
(2024) 11 CAT CK 0035

Central Administrative Tribunal Principal Bench, New Delhi

Case No: Original Application No. 113 Of 2016

Somvir

APPELLANT

Vs

Union Of India Through & Ors

RESPONDENT

Date of Decision: Nov. 27, 2024

Acts Referred:

- Central Administrative Tribunal Act, 1985 - Section 19
- Constitution Of India, 1950 - Article 14, 16, 21

Hon'ble Judges: Harvinder Kaur Oberoi, Member (J); Dr. Sumeet Jerath, Member (A)

Bench: Division Bench

Advocate: Nilansh Gaur, Ashish Singh

Final Decision: Dismissed

Judgement

Dr. Sumeet Jerath, Member (A)

1. The instant OA has been filed by the applicant, Mr. Somvir under Section 19 of the CAT Act, 1985 seeking the following reliefs :-

8 (a) Directing the respondents to place the relevant records pertaining to the present O.A. before their Lordships for the proper

adjudication in the matter in the interest of justice, and thereafter;

(b) To quash and setting aside the impugned order published through internet by which the candidature of the applicant has been cancelled

with the contentions 'Medical Unfit' neglecting the case of the applicant for appointment to alternative posts and thereafter directing the

respondents to consider and finalise the request of the applicant for appointment to alternative posts for which the applicant is found fit

within some stipulated period.

(c) Directing the respondents to appoint the applicant against the vacancies notified under the Employment Notification No.220E/Open

Mkt./RRC/2012 dt. 30.08.12, with all other consequential benefits from the date from which the batch mates of the applicants have been appointed etc.

d) Allowing the O.A. of the applicants with all other consequential benefits and costs.

e) Any other fit and proper relief may also be granted to the applicants.

2. The synopsis of the case as per the counsel of the applicant is that in response to the notification No. 220E/Open Mkt/RRC/20 dated 30.08.2012

published by the respondents to fill up Group A™ posts (Helper, Track Man, Porters, Pointsman, Gateman, Safaiwala and Cleaners) in the

Railways, the applicant, an OBC candidate applied for the same and qualified in the selection process (i.e, written test and Physical Efficiency Test

(PET)). Thereafter, on the basis of his performance in the written test and PET, he was provisionally found eligible for verification/checking of

original/certificates. However, he was found “unfit” in medical categories and was asked to apply for Review Medical Board after taking

treatment and being declared fit. Though, the applicant underwent treatment and recovered vide fitness certificate dated 11.07.2014 issued by the

General Hospital, Sonipat and applied for the review Medical Board along with the aforesaid fitness certificate, he was again declared unfit and was

informed verbally about it. Consequently, he requested for appointment on an alternative post for which he was asked to wait. However, his

candidature was rejected with remarks “Medical unfit”. Moreover, the respondents did not pay any heed to his request for alternative post.

Aggrieved, the applicant submitted an appeal dated 02.09.2015 in this regard, but to no avail.

3. Learned counsel of the applicant based his arguments mainly on the ground that the respondents had deliberately with biased mind and in an

arbitrary manner rejected his candidature by passing a non-speaking, cryptic and unreasoned impugned order. According to him his candidature should

have been considered as admittedly he qualified in all the selection process including the medical fitness as is evident from the fitness certificate dated

11.07.2014 issued by the General Hospital Sonipat. He added that once he qualified and secured a position in the merit list, cancelling his candidature

on the ground of "Medical Unfit" is against the principles of natural justice and violative of Articles 14, 16 & 21 of the Constitution of India.

4. To strengthen his case, learned counsel relied upon the order of the Coordinate Bench of this Tribunal in Rakesh Kumar Ranjan vs. Railway

Board & Ors., in OA No. 471 & 472/2010 dated 06.08.2013. However, the same is not on record.

5. Raising preliminary objection that no cause of action has accrued to the applicant to file the OA, learned counsel of the respondents have prayed for

dismissal of this OA. Denying the contentions of the learned counsel of the applicant, he stated that vide Memo No. 243862 dated 26.05.2014 the

applicant was sent for medical examination where it was found that he was suffering from "Partial loss of distal Phalanx of Left index finger" and

for this reason he was declared unfit in A-2 and below category. This unfit memo was forwarded to the Assistant Personnel Officer, Northern

Railway Lucknow. Thereafter, the applicant was again directed for medical re-examination on an appeal submitted by him along with the certificate

issued by a Private Doctor. However, he was again declared unfit for A-2 and below category for the same reason of "Partial loss of distal Phalanx

of Left Index Finger". Learned counsel further submitted that as per para 511 (1) to (3) (f) of Indian Railway Medical Regulation, 2000, a

candidate for appointment in Railway Service must be in good mental and bodily health and free from any defect likely to interfere with the effective

performance of the duties of his appointment.

Thus, according to the respondents they have rightly rejected the candidature of the applicant in accordance with the rules and instructions on the

subject.

6. Heard learned counsel of both the sides ; examined the documents on record and perused the order of the Coordinate Bench of this Tribunal. We

have observed that the applicant was sent to Divisional Hospital, Northern Railway, Lucknow for medical examination by the Assistant Personnel

Officer, Northern Railway, Lucknow on 26.05.2014 for proposed appointment to Group "D" post. After medical examination of the applicant, it

was found that his was a case of "Partial loss of distal phalanx of left index finger". Accordingly, the applicant was declared unfit in A-2 and

below category. This unfit memo of the applicant dated 28.05.2014 was forwarded to the Assistant Personnel Officer, Northern Railway, Lucknow.

However, the applicant submitted an appeal based on the Certificate issued by a private Doctor of Sonapat and approached the Divisional Hospital,

Northern Railway, Lucknow for medical re-examination. The medical re-examination on 20.04.2015 confirmed and again concluded that the applicant

was suffering from "Partial loss of distal phalanx of left index finger". Accordingly the appellate authority vide their memo dated 10.09.2015 again

declared the applicant as unfit in A-2 and below category.

7. We have also observed that this selection is for the recruitment cycle that was initiated in 2012 " more than 12 years ago. There is no interim

protection enjoyed by the applicant in this case that a group D post is reserved for him against the Employment Notice No. 220-E/Open

Mkt/RRC/2012 dated 30.08.2012. With the efflux of time all these posts must have been long ago filled up and now at this very belated stage no relief

can be granted to the applicant. Also we have observed that there has been no violation of principles of natural justice; no discriminatory, arbitrary and

unjust action of the respondents. The applicant failed in the first medical examination on 26.05.2014 and again failed in the medical re-examination on

20.04.2015. He was thus accorded "reasonable opportunity" but failed to meet the medical standards. He lacked the essential requirement of

adequate physical faculties for the efficient and effective discharge of his duties as a Grade D employee in the Railways. It is a settled principle in

service jurisprudence that right for appointment in government service is not an indefeasible and unfettered right of an aspirant for government service

as per the Hon^{ble} Apex Court Judgment in Shankarsan Dash vs. UOI AIR 1991 SC 1612.

8. In the light of the above the balance of convenience clearly lies with the respondents in this case. We are not inclined to interfere with the rejection

order of the respondents. The instant OA is devoid of merit and is accordingly dismissed with no order as to costs.