

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.534/2003

New Delhi, this 7th day of March, 2003

Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri A.P. Nagrath, Member(A)

Vinay Kumar Behl
Deputy Chief Controller
Northern Railway
DRM Office, New Delhi .. Applicant

(Shri S.K.Sahwney, Advocate)

versus

Union of India, through

1. General Manager
Northern Railway
Baroda House, New Delhi
2. Divisional Railway Manager
Northern Railway, New Delhi
3. Chief Medical Supdt.
Northern Railway, Delhi
4. Sr. Divisional Personnel Officer
Northern Railway
DRM Office, New Delhi .. Respondents

ORDER(oral)

Shri A.P. Nagrath

The applicant, while working as Deputy Chief Controller (Dy CHC, for short), was sent for medical examination. The medical authority declared him unfit for train running/train passing duty permanently as per medical advice dated 17.5.2000. His case was referred to the Medical Board, which opined that the applicant, though, was fit in his original medical category C-I from vision point of view but was recommended to be given a job which does not involve train working and which does not bring him in contact with public (Annexure A-2). His case was once again considered at a higher level and by order dated 23.9.2002, he was directed to be sent for re-medical examination. He was re-examined by the Chief Medical Officer, Northern Railway, Delhi and he was declared fit in his original medical category C-I under



3

letter dated 13.1.2003. As a consequence of his medical fitness, he was ordered to be posted as Dy CHC, New Delhi vide order dated 28.2.2003 (Annexure A-1). Being aggrieved by this order, applicant has filed the present OA and has prayed for the following reliefs:

- (i) To quash the orders dated 13.1.2003 and 28.2.2003; and
- (ii) To direct the respondents to take action for absorption of the applicant on an alternative job as per recommendations of the Medical Board dated 13.10.2000.

2. Heard the learned counsel for the applicant. The main ground canvassed by the learned counsel was that the applicant had earlier been declared medically decategorised by the Medical Board on account of his prolonged sickness. In such a situation, no occasion should have occurred for his-re-medical examination. He contended that the action of the respondents was in breach of Rule 522(2)(ii) of Railway Medical Manual.

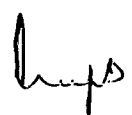
3. We are not persuaded by the arguments advanced by the learned counsel. If the earlier Medical Board had declared him unfit for certain duties, it does not preclude the higher authority in having him re-examined. The order for re-examination was issued at the behest of the Committee comprising CMD, CPO(IR) and CSO/Hqrs. This is a high level Committee and the CMD is the highest

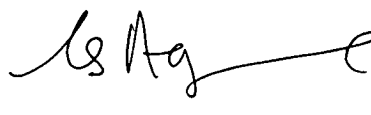


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medical authority of a Zonal Railway. In the facts of the case, if it is considered necessary by the medical experts to have the railway servant re-examined medically, no fault can be found by such a decision. Courts/Tribunal shall not substitute their own advice/opinion into the matters falling essentially in the domain of experts. On his re-examination the applicant has been declared fit in his original medical category C-I and he is posted back as Dy CHC, to which category he originally belongs. If the concerned department and authority are satisfied that the applicant is physically and mentally fit to undertake the responsibilities of the job entrusted to him, there is no reason for us to interfere with such a decision. It is essentially for the employer to decide how best to utilize the services of the employees.

4. We do not find any infirmity in the impugned order. Thus the OA must fail and we dismiss the same in limine.


(A.P. Nagrath)
Member(A)


(V.S. Agarwal)
Chairman

/gtv/