

(2022) 01 CAT CK 0024

In the Central Administrative Tribunal

Case No : Original Application No. 330, 00086 Of 2020 (U/S 19, Administrative Tribunal Act, 1985)

Naresh Kumar Mishra

APPELLANT

Vs

Union Of India & Others

RESPONDENT

Date of Decision : 21-01-2022

Acts Referred:

Citation : (2022) 01 CAT CK 0024

Hon'ble Judges : Tarun Shridhar, Member (A); Pratima K Gupta, Member J

Bench : Division Bench

Advocate : S.M. Ali, C.K. Rai

Final Decision : Disposed Of

Judgement

Tarun Shridhar, Member (A)

1. We have joined this Bench online through video conferencing facility.
2. Shri S.M. Ali, Id. counsel for the applicant is present in court and Shri C.K. Rai, Id. counsel for the respondents is present online through video conferencing.
3. The brief facts of the case are that the applicant is stated to be suffering from a serious medical condition i.e. he is prone to epileptic seizures rendering him unconscious on occasions and thus, seeks an appropriate assignment of duties in the light of his medical condition. By virtue of the instant O.A., the applicant has sought the following relief(s): -
â??(i) to issue order or direction to the respondents to allow the applicant for resuming duty on proper post away from railway lines and train passing duties in the light of para 12.9 of Indian Railway Medical Manual and D.M.C. report dated 12.12.2019, for which time bound

direction is prayed.

(ii) to consider the medical report and the cancel the earlier duty order dated 24.12.2019 and to treat the entire period as waiting for duty

with all consequential benefits under the Rules.

(iii) to direct the respondent no. 2 (C.M.D. Allahabad) for serving Hindi version of the medical report dated 12.12.2019 within time bound

period.

(iv) or to pass any other order as deem fit in the facts and circumstances of the case.â??

4. Ld. counsel for the applicant draws attention to various medical reports which he has annexed with the O.A. and submits that the medical condition

does not permit the applicant to perform strenuous duty. He further mentions that the policy and the rules governing the medical condition of the

employee also have a categorical provision to assign such duties to the employees suffering from serious medical condition as do not jeopardize the

safety of anyone. He seeks a direction to the competent authority of the respondents to assign him appropriate duty in his respective medical category.

5. Ld. counsel for the respondents draws attention to the submissions made in the counter affidavit stating that the authorities have invited the

applicant before them to ascertain his medical condition and take appropriate decision in the matter. He also draws attention to the medical report of

the Railway Medical Officers which is placed at page 31 of the O.A. which reaffirms that the case of the applicant is one of the seizure disorder and

the recommendation is that if he has to be assigned a job in his original category, it should not involve him working alone or near running lines or

moving machinery or any other hazardous task.

6. We have heard the Ld. counsel for the parties and gone through the records available in the O.A. specially the medical reports.

7. This is a case wherein the applicant and respondents are in agreement that the medical condition of the applicant does not warrant that he should be

placed for any duty which is hazardous or near any moving lines or machinery. Moreover, there is an agreement that in case the applicant is on a duty,

he should be under the supervision.

8. In view of this position, the O.A. is disposed of with a direction to the competent authority of the respondents to assign appropriate duty to the

applicant considering his medical condition and ensure that the duties so assigned do not involve any hazardous task or any other duty which may be a risk to the safety of others. Further, the applicant is directed that in case the respondents ask him to appear before them, he would be under obligation to appear before the competent authority.

9. With the aforesaid directions, the O.A. stands disposed of. The respondents are directed to an appropriate decision within two weeks from the date of this order.

10. No order as to cost.