

CENTRAL ADMINISTRATIVE TRIBUNAL  
KOLKATA BENCH, KOLKATA

No. O.A. 350/01542/2016

Date of order: 11.11.2019

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member  
Hon'ble Dr. Nandita Chatterjee, Administrative MemberChandan Sahu,  
Village and Post Office – Garhbari,  
P.S. Bhupati Nagar,  
District: Purba Medinipur – 721626;

.....Applicant.

Versus

- 1) Union of India and Ors  
Service through the General Manager,  
South Eastern Railway,  
11, Garden Reach Road,  
Kolkata – 700043;
- 2) The Chairman  
Railway Recruitment Cell,  
South Eastern Railway,  
Kolkata – 700043;
- 3) The Divisional Railway Manager,  
South Eastern Railway,  
Kharagpur,  
P.O. Kharagpur,  
District : Paschim Medinipur,  
Pin – 721301;
- 4) The Chief Personal Officer,  
South Eastern Railway,  
Having his office at 11,  
Garden Reach Road,  
Kolkata – 700043;

..... Respondents.

For the Applicant : Mr. B. Bhushan, Counsel

For the Respondents : Mr. S. Banerjee, Counsel

*Sub*

**O R D E R (Oral)****Per Dr. Nandita Chatterjee, Administrative Member:**

The applicant has approached the Tribunal under Section 19 of the Administrative Tribunals Act, 1985 praying for the following relief:-

- "a) Do issue mandate upon the respondents their men and agent and each of them to forthwith rescind, recall and/or withdraw the purported cancellation of candidature vide letter dated 20.09.2016 issued by the respondents.
- b) An order directing the respondents, each one of them, their men, agents, staffs, subordinates and associates to forthwith appoint the applicant in suitable post in the pay scale of Rs. 5200 - 20,200/- with grade pay of 1800/- considering available medical fitness of the applicant considering the applicant eligible for compassionate appointment for the land losers.
- c) An order directing the respondents, each one of them, their men, agents, staffs, subordinates and associates to forthwith compensate by way of appointment in any other suitable post other than the Trackman.
- d) An order directing the associates to certify and transmit of this Hon'ble Tribunal relevant documents pertaining to the present case so that conceivable justice may be administered by directing them to forthwith appoint the applicant any suitable post in the pay scale of Rs. 5200 - 20,200/- with grade pay of Rs. 1800/-
- e) Costs of and/or incidental to this application be borne by the respondents;
- f) Such further and/or other order or orders be passed and/or direction or directions be given, as to this Hon'ble Tribunal may deem fit and proper;

2. Heard Ld. Counsel for the applicant and the respondents. Examined pleadings, documents on record and considered the rival contentions.

3. The submissions of the applicant are that a notification was issued by the Railway respondents to provide employment to land losers, whose land has been acquired in the Deshpran Nandigram Railway Line Project.

The applicant applied for recruitment as he was a land loser, appeared at an interview held for the purpose, and, thereafter, obtained an offer letter for temporary and provisional appointment for Gr. 'D' post of Trackman in Grade Pay of Rs. 1800/-. Upon his medical examination, however, on account of defective binocular vision, he was declared

*lnd*

medically unfit in B-1 (Bee one) medical category as was required for appointment as Trackman. The applicant represented repeatedly to the respondent authorities on 8.1.2016, 13.6.2016 as well as on 10.8.2016 in which he sought appointment in an alternative post as he was debarred from joining the post of Trackman, being medically unfit in B-1 (Bee one) medical category.

4. The respondents, however, vide their communication dated 20.9.2016, referred to one application purportedly dated 16.8.2016 from the applicant and declared that his offer of appointment was cancelled as he had expressed his disinterest in accepting such offer of appointment.

The respondent authorities have annexed as R-1 to their reply a correspondence dated 16.8.2016 purportedly from the applicant, in which the applicant reportedly have stated as follows:-

To,  
 1. The General Manager, S.E. Rly.  
 11, Garden Reach  
 Kolkata - 700043  
 2. The Chairman,  
 Railway Recruitment Cell, S.E. Rly. 11  
 Garden Reach  
 Kolkata - 700043  
 3. The Chief Personal Officer, S.E. Rly.  
 Garden Reach  
 Kolkata - 700043  
 4. The Divisional Railway Manager,  
 Kharagpur Division  
 S.E. Rly., Kharagpur.  
 P.O.- Kharagpur,  
 Dist- Purba Medinipur,  
 Pin- 721301  
 5. The Senior Divisional Personal Officer,  
 Kharagpur Division,  
 S.E. Rly., Kharagpur.  
 P.O.- Kharagpur,  
 Dist- Purba Medinipur,  
 Pin- 721301

Sub:- Application for withdraw the claim of Railway Service as a Land Lessor under Deshapran - Nandigram Spl. Rly. Project.

Ref:- Order of C.R.C. 350/00084/2015 Mands Khara and others,  
 dated - 01.09.2015

Ref. No.- SER/P-KGP/REC/RRG/Erst/While Gr.- D/CS/2015 Dated 28.09.2015

Ref:- Your Letter Memo No.- SER/P-KGP/REC/123  
 Land Lessor/Posting/CS/2015 dated - 3.12.2015

Ref.- Application dated - 08.01.2016, Reminder Application dated - 13.06.2016 and 2nd Reminder Application Petition dated - 20.07.201

Applicant:-

CHANDAN SAHU  
 S/O- Goutam Sahu  
 Vill. + P.O.- Garhbari,  
 P.S.- Bhupatinagar,  
 Dist- Purba Medinipur  
 Pin- 721626

*Chandan Sahu*

Sir,

With reference of the above subject your petitioner willing withdraw his claim from Railway Service under Deshapran - Nandigram Special Railway Project. Your petitioner had gotten temporary provisional Appointment Gr.-D Category as Trackman Pay Bond Rs- 5,200-20,200/- with Grade Pay Rs.- 1800/- on dated 28.09.2015. In this regard your petitioner sat on the Medical Test before the D.R.M.-Kharagpur Division on 03.12.2015 and have been declared medically unfit in B-I, (Bee one) Medical Category for Appointment as Trackman due to defective Binocular Vision.

In this circumstances your Petitioner applied for any suitable Post before the chairman Railway Recruitment Cell, S.E. Rly. 11, Garden Reach on dated 8.1.2016 and also sent 2 nos. Reminder Letter before the concern Railway Authority S.E. Rly. on dated 13.3.2016 and 20.7.2016 respectively.

Your petitioner stated that he is a high qualified candidate mentioned in the first application on dated 23.4.2012. The Concern Authority have given temporary appointment on dated 28.9.2015 to your Graduate Passed Candidate as a Trackman.

This is to impossible and hard job and matter of prestige in the case of your qualified Graduate to join any Gr.-D Post under S.E. Rly. as a Land Loser Candidate. Now your petitioner sitting several Banking Examination for Officials Ranking job under Bandhan Bank etc. so, the concern Railway Recruitment Authority (S.E. Rly.) would not to take any process for further any Gr.-D posts appointment in favour of your Land Loser Candidate and your petitioner willingly denied to received the said above Gr.-D post.

So, your petitioner pray that you will be pleased and to take necessary action against cancelation the appointment process of your Land Loser Candidate being Gr.- D post as early as possible.

All the above statements are true and best of my knowledge.

Thanking you,

Yours faithfully,

*Chandan Sahni*

Date: 16.08.2016

Ld. Counsel for the respondents would reiterate, that, as the applicant had consciously withdrawn his claim for appointment from Railway service and had prayed for cancellation of appointment as land loser candidate in Gr. 'D' post, the respondent authorities have rightfully cancelled his appointment on 20.9.2016 (Annexure A-7 to the O.A.).

5. Ld. Counsel for the applicant would vociferously agitate that he is under instructions to submit that the said representation dated 16.8.2016 has never been submitted by the applicant and the entire

*hafiz*

representation withdrawing his claim for appointment as a land loser is fabricated and forged.

6. Upon perusing the documents annexed to his Original Application, we find that the applicant had indeed applied for the post on the grounds of being a land loser in Deshpran Nandigram Railway Line Project on 24.4.2012, was advised to appear on 28.8.2012 before a screening committee, was thereafter reissued a temporary and provisional offer of appointment as Trackman, on 28.09.2015, which also directed him to appear for a medical examination. Annexure A-5 to the O.A. reveals that he was declared medically unfit in B-1 (Bee one) category for appointment as Trackman on account of his defective binocular vision and that he had submitted repeated representations seeking an alternative appointment.

7. There is considerable strength in the submissions of Ld. Counsel for the applicant that the letter purportedly written by the applicant on 16.8.2016 (Annexure R-1 to the reply) was not issued by the applicant as because his reminder letters were dated 13.6.2016 as well as 10.8.2016 and not 13.3.2016 and 20.7.2016 respectively as mentioned in R-1 to the reply.

8. Accordingly, we would direct the respondent No. 1, namely, the General Manager, S.E. Railway, to examine the contents of the representations dated 8.1.2016, 13.6.2016 as well as 10.8.2016 (Annexure A-6 to the O.A. colly.), if received at his end, and to decide on the scope of providing the applicant with alternative employment as per rules, particularly, in the context of the fact that he had been declared medically unfit in the B-1 (Bee one) medical category. The said respondent authority should also accord a personal hearing to the applicant, particularly, to clear any doubts on his purported

heb,

representation dated 16.8.2016 as cited by the respondents in their cancellation letter dated 20.9.2016.

The said respondent authority will issue a speaking and reasoned order in accordance with law and convey his decision forthwith thereafter.

The entire exercise should be completed within 12 weeks of the date of receipt of a copy of this order.

9. With these directions, the O.A. is disposed of. No costs.

(Dr. Nandita Chatterjee)  
Administrative Member

(Bidisha Banerjee)  
Judicial Member

SP

