

O.A. No.020/0059/2019

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH  
HYDERABAD**

O.A. No.020/0059/2019

Date of Order :25.07.2019.

Between :

Suresh Kumar Sunani, s/o Balaram Sunani,  
Aged about 30 yrs, Occ:Un-employee,  
Door No.16-3-2, Kothuru Street, Samalkot,  
East Godavari District, Andhra Pradesh-533 440. ...Applicant

And

1. Union of India, rep., by the General Manager,  
South Central Railway, Rail Nilayam, Secunderabad

2. The Chief Medical Director,  
South Central Railway, Rail Nilayam,  
Secunderabad.

3. The Chief Medical Superintendant,  
South Central Railway, Vijayawada Division,  
Railway Hospital, Vijayawada,  
Krishna District, Andhra Pradesh.

4. Senior Divisional Personal Officer,  
South Central Railway, Vijayawada Division,  
Vijayawada, Krishna Dist, A.P. ... Respondents

Counsel for the Applicant ... Mr.M.C.Jacob

Counsel for the Respondents ... Mr.N.Srinivasa Rao, SC for Rlys.

**CORAM:**

**THE HON'BLE MR.B.V.SUDHAKAR, MEMBER (ADMN.)**

**ORAL ORDER**

**BY B.V.SUDHAKAR, MEMBER (ADMN.)**

2. The OA is filed for not considering the request of the applicant for compassionate appointment.
  
3. The brief facts of the case are that the applicant's father Sri Balaram Sunani, on medical grounds, sought voluntary retirement with effect from 02.12.2013. Consequent to his father taking voluntary retirement, applicant applied for compassionate appointment on 24.07.2014. Applicant was permitted to appear for the medical examination on 16.01.2018, and while submitting his medical history, applicant stated that he fainted at the age of 13 years. Thereafter, it did not recur. Applicant was examined by the Medical Board on 06.02.2018 and found him medically unfit. Applicant was advised that he can prefer an appeal in terms of Para 522 of the Indian Railway Medical Manual (IRMM). Instead of making an appeal, applicant submitted medical report from the Neuro Department of the Government General Hospital, Kakinada, certifying that he is fit. Respondents, without perusing the records, rejected the appeal. Consequent to the rejection, the applicant submitted a format for re-medical examination. Based on the medical records available with the Respondent No.3 hospital, the appeal of the applicant was rejected in terms of Para 511 (9) (b) (iii) of IRMM. When the reasons for rejection was not forthcoming, applicant obtained details under RTI. Records indicate that the applicant was declared unfit on the ground of being Epilepsy patient and the applicant claims that there is no

medical evidence that he is epileptic. As his candidature was rejected on a wrong premise, the OA has been filed.

4. The contentions of the applicant are that the respondents diagnosed the applicant as epileptic patient without any medical evidence. Respondents failed to consider the investigation report of the Government General Hospital, Kakinada, and also the Certificate issued by the Neuro Surgeon certifying his health condition. Respondents could have referred the applicant for further appropriate medical evaluation.

5. Respondents in their reply statement stated that the applicant during medical examination has declared that he has fits and accordingly signed a declaration on 16.01.2018. This declaration was countersigned by the Medical Examiner/RH/BZA. Respondents confirmed that the applicant when questioned informed that he had fits 13 years back, but it did not recur thereafter. A declaration to this effect was also taken from the applicant in writing in mother tongue. The same was countersigned by the Medical Examiner. The physical examination of the applicant revealed obesity and high blood pressure. Further, the medical report revealed as under:

“Suggestive of small calcific foci noted in the right high frontal lobe-suggestive of healed granuloma. Rest of the investigations were normal and there was no evidence of end-organ damage.”

The case was put up before the medical board on 06.02.2018 and the medical board declared that the applicant is unfit for appointment in all

medical categories of Railway service on grounds of Epilepsy. Applicant made an appeal for re-medical examination, which was considered and rejected.

6. Heard Mr.M.C.Jacob, learned counsel for the Applicant and Mr.N.Srinivasa Rao, learned standing counsel for the Respondents. Perused the pleadings on record.

7 (I) The applicant during medical examination has informed that he had fits 13 years back and the same did not recur. Respondents recorded the same in their records and placed the case before a medical board, which also declared that the applicant is not fit for appointment in any medical category. After being rejected, the applicant got himself tested in Government General Hospital, Kakinada, wherein they have certified him to be normal. The CT Brain Scan report has also been enclosed and signed by a Consultant Radiologist. In view of being found to be medically fit, applicant appealed. Respondents in response stated that the medical board has examined the applicant and thereafter rejected his case. The medical board comprises of three members. Among the three Doctors, one was the Paediatrician, second was Ortho and the third was General Doctor. As per Serial Circular No.159/2015, dated 31.12.2015, the medical committee formed should consist of three Doctors, out of which one has to

be a specialist in the area in which the candidate has been found medically unfit. As seen from the medical committee composition, there is none from the field of Neurology. Hence, the report is invalid in view of the Serial Circular No.159/2015.

(II) Besides, the Government General Hospital, Kakinada, has given a report contrary to the findings of the respondents' hospital. Consequently, the applicant need to be given an opportunity for being re-examined. The Railway Board had issued a Circular dated 31.12.2015, where there is provision to re-examine medical cases, which have been rejected. Provisions (VIII) and (IX) of the said Circular apply to the case of the applicant.

(III) The respondents have also cited the judgments of the Hon'ble Supreme Court in *State Bank of India v. G.K.Deshak* (1994 supp (1) SCC 70) and in *Indian Council of Agricultural Research & Another v. Smt. Shashi Gupta* (AIR 1994 SC 1241) in regard to medical opinion tendered by the medical authorities. In the said observations, it was mentioned that judicial bodies should not declare appellants as medically fit. In the present case, this Tribunal does not desire to declare the applicant to be medically fit. However, since the respondents have failed to constitute a proper medical committee as per their own instructions, it is necessary for correcting the same in the interest of justice. Besides,

Circular dated 31.12.2015 of the Railway Board provides for such review. Hence, the respondents need to be directed to re-examine the case of the applicant by constituting a Medical Review Committee preferably with a Specialist in the area in which the applicant is found to be unfit, so that the respondents will have the benefit of obtaining a correct diagnostic report, which may help them in deciding the case.

(IV) Accordingly, the respondents are directed to constitute a Medical Review Committee as per the instructions of the Railway Board's letter dated 31.12.2015, and examine the medical condition of the applicant properly, so that the respondents can fairly decide further in regard to the request of the applicant for compassionate appointment.

(V) With the above direction, the OA is allowed with no order as to costs.

**( B.V.SUDHAKAR)  
MEMBER (ADMN.)**

Dated:this the 25th day of July, 2019

DSN.