

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

C.P./100/349/2019  
O.A./100/4052/2016

Reserved on: 27.09.2019  
Pronounced on:

**Hon'ble Mr. R.N. Singh, Member (J)**  
**Hon'ble Ms. Aradhana Johri, Member (A)**

Brajesh Kumar S/o Shri Parshuram Prasad  
Aged about 34 years  
R/o Agamkuan, Chhoti Pahari, P.O. Bari Pahari  
Near Sahara India, District Patna,  
Bihar-800007 ... Applicant

(Through Ms. Eysa Narysha for Shri Jaideep Singh, Advocate)

Versus

1. Mr. T.P. Singh,  
General Manger,  
Northern Railways,  
Baroda House, New Delhi
2. Mr. R.K. Verma  
Secretary,  
Ministry of Railways,  
Rail Bhawan, Rafi Marg,  
New Delhi ... Respondent/Contemnor

(Through Shri Satpal Singh, Advocate)

ORDER

Mr. R.N. Singh, Member (J)

The present Contempt Petition (CP) has been filed by the applicant, alleging lack of fairness and malafide intention at the end of the respondents in implementing the directions of

this Tribunal contained in order/judgment dated 12.01.2018 in OA 4052/2016. The operative portion of the order/judgment of the Tribunal reads as under:

“4. We are of the opinion that if another expert opinion is obtained from the expert Doctors from AIIMS, it will not be to the disadvantage of the respondents. Under the above circumstances, this OA is disposed of with a direction to the respondents to refer the applicant to Rajendra Prasad Eye Hospital, AIIMS, at New Delhi with request to constitute a Board of at least three Doctors for conducting the medical examination of the applicant. The said Board will furnish its opinion to the respondents within a period of fifteen days from the date of medical examination of the applicant. The respondents would act on the basis of the opinion of the Doctors and pass appropriate order within one month from the date of receipt of the opinion. The Board, through the respondents will communicate the date of medical examination to the applicant well in advance.”

2. In response to the notice from this Tribunal in the present CP, the respondents have filed compliance affidavit on 12.09.2019. In the said affidavit, they have stated that in pursuance of the directions of this Tribunal, the petitioner was referred to Dr. Rajendra Prasad Centre for Ophthalmic Sciences, A.I.I.M.S., Ansari Nagar, New Delhi for examination and a Medical Board of three doctors of the said Dr. Rajendra Prasad Centre for Ophthalmic Sciences has furnished its report dated 20.07.2018. In the said report, the Medical Board has opined that retinal evaluation of both eyes are in normal limits. The respondents have further contended that the post of Assistant Loco Pilot, a driver in train, is a safety post and for this post, Aye-one medical category is required.

3. The respondents have also contended that keeping in view the medical report dated 20.07.2018, they have

considered the candidature of the applicant for the relevant post and the competent authority has come to a conclusion that “the candidate Shri Brajesh Kumar’s Medical Examination for the post of ALP (Assistant Loco Pilot)/ Driver in trains in Aye-One, Medical Category is not as per Railway Board Guide lines of safety of travelling public and it is therefore essential that candidate should have a very high standard of physical and mental fitness” and, accordingly, the petitioner was not found eligible medically for the said post as per policy guidelines. In this regard, a speaking order dated 17.11.2018 has been passed by the respondents.

4. The petitioner has filed rejoinder, alleging malafide practices being followed by the railways in their recruitment and has also alleged delay in conducting the medical examination at the aforesaid centre as well as in passing the speaking order dated 17.11.2018.

5. Heard the learned counsel for the parties.

6. The learned counsel for the petitioner submits that the respondents have not complied with the directions of this Tribunal in letter and spirit. She further argues that there has been considerable delay in getting the petitioner examined by the Medical Board and also in passing the speaking order.

7. Per contra, the learned counsel for the respondents submits that delay in medical examination or in passing of the order is bonafide and not willful. He further argues that the respondents have considered the claim of the petitioner, keeping in view the report furnished by the Medical Board constituted at Dr. Rajendra Prasad Centre for Ophthalmic Sciences and the said report has been considered keeping in view the relevant policy guidelines on the subject and a speaking order dated 17.11.2018 has been passed.

8. We have considered the pleadings on record and rival contentions of the parties. We are of the view that once in pursuance of the directions of this Tribunal, the medical examination of the petitioner has been got conducted and the report furnished by the Medical Board has been considered by the competent authority keeping in view the relevant guidelines on the subject and the speaking order has been passed, the respondents are not liable to be proceeded under the contempt jurisdiction. Reliance is placed on the law declared by the Hon'ble Supreme Court in **J.S. Parihar Vs. Ganpat Duggar and others**, (1996) 6 SCC 291, where the following observations have been made:

“It is seen that once there is an order passed by the Government on the basis of the directions issued by the court, there arises a fresh cause of action to seek redressal in an appropriate forum. The preparation of the seniority list may be wrong or may be right or may or may not be in conformity with the directions. But that would be a fresh cause of action for the aggrieved party to avail of the opportunity of judicial review. But

that cannot be considered to be the willful violation of the order.”

9. In view of the aforesaid discussion and law, the present CP is closed. Notices are discharged.

(Aradhana Johri)  
Member (A)

(R.N. Singh)  
Member (J)

/dkm/