
(2006) 02 DEL CK 0125

In the Delhi High Court

Case No : Writ Petition (C) 4873 of 2005

Divisional Railway Manager and Another

APPELLANT

Vs

Rajesh Kumar Sharma

RESPONDENT

Date of Decision : 08-02-2006

Acts Referred:

Citation : (2006) 02 DEL CK 0125

Hon'ble Judges : Mukul Mudgal, J;H.R. Malhotra, J

Bench : Division Bench

Advocate : Anjana Gosain, for the Appellant; G.D. Bhandhari, for the Respondent

Final Decision : Disposed Off

Judgement

Mukul Mudgal, J.—Rule DB. With the consent of the learned counsel for the parties, the writ petition is taken up for final hearing.

2. This writ petition challenges the judgment of the Central Administrative Tribunal (in short "CAT"), dated 2nd November, 2004 in OA No. 574/2004, allowing the application of the respondent. The operative portion of the said judgment reads as follows:-

6. Having regard to the facts and circumstances of the case as also the discussion made above, it is held that respondents have arbitrarily meted out a discriminatory treatment to the applicant in not considering him for selection for the post of section engineer grade Rs. 6500-10500 as if the applicant had been medically de-categorised for that post, without reviewing the applicant's medical case after three years from 18.9.2001 as advised by the respondents own medical board. Thus, the OA is allowed to the extent that respondents consider applicant's candidature in a supplementary selection for the post of section engineer grade Rs. 6500-10500 and in case the applicant is found fit, he shall be empanelled/ promoted as such from the date of his juniors have been promoted, with consequential benefits. Respondents are directed to implement the above directions expeditiously and preferably within a period of three months from the

date of communication of these orders.

3. The above order of the CAT has been challenged by the petitioner in the present writ petition and during the pendency of this writ petition, the learned counsel for the petitioner has produced a letter dated 30th January, 2006 of the Division Personnel Officer, Northern Railway, New Delhi. The relevant portion of the said letter reads as follows:-

No. 725E/10/5785/DSL/P7

Dated:30-01-2006

Sr. DME/DSL/TKD

Subject: Fitness duty to Sh. Rajesh Kumar s/o Tula Ram JE-1/DSL/ELECT/KD

Ref.: i) CMS/DLI L. No. 66-Med/RK/RK/DH/ 2006 dated 16/1/06.

ii) Court case WP(C) 4873/2005 before Hon"ble Court/DLI i.e. OA 574/05

In reference to above Sh. Rajesh Kumar s/o Tula Ram JE-I/DSL/Elec/TKD has been declared fit for his normal duties as such he may be utilized as JE- I/DSL/ Elec. and his supernumerary post is discontinued with immediate effect. He was not eligible for selection being medically de-categorised and could not qualify selection held in the year 2002.

As a fresh selection of Selection Engineer/ DSL/Elec. in scale Rs. 6500- 10500 is being initiated shortly in which he will be considered for promotion as SE/DSL/ Elec. in Scale 6500-10500 if he qualifies the selection in FIRST ATTEMPT and he will be allowed all consequential benefits at par with his juniors w.e.f. 9/10/03.

Sd/-

For Divisional Personnel Officer

New Delhi.

4. The learned counsel for the respondent states that in view of the above letter and the assurance contained therein, he does not wish to press for implementation of the CAT's judgment any further except in accordance with the aforesaid letter. Accordingly, the petitioners will, Therefore, hold a fresh selection of Section Engineer/DSL/Elec. as expeditiously as possible and not later than 3 months from today and in event of being selected, the respondent shall be accorded all benefits set out in the letter dated 30th January, 2006 reproduced above within 3 months of such selection.

5. The writ petition stands disposed of accordingly.