



सत्यमेव जयते

न्यायालय मुख्य आयुक्त विकलांगजन
COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES
विकलांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities
सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment
भारत सरकार / Government of India

Case No:3361/1014/2014/PG

Dated: 20 July, 2017

In the matter of:-

Shri Santosh Kumar Lallan Singh R2198
305, Shivbhakti Appt. No. 3, B-Wing
Nallasopara (East)
Thane-401209, Maharashtra.

Complainant

Versus

Western Railway
Railway Recruitment Cell R2199
(Through: Chairman)
Parcel Depot, Alibhai Premji Marg
Grant Road (E), Mumbai-400007

Respondent

Date of hearing : 28.12.2016 and 26.05.2017

Present:

1. Shri Santosh Kumar Lallan Singh, Complainant along with his Advocate, Shri Subhash C. Vashishth
2. Shri K.K. Thakur, Chairman, RRC, Western Railway along with Dr. T.C. Shariya, Addl. Chief Health Director, Western Railway on behalf of the Respondent.

ORDER

The complainant filed a complaint dated 05.01.2014 before the Chief Commissioner for Persons with Disabilities under the Persons with Disabilities Act, 1995 submitting that he had passed written exam for Group 'D' post in Western Railway under 3% Handicapped quota but he was rejected on medical grounds due to ophthalmic reasons. He further submitted that he has the 6/12 or 6/9 vision which is the requirement for carrying out the day to day activities of the said post but they have found progressive disease in his retina which may lead to blindness in future. He further submitted that western railway agreed that he passed written exams for Group 'D' exams successfully and got selected under Orthopaedically Handicapped quota but having said disease they cannot give him any further concession in visual standards inspite the fact that same post is also identified for Low Vision candidates as well. Western Railway has drawn conclusion from existing disability Act that candidates cannot claim concession under multiple categories (orthopaedic and vision problems).

2. The matter was taken up with the respondent vide this Court's letter dated 11.02.2015 advising them to submit their comments.



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3. Although the complainant was fit for OH (70%) category but declared unfit due to another disability of VH (40%), this Court had sought clarification from the Department of Empowerment of Persons with Disabilities (Divyangjan), Ministry of Social Justice and Empowerment vide letter dated 19.05.2016. Department of Empowerment of Persons with Disabilities (Divyangjan) vide letter No. 34-13/2016-DD.III dated 07.10.2016 intimated that their Ministry, in compliance of Hon'ble Delhi High Court order dated 24.12.2014 in the matter of CM No. 21081/2014 and 21080/2014 in W.P. (C) No. 5111/2014 – Union of India & others Vs Tara Chauhan & others and Rev Pt. No. 572/2014, CM Nos. 21082/2014 and 21083 in W.P. (C) No. 5162/2014, constituted an expert committee under the Chairmanship up of Special Secretary, Ministry of Social Justice and Empowerment for identification of certain Group 'D' posts in Indian Railways in the context of suitability for persons with visual impairment i.e. blindness and low vision. The Committee vide Om No. 6-2/2014-DD.III dated 04.03.2015 recommended that the posts of Khalasi Help (Mechanical, S&T), Engg), Khalasi Helper (Stores), Safaiwala (Medical, among others in Indian Railways are suitable for blindness and Low Vision (LV) categories. They further intimated that since most of the posts advertised by Western Railway (Employment Notice No. 2/2010 (RRC/WR) dated 16.12.2010) are identified suitable for both OH and LV categories which implies that person with LV an OH category fulfils the physical requirements and is medically fit the said posts, Shri Santosh Kumar Lallan Singh, complainant, a OH category candidate may not be declared unfit due to his another disability of LV (<40%) as the posts, apart from OH category, are also identified suitable for LV category.

4. Upon considering various replies of the respondent and complainant's various emails and letters. This Court decided to hold a hearing in the matter on 28.12.2016. Upon hearing both the parties and in the light of the comments furnished by the D/o EpwD, M/O SJ&E, the parties were directed as under and the hearing was re-scheduled for 11.04.2017:-

- (i) Complainant is directed to appear before the Medical Board of King Edward Memorial (KEM) Hospital, Mumbai for medical examination of his eyes.
- (ii) Medical Board should comprise one Eye Specialist from Railways as part of the Medical Board.

5. At the request of the respondent vide letter dated 16.03.2017, the hearing was again re-scheduled for 26.05.2017.



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6. During the hearing on 26.05.2017, the complainant intimated that he had passed written examination for Group 'D' post in Western Railway under 3% disability quote but he was rejected on medical grounds due to ophthalmic reasons and, as such, they cannot give him any further concession in visual standards in spite of the fact that the same post is also identified for Low Vision.

7. During the hearing on 26.05.2017, Chairman, Railway Recruitment Cell, Western Railway, Mumbai informed the Court that the medical examination of the complainant was conducted on 05.04.2017 at KEM Hospital, Mumbai in the presence of Medical Board comprising of 2 doctors nominated by KEM Hospital and one doctor by Railways. The members of Medical Board have declared the candidate Fit for services in Railways for "crude jobs like Helper/Khalasi or Safaiwala in non-safety category" with a condition to undergo re-examination every six months on account of suffering from Myopia with progressive degenerative changes. Further, Railway Eye Specialist, as one of the member on the Medical Board submitted dissent note referring para 4 of this Court's directives dated 09.03.2017 to clear that candidate is not a low vision candidate and was not declared Unfit in account of low vision, he is declared Unfit due to suffering from myopia with progressive degenerative changes, hence Railway Doctor has declared him Unfit in terms of IRMM 2000, para 512 1 (A) Note (b). Medical fitness for recruitment in Railways are governed with Indian Railway Medical Manual and the candidate has to fulfill the laid down norms of IRMM. Doctors of KEM have also accepted that the candidate is suffering from Myopia with progressive degenerative changes. Hence, Chief Medical Director of Western Railway have accepted the dissent of Railway Eye Specialist. Therefore, he was not declared fit as PH/OH candidate by Railway Medical Authority.

8. The Court after hearing both the parties observed that there is no violation of any provision of the Persons with Disabilities Act, 1995 and the matter is accordingly disposed off.


(Dr. Kamlesh Kumar Pandey)
Chief Commissioner
for Persons with Disabilities

