

CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCHCIRCUIT BENCH AT RANCHIOA/051/00124/2017Date of Order :- 11.09.2018C O R A M

HON'BLE MR. A.K.PATTNAIK, MEMBER (JUDL.)
 HON'BLE MR. PRADEEP KUMAR, MEMBER (ADMN.)

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Hafizul Haque, aged about 26+ yrs. S/o Zafirul Haque, resident of
 Fazlul Haque Manzil, Quarban Chowk, Gowala Toli Road, PO & PS-
 Hindpiri, District-Ranchi.

.....Applicant.

By Advocate:- Mr. M.A.Khan.

Vs.

1. Union of India through General Manager, South Eastern Railway, Garden Reach, Kolkata-43.
 2. Chief Personnel Officer, South Eastern Railway, Garden Reach, Kolkata-43.
 3. Chief Medical Director, South Eastern Railway, Garden Reach, Kolkata-43.
 4. Sr. Divisional Personnel officer, South Eastern Railway, Hatia, Ranchi-834 004.
 5. Chief Medical Superintendent, South Eastern Railway, Hatia, Ranchi-834 004.
-Respondents.

By Advocate:- Mr. Prabhat Kumar.

O R D E R (ORAL)

Pradeep Kumar, Member (Admn.) :- The applicant has pleaded that in response to a Recruitment Notice issued by the respondents Railway under CEN No. 02/2014, he had applied for the post of Jr. Engineer (Signal) in the scale of Rs.9300-34800 and GP Rs.4200/-. As per the result of this examination he was declared successful. The respondents vide their letter dated 18.01.2017 had advised him to

report on 18.02.2017 for further processes which included medical examination. The requisite medical category for this post is A-3. The medical examination was conducted by the Railway Hospital at Ranchi and Medical Certificate No. 679286 dated 02.03.2017 was issued on 03.03.2017, wherein the applicant was declared 'unfit' in A-3 medical category for the post of Jr. Engineer (Signal) in Railway. The respondents also advised the applicant that if he prefers to make an appeal, he can do so on paying Rs.1000/- through DD as per Estt. Sl.No. 21/2016. The applicant made an appeal to the CMD along with requisite fee on 17.04.2017. The CMD office vide their letter dated 08.06.2017 considered the medical test report issued by the Ranchi Hospital and held that the decision of the three Members Medical Standing Team, Ranchi, which was conducted on 27.02.2017 stands good and, accordingly, the appeal was rejected. This was, in turn, advised by the respondent Sr. Divisional Personnel Officer, Ranchi vide his letter dated 30.06.2017 and, accordingly, the applicant's candidature for JE(Signal) was treated as cancelled.

Ventilating this grievance, the applicant preferred the present OA.

2. Matter was heard at length.

3. The Railways are running a public service where safety is of paramount importance and this includes safety of the Railway employees themselves as well as that of the travelling passengers and freight trains. It is seen that for the post of JE(Signal) the laid down

medical standards in respect of eye sight is specified in A-3 Category. As per final report submitted by the three Members Medical Examination Board on 03.03.2017 (based on medical test conducted on 27.02.2017) following observation has been made:-

“The duly constituted three members standing medical Team/Ranchi carefully examined Hafizul Haque S/o Zafirul Haque newly recruited candidate for the post of JE/Signal in Medical category Aye Three (A3) on 27.02.2017. On the basis of opinion of DMO/Eye/CH/GRC and considering the vision with glass is below 6/9, 6/9 BE and power of lenses are more than 2D and as per guideline laid down in IRMM 2000, Vol.I Para 512(i) pg. No.61. The three members medical team recommended that Shri Hafizul Haque S/o Zafirul Haque is UNFIT for the post of JE/Signal in medical category Aye Three (A3) which will likely to interfere with the effective performance of the duties of his appointment.”

4. Railways have a provision for appeal to the CMD which in the instant case the applicant has already exercised. However, considering the entire matter the competent authority i.e. CMD of South Eastern Railway did not deem it fit to carry any further test and the decision of the three Members Medical Board was considered good and as such upheld. The CMD/S.E.Railway vide his letter dated 09.05.2017 advised the rejection of appeal to Railway Hospital, Ranchi and in turn CMS/Ranchi advised this decision to the applicant vide letter dated 08.06.2017.

5. The applicant has pleaded in rejoinder as under:-

“.....that the deficiency is very minor and it is purely curable by laser surgery as it has been opined by the private eye research hospital as well as by the government hospital; hence such minor defect of differentiation can be ignored which is

only very measure of 1.5 than required standard. It is also relevant to state here that the doctor says that after laser surgery the spectacles shall be removed hence a proper direction is issued to permit the applicant for surgery and thereafter for constitution of medical board. It is further stated that laser surgery shall be applicable in the post for which the applicant has qualified and selected. It is further stated that at the relevant time no suggestion came from respondents so he could not make any request, now at present he is ready for surgery for removal of minor defect.”

6. In view of the foregoing, the present OA is disposed off being devoid of merit.

7. However, without going into the merits or desirability or otherwise of said surgery to correct the vision in keeping with safety requirement of Railways, a liberty is granted to the applicant that he may make a representation to the CMD/S.E.Railway within two weeks of receipt of this order, bringing out his averment in rejoinder in regard to surgery to correct his vision (para 5 supra), with a further plea to the effect whether it will be acceptable to respondents if after undergoing said surgery, the eye sight comes out as per A-3.

On receipt of such a representation, if any, the respondents shall examine the merits or desirability or permissibility of the said surgery as per extant rules and pass a speaking order within a period of eight weeks thereafter. In the event of respondents' accepting the averments, the applicant may opt to undergo said surgery and may present himself for a repeat medical examination by respondents as per their directions and in a manner as specified by them, within a

time period which will also be specified by respondents while communicating acceptance. No costs.

Sd/-
(Pradeep Kumar)
Member (Admn.)

Sd/-
(A.K.Pattnaik)
Member (Judl.)

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