had been considered subject to submission of a medical certificate in the prescribed pro-forma from the medical board. Accordingly, she was advised to report to the office of the third respondent along with her original EQ certificates and the medical certificate.

3. The applicant pursued the matter by Annexure A/13 representation 30.5.2013. However, her request was rejected by Annexure-A/14 communication dated 25.09.2013 wherein it was stated that the medical authorities had not found her qualified under the P.H. quota since her physical standards were exceeding permissible limits for a person to be appointed under the PH quota. It was further stated that she was sent for medical examination for the post of Substitute Khalasi in Electrical Department. ACMS/CKL medically examined her under B-I and below medical classification and declared that she was unfit in Bee One, Bee Two and Cey One but fit in Cey two with glasses for DV & NV to Rt. Eye vide M.C. No. C/709 dated 29.07.2013. Accordingly, she could not be considered for non safety posts since it would override the purpose for which the engagement of Act Apprentice as fresh face Substitute was initiated.

4. The Applicant filed O.A. No. 1918/2018 which was disposed of by order dated 12.12.2017 directing the respondents to consider her representation dated 5.5.2015 and pass a reasoned and speaking order. Annexure-A/22 order dated 22.02.2018 has since been passed, aggrieved by which the applicant has approached this Tribunal in this second round of litigation. Learned counsel for the applicant would urge that as the applicant was found to be fit in C-2, she be directed to be granted engagement on a post for which the visual standard was adequate.

5. We have considered the matter. It appears that the respondents considered her for the posts which would be normally offered to Act Apprentices. Clearly, the applicant did not fulfil the medical standards

required to be engaged as such. As the application of the applicant was in response to the call letter dated 20.11.2010 which was for engagement of Act Apprentice as fresh face Substitute for which certain medical standards were required and which were not fulfilled by the applicant, it does not appear possible to direct the respondents to engage her as such notwithstanding her failure to meet the standards. The impugned order clarifies that the applicant had submitted a petition to consider her case under the visually handicapped quota whereas the entire recruitment process was done for the normal quota. The question of granting alternative employment against PH Quota would therefore not arise.

6. It is further stated that applicant's was entitled to be considered in the Railways as per the provisions in Chapter 6 of the PWD Act, subject to eligibility for the post as and when the same is advertised for recruitment. As the applicant's application was not in respect of any such post advertised, it is not possible for this Tribunal to interfere in the matter.

7. O.A is misconceived and is accordingly dismissed. No costs.

(P. MADHAVAN)
MEMBER (J)

(R. RAMANUJAM)
MEMBER (A)

28.1.2019

Asvs.