
(2020) 09 CAT CK 0105

In the Central Administrative Tribunal

Case No : Original Application No. 1357 Of 2020, Miscellaneous Application No. 1702 Of 2020

Kulvinder Khanna

APPELLANT

Vs

Union Of India & Others

RESPONDENT

Date of Decision : 23-09-2020

Acts Referred:

Citation : (2020) 09 CAT CK 0105

Hon'ble Judges : L. Narasimha Reddy, J;Pradeep Kumar, Member (A)

Bench : Division Bench

Advocate : B.C. Nagar, Krishan Kant Sharma

Final Decision : Disposed Of

Judgement

L. Narasimha Reddy, J

1. The applicant was appointed as Senior Train Clerk (STC) in the Northern Railway on compassionate grounds, through an order dated 21.10.2008. It is stated that she was recommended for alternative employment on medical grounds on 03.07.2013. After the required tests were conducted, an order was passed on 18.04.2017 stating that she is not fit to be assigned the duties nearby the running trains and was posted in Commercial Department. Thereafter, the applicant submitted a representation with a request to subject her to re-medical examination. According to the applicant, she is fit to discharge the duties of the post of Senior Train Clerk. Through an order dated 27.06.2019, the respondents informed the applicant that it was only when an appeal is filed within three months from the date of the order indicating the medical conditions, that necessary steps can be taken and that such an application was not filed. It was also mentioned that the applicant did not report the duties in response to an order passed earlier and accordingly, she would not be entitled to pay the salary. This OA is filed challenging the order dated 27.06.2019.

2. The applicant contends that the de-categorisation implemented in her case is

not proper at all and that the same needs to be reviewed. According to her she is fit to discharge the duties in the post of Senior Train Clerk. The applicant further contends that a representation was made 4½ months, but the same was not taken into account. Various other contentions are also urged.

3. We heard Mr. B.C. Nagar, learned counsel for the applicant and Mr. Krishna Kant Sharma, learned counsel for the respondents, at the stage of admission.

4. The applicant's appointment itself was on compassionate grounds and she was posted as Senior Train Clerk on 21.10.2008. Obviously on noticing the performance of the applicant and the discharge of duties as Senior Train Clerk, she was subjected to medical assessment, through an order dated 18.04.2017. It reads as under:-

"The employee is recommended for alternative employment on medical grounds in medical category Aye-Three and below under restriction of para 12.9 of IRMM 2000 where she should not be employed in or near running lines or moving machinery and not on train running and passing duties."

5. In case the applicant was of the view that any findings recorded in the said order were not correct, she had an opportunity of filing an appeal within three months. Admittedly no appeal was filed within that period. Though the applicant contends that she made an appeal 4 ½ months subsequent to the order dated 18.04.2017, the record does not support that. It was only in the year 2019, that she made an effort to get herself re-examined, in terms of fitness. That was not acceded to by assigning valid reasons in the impugned order.

6. Unlike the various other civilian departments, the Railways have to take into account, the safety not only of passengers, but also of their employees. Thorough medical examination is undertaken before an employee is put on duty either to operate the trains or to work near to the running trains. It appears that the duties of Senior Train Clerk involve the employee being near the running trains. Keeping in view the safety of the applicant, the administration got her medically examined and an order was passed on 18.04.2017.

7. Normally, one clamours to get posted in Commercial Department. In the instant case, the respondents themselves posted the applicant in that department. From the record, we find that the applicant was a bit reluctant to join the Commercial Department and she started making representations seeking re-medical examination, so that she can go back to the post of Senior Train Clerk. The respondents have assigned cogent reasons in the impugned order as to how her request cannot be acceded to. The applicant is not able to point any hardship in working in the commercial department. No employee has any fundamental right to be posted to any department. The administration has its own parameters in the context of assigning duties or posting employees.

7. We do not find any merit in the OA and the same is accordingly dismissed. Pending MA also stands disposed of. There shall be no order as to costs.