

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

**OA No. 2955/2013
MA No. 3499/2016**

New Delhi, this the 20th day of February, 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

Shri Syed Zakir Ali Rizvi,
S/o Late Shri Syed Hashmat Ali Rizvi,
Office Superintendent,
Northern Railway,
Senior Crew Controller,
Ghaziabad.

...Applicant

(By Advocate: Ms. Meenu Mainee)

Versus

Union of India through:

1. Secretary, Railway Board,
Ministry of Railways,
Rail Bhawan,
New Delhi.
2. General Manager,
Northern Railway,
Baroda House,
New Delhi.
3. Divisional Railway Manager,
Northern Railways,
State Entry Road,
New Delhi.

...Respondents

(By Advocate: Mr. S. M. Arif)

ORDER (ORAL)**Mohd. Jamshed, Member (A):-**

This OA has been filed challenging the impugned order dated 10.10.2011 passed by Divisional Railway Manager, Northern Railway, by which the claim of the applicant for being considered for the post of Crew Controller/Instructor has been rejected.

2. The applicant was appointed as Assistant Loco Pilot and worked in different capacities such as, Loco Pilot and Loco Inspector. He was examined by Medical Board and Chief Medical Superintendent, Railways vide order dated 07.10.2010, declared him unfit in medical category A-3. He was declared fit only in medical category B-1 and below with advise that “ He should not work near moving heavy machinery, train running and passing duties and climbing poles, etc. under provisions of para 12.9 (page 100) of Indian Railway Medical Manual”. At that point of time, he was working as Loco Inspector, Ghaziabad.

3. In view of his medical de-categorisation, he was to be absorbed in an alternate post in identical pay scale. The respondents vide notice dated 09.02.2011, posted the applicant as Sr. Section Engineer (Electrical). The applicant represented against this posting as Sr. Section Engineer (Electrical) stating that in view of the Chief Medical Superintendent’s advice, “He

should not work near moving heavy machinery, train running and passing duties and climbing poles, etc. under provisions of para 12.9 (page 100) of Indian Railway Medical Manual”.

4. The respondents on his representation passed another order dated 09.03.2011, vide which the applicant was posted as Chief Office Superintendent, RSO, Ghaziabad. Vide order dated 18.04.2011, he was transferred to the RSO Branch in the office of Divisional Railway Manager, New Delhi. The applicant filed an OA No. 1474/2011. In this OA, he sought relief against the orders of his transfer as Chief Office Superintendent from Ghaziabad to Delhi. The Tribunal in its order dated 13.07.2011 quashed and set aside the impugned order transferring the applicant to Delhi and directed that he should not be transferred from Ghaziabad till a decision in another OA, i.e., 1219/2019 is taken.

5. In pursuance of the order of Hon'ble Tribunal the respondents posted him as Chief Office Superintendent, RSO, Ghaziabad. During this time, the applicant had filed another OA No. 1219/2011 requesting for his posting as Sr. Crew Controller/Instructor in training school. The Tribunal Vide order dated 20.09.2011 directed the respondents that although the applicant cannot claim redeployment as Sr. Crew Controller, as a matter of right, the second prayer of the applicant may be considered for posting as Instructor in training school.

6. In pursuance of the order of the Tribunal in OA No. 1219/2011, the Respondent No. 3 vide order dated 10.10.2011 considered the request of the employee for his posting as Sr. Cabin Crew and Instructor. The relevant portion of this impugned order is as under:-

“6. Whereas, in compliance to the orders dated 20.09.2011 in OA No. 1219/2011, your case for re-deployment as Instructor has been re-considered. It would be seen that there is no cadre of Instructor in the Training schools and all posts of Instructors in the job related Training centres are Ex-cadre posts, which are filled up on tenure basis by the candidates holding requisite qualifications of the respective post of Instructor in the training centre. Thus, it has been observed that the post of Instructor (RSO) claimed by the applicant is an Ex. Cadre post which is to be filled up on tenure basis from the following eligible categories:-

- (i) Existing Loco pilots have 75000 KMs of driving experience or
- (ii) 3 years experience as Loco Inspector or
- (iii) Traction loco controller and crew controller having minimum 75000 of driving experience.

7. Further, the Instructors so selected against the ex-cadre post, maintains their lein in their respective cadres and are repatriated to their parent cadre on completion of their tenure. Since you have been declared medically unfit in medical category Aye-three but fit in Bee-one and below with restriction of para 12-9 page 10 of IRMM-2000 by CMS/DLI vide letter dated 07-10-2010, you are not eligible to be considered for the post of Instructor, an Ex-cadre post as you are no more a running staff. Therefore, your redeployment on the post of Chief. OS in the mechanical RSO wing, previously decided vide notice dated 9/3/2011 hold good and no change warranted.”

7. The applicant still not satisfied and aggrieved by the impugned order, filed the present OA No. 2955/2013. In the present OA, he has sought the following reliefs;

- (a) allow the OA and quash the impugned order.

- (b) In the interest of justice, this Hon'ble Tribunal may be further pleased to direct the respondents to consider the case of the Applicant for giving alternative job of Cabin Crew Controller/Loco Inspector for which the applicant is eligible, as well as, capable.

8. The respondents have denied the contentions of the applicant and submitted that in view of the medical de-categorisation of the applicant he was provided alternative job in the same grade and pay as Sr. Section Engineer (Electrical), which he refused and thereafter the department has suitably posted him as COS at Ghaziabad. Vide impugned order dated 10.10.2011, his request for being posted as Sr. Crew Controller and Instructor has also been considered and rejected as he was not found eligible & suitable for both.

9. In the present OA, he is once again seeking relief in terms of being posted as Cabin Crew Controller/Loco Inspector. These requests of the applicant have already been addressed through two OAs and the impugned order passed by the respondents.

10. Heard the arguments of learned counsels for the applicant and the respondents and perused the records.

11. It is evident that the applicant was medically de-categorised and declared unfit for performing running duties. The Chief Medical Superintendent vide his letter dated 07.10.2010 declared

him unfit for A-3 medical category and fit for medical category B-1 and below. Chief Medical Superintendent, further, advised that “He should not work near moving heavy machinery, train running and passing duties and climbing poles, etc. under provisions of para 12.9 (page 100) of Indian Railway Medical Manual”.

12. The applicant was thereafter offered the post of Sr. Section Engineer (Electrical) by the respondents, which he refused on these very grounds. He sought relief in terms of his posting as Chief Office Superintendent at Ghaziabad only and the respondents in terms of Hon'ble CAT's order posted him as Chief Office Superintendent, RSO, Ghaziabad, by cancelling his transfer orders for Delhi. He joined the post of CSO, Ghaziabad and has since been working there.

13. Further, vide another OA, he sought his absorption on the alternative post of Cabin Crew Controller or Instructor, vide OA No. 1219/2011. This was once again considered by the respondents as per the orders of the Tribunal. Through the impugned order dated 10.10.2011, the respondents considered his case. In view of his medical de-categorisation and the requirements and the eligibility of various jobs the respondents did not find the applicant suitable to be posted for either Cabin Crew Controller or Instructor.

14. The applicant was still not satisfied even with this and filed the present OA. He has again sought relief through this OA that he should be posted as either Cabin Crew Controller or Loco Inspector.

15. From the above mentioned, it is evident that the grievance of the applicant have already been well addressed by the respondents. He has been approaching the Tribunal again and again seeking relief in terms of his posting at different alternative posts, for which he is not eligible.

16. In view of the above mentioned, we are of the view that this OA is entirely devoid of merit and the same is, therefore, dismissed. MA No. 3499/2016 stands disposed of. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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