

**Central Administrative Tribunal
Principal Bench, New Delhi**

OA No.1225/2017

Order Reserved on: 17.10.2019
Order Pronounced on: 04.11.2019

**Hon'ble Mr. Ashish Kalia, Member (J)
Hon'ble Ms. Aradhana Johri, Member (A)**

Shri Vinay Kumar Dubey,
S/o Ram Adhar Dubey,
(Roll No.21043098) age 24 years,
R/o Vill. Misrahiya
PO Kharadih, Faizabad, UP-224205 - Applicant

(By Advocate: Mr. BK Berera)

Versus

1. Union of India through
General Manager,
Northern Railway, Baroda House,
New Delhi

2. The Secretary,
Railway Recruitment Board,
Chandigarh-160002

3. The Chief Medical Director,
Northern Railway, Baroda House,
New Delhi

- Respondents

(By Advocate: Sh. Satpal Singh)

ORDER

This Original Application (OA) has been filed by the applicant claiming the following reliefs:-

“a) to quash the impugned order dated 2.11.2016 rejecting the appeal of the applicant for medical re-examination and informing that the candidature for the post of ALP is hereby cancelled;

- b) That the Hon'ble Tribunal may graciously be pleased to pass an order of directing the respondents to get the applicant medically examined by an independent medical board or in any other Govt. Hospital on the issue whether the applicant has any eyes problem as per the Medical Requirement of the Railway for the post of Assistant Loco Pilot and the case of the applicant may be considered for his appointment to the post of Assistant Loco Pilot on the basis of the medical report given by the independent medical board with all consequential benefits including seniority, fixation of pay, arrears of pay and allowances from due date etc.
- c) the Hon'ble Tribunal may be pleased to call for the records of Medical Examination declaring the applicant "unfit".
- d) Any other order as this Hon'ble Tribunal may deem fit under the present facts and circumstances of the case."

2. The applicant has applied for the post of Assistant Loco Pilot pursuant to the Advertisement No.1/2004 and was given offer of appointment on 02.02.2016 for the said post and later declared unfit in the 'Aye One' category vide letter dated 12.02.2016. The applicant is aggrieved by the order dated 02.11.2016 whereby his candidature for the post of Assistant Loco Pilot has been canceled by stating that you have been selected for the post of Assistant Loco Pilot through RRB/CDG and on being found medical unfit for the said post by medical authority, your appeal for remedical examination has been rejected by the competent authority vide letter dated 15.09.2016.

3. Thereafter the applicant got examined himself by the Eye specialist from RML Hospital and submitted medical certificate where he was declared fit, i.e., vision is 6/6 in both eyes without correction.

4. In reply to the aforesaid averments of the applicant, the respondents have submitted that the applicant was examined in the dark room as per Railway Standards and found sub standard vision in left eye 6/12. Hence, his case was put up to CMS/DLI and standing medical board of three doctors were constituted and examined him on 29.03.2016 as per Railway Board letter dated 31.12.2015. He was declared unfit by three doctors medical board.

5 Heard counsel for the parties at length.

6. The issue involved in the present OA is whether the applicant the entitled for re-examination by the Medical Board pursuant to the certificate obtained from another Government Hospital RML or not?

7. Counsel for the respondents has drawn our attention to Railway Board's order dated 31.12.2015 in this regard in which it is submitted that no appeal lies once the medical board has examined under the said rules. He has cited Rule 8(a) and (b):-

VIII. Consideration of special cases:-

a) Once the 03 member Boards has taken a decision on the grounds of conditions like hypertension, sub

standard vision and defective color perception diabetes and the same has been accepted by the respective CMO/MD/CMS/ACMS in charge of the Unit/Division/Sub Division any representation /appeal shall be dealt with on the basis of the records and the findings of the Committee and the candidate will not be subjected to re-examination.

b) Only in specific and exception cases, in which there is an objective record of an X ray finding, ECG record, Echo or a permanent defect/deformity there can be an appeal in regard to the interpretation of such a finding and such cases can be entertained an appeal by the CMD. CMD of the Zone may order for re-medical examination of such candidates if he is satisfied that there are genuine grounds for consideration of such an appeal. Such evidence should be submitted within one month of the date of communication of the decision of the CO/MD/CMS/ACMS in charge of the Unit/Davison/Sub-=Division/Production Unit to the candidate. However, such an appeal shall be entertained only if the candidate produces a certificate from a Government/Private doctor of the specialty/specialties in which the candidate has been found unfit. Such a certificate should also contain a note that the Government/Private specialist was aware of the fact that the candidate has already been declared unfit during medical examination conducted by an appropriate medical committee appointed by the Government in this regard. The government/private specialist should also certify that he is fully aware of the physical & vision standards set by the railways, and that he is fully aware that the candidate has already been certified as unfit according to the standards”.

8. As per the terms of the appointment for the said post, the applicant vision should be 6/6. After rejection by the initial examination by the Eye Specialist, his case has been referred to the medical board under RRB Rules where they found that the vision of the applicant in left eye was 6/12

instead of 6/6. The contention of the applicant that he has been examined by another Government Doctor who has opined that his vision is 6/6, then he should have been re-examined by the Railway Medical Board.

9. We find no force in the contention raised by the applicant in this regard for the simple reason that the standards fixed by the Railway Board have to be adhered to because the post of Assistant Loco Pilot is such where public safety is utmost importance. Even otherwise, the Railway Authorities have already re-examined the applicant by Review Medical Board consisting three doctors. Thus, the grievance of the applicant that he should have been given another opportunity for re-examination pursuant to the certificate issued by the Government Hospital, RML is not tenable in the eyes of law.

10. In view of the above, we are of this view that the present OA lacks merits and is liable to be rejected. The OA is accordingly dismissed. No order as to costs.

(Aradhana Johri)
Member (A)

(Ashish Kalia)
Member (J)

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