

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH



No. O.A. 350/00422/2016

Date of order: 6.5.2016

Present : Hon'ble Justice Shri Vishnu Chandra Gupta, Judicial Member
Hon'ble Ms. Jaya Das Gupta, Administrative Member

U. SRINIVASAN

VS.

UNION OF INDIA & ORS. (S.E. Railway)

For the Applicant : Ms. S. Ghosh, Counsel

For the Respondents : Mr. B.L. Gangopadhyay, Counsel

ORDER (Oral)

Justice Shri Vishnu Chandra Gupta, Judicial Member:

Heard the Ld. Counsel for the parties.

2. Board's letter dated 8.1.2016 has been brought on record which pertains to diabetic patients seeking appointment in the Railways and has been rejected on account of disease known as diabetes mellitus. The Railway Board letters dated 8.1.2016 is reproduced hereinbelow with a covering note dated 9.2.2016 issued by Director Establishment, Railway Board:-

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No. E(NG)II/2013/RC-1/SR/15

New Delhi, Dated 9.2.2016

The General Manager's (P),
All Zonal Railways/Pus.

Sub: Compassionate grounds appointment to the candidates
having been declared medically unfit due to diabetes.

The matter of appointment of candidates suffering from diabetes on the Railways, through various modes including compassionate grounds has been under review of this Ministry, owing to various court cases related with the issue.

Accordingly, the matter has been considered and it has been decided that

such cases may be dealt in terms of Board letter No. 2008/H/5/18 dated 08.01.2016 (Copy enclosed).

(This disposes off Southern Railway's letter No. PB/CS/30/Court Case/Vol. III dated 04.05.2015 & 03.08.2015, P(R)563/P/DRQ/Genl. Dated 06.02.2015 and RDSO letter No. E-4/comp./Gr.Ç/248(AJ) dated 03.09.2013 & LC/525/2014/AJ dated 19.12.2015).

(Neeraj Kumar)
Director Estt. (N) II,
Railway Board"

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No. 2008/H/5/18

New Delhi, Dated 8.1.2016

The General Manager,
All Indian Railways (Including Pus & RDSO).

Sub: Fitness of candidates including cases of compassionate ground appointments, PwD (non-gazetted) & land losers etc. found diabetic in first medical examination


In the recent past, it was observed that in a number of cases, especially in cases of compassionate ground appointment, Hon'ble Courts have ordered that the candidates suffering from Diabetes Mellitus are to be taken in Railway Service even though they are declared unfit for Railway services by the Competent Medical Authorities. The Hon'ble Courts in their various judgements have held that Diabetes Mellitus is not a disease. Keeping in view the persistent observation coming from Hon'ble Courts, a three member committee was constituted to examine the issue.

The Committee has recommended the following parameter for diagnosing Diabetes Mellitus and deciding of fitness candidates:-

1	Fasting Plasma Glucose	More than or equal to 126 mg/dl
2	Two-Hours Post-Prandial Plasma Glucose level	More than or equal to 200 mg/dl
3	Hb A1C	More than or equal to 6.5%

In view of the above established facts the following procedure for deciding medical fitness of candidates suffering from diabetic conditions (diagnosed as per above parameters) is laid down:-

1. For different types of appointments including compassionate, PwD (Non-gazetted) etc., candidate if found diabetic in first examination (as per above parameters) should be re-examined.
2. Re-examination would be done by a "THREE MEMBER MEDICAL



COMMITTEE" comprising of one physician of PG Qualification/Endocrinologist if available, one ophthalmologist & headed by a SAG medical officer of the divisional zonal hospital. Recommendation of the Committee will be accepted by CMS/MD/CMO/ACMS in-charge as the case may be.

3. Purpose of re-examination will be the thorough clinical evaluation and investigation to rule out any complication of Diabetes or involvement of an End Organ.
4. If some investigations are to be performed for which the facility is not available in-house, the same should be arranged from recognized private labs/clinic & the charges for the same are to be paid by the candidate only.
5. If there is no complication or involvement of End organ, the candidate will be declared "FIT IN CEY ONE OR BELOW."
6. Establishment Directorate has to readjust those candidates as per available vacancy.

This has the approval of Board (MS).

(R.S. Shukla)
Joint Director (Health)
Railway Board"

3. The applicant has been declared unfit on the basis of the certificate issued by the Sr. Divisional Medical Officer, S.E. Railway, Adra. He was declared ⁺ on account of impaired fasting glucose and renal glycosuria (urine sugar ++).

But the applicant has not been examined in terms of the Board's letter dated 8.1.2016 (supra).

4. As the controversy is centred around the declaring the applicant unfit only for the presence of sugar in urine, therefore, we are of the view that applicant should be examined afresh keeping in view the direction issued by the Railway Board vide letter dated 8.1.2016.

5. With this observation, the O.A. is finally disposed of at the admission stage without calling for the reply.

(Jaya Das Gupta)
MEMBER(A)

(Vishnu Chandra Gupta)
MEMBER(J)

SP