

(2015) 06 MAD CK 0044

In the Madras High Court

Case No : Writ Petition No. 3620 of 2015

A. Balasamy

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 16-06-2015

Acts Referred:

Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 — Section 47

Citation : (2015) LabIC 3321

Hon'ble Judges : V. Ramasubramanian and T. Mathivanan, JJ.

Bench : Division Bench

Advocate : R. Pandian, for the Appellant; V.G. Suresh Kumar, for the Respondent

Final Decision : Dismissed

Judgement

V. Ramasubramanian, J.—The petitioner, whose application challenging the order of medical de-categorization was dismissed by the Central Administrative Tribunal, has come up with the above Writ Petition challenging the order of the Tribunal. Heard Mr. R. Pandian, learned counsel for the petitioner and Mr. V.G. Suresh Kumar, learned counsel for the respondents.

2. The petitioner was selected and appointed as an Assistant Station Master way-back in the year 1999. He was later promoted as Station Master Grade III in the year 2002.

3. It appears that the petitioner made a representation on 11.12.2012, to the Senior Divisional Operation Manager claiming that due to the oppressive attitude on the part of the said Officer, he had suffered depression and was demoralized. Not stopping at that, he had also stated in his representation that if any untoward incident happened in the course of his discharge of his duties, the Senior Divisional Operation Manager will have to take the responsibilities for the same.

4. In the light of such a representation, the competent authority seems to have

referred the petitioner for a medical examination. The medical examination was conducted on 15.12.2012 by the Senior Divisional Medical Officer, Katpadi, and again by the Senior Divisional Medical Officer (Psychiatry), Perambur. The Medical Board examined him on 2.5.2013 and declared him unfit for any safety category of employment in AYE ONE, AYE TWO and AYE THREE classification. The Medical Board opined that he was fit to hold the post in BEE ONE category.

5. In the light of the medical opinion, the Railway Administration created a supernumerary post in an equivalent category w.e.f. 2.5.2013 and posted the petitioner to perform clerical work, in terms of the provisions of Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1955.

6. As against the said medical de-categorization, the petitioner filed an appeal on 9.5.2013 to the Senior Divisional Personnel Officer, claiming that he was not informed of the reasons for medical decategorization. The petitioner also made applications under the Right to Information Act. In the meantime, his representation for reconsideration of the medical opinion was rejected by an order dated 16.12.2013, on the ground that the petitioner had not produced any medical certificate to warrant reconsideration.

7. Challenging the said order dated 16.12.2013 and seeking a direction to the Chief Medical Director of Southern Railway to constitute a Medical Board to re-examine him, the petitioner filed an application in O.A.310/2014 on the file of the Central Administrative Tribunal, Madras Bench. The said application was dismissed by the Tribunal by an order dated 20.6.2014. Aggrieved by the dismissal of the application by the Tribunal, the petitioner filed a Review application in Rev.A. No. 30/2014. The same was also dismissed by an order dated 14.10.2014 by the Tribunal. Therefore, the petitioner has come up with the above Writ Petition challenging the Original Application as well as the order passed on Review.

8. The main grievance of the petitioner is that his request for referring his case to the Medical Board should not have been rejected without reference to the Rules and in an arbitrary manner. The petitioner claims that in para.522 of the Indian Railway Medical Manual Vol.I, the procedure is prescribed, but the same has not been followed. Therefore, the learned counsel for the petitioner contends that the impugned orders are vitiated.

9. But, we are unable to accept the above submissions. The reference of the petitioner to the Senior Divisional Medical Officer in December, 2012 was necessitated on account of the contents of the representation made by the petitioner on 11.12.2012 to the effect that he stood demoralized and was depressed and that he cannot be held responsible if any untoward incident happened. The petitioner was examined by the Senior Divisional Medical Officer (Psychiatry) at Perambur, who declared him unfit for any safety category in AYE ONE, AYE TWO and AYE THREE medical classification. The post of Station Master

carries onerous responsibilities of ensuring that the trains which pass through the Station are put in the proper track. The counter affidavit filed by respondents 1 to 5 discloses that the petitioner was already imposed with minor penalties for certain negligent acts of omission and commission. Therefore, the provision of alternative employment to the petitioner under Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1955, was the only option that had to be exercised by the respondents in such cases.

10. Today, the petitioner has been posted as the Office Superintendent in the very same Station carrying the very same scale of pay. In terms of monetary benefits, there has been no loss to the petitioner. Therefore, the petitioner cannot claim anything more, when the issue has been examined with particular reference to the safety of the travelling public.

11. Accordingly, we find no justification to interfere with the orders of the Tribunal. However, we make it clear that if the petitioner is able to prove that he has come out of the depression or he is now alright, it is always open to him to make a fresh application for Reference, in accordance with the provisions of the Indian Railway Medical Manual. With the above observations, the Writ Petition stands dismissed. No costs.