
(2019) 09 CAT CK 0005

In the Central Administrative Tribunal

Case No : Original Application No. 2528 Of 2016

Raj Kumar

APPELLANT

Vs

Delhi Transport Corporation

RESPONDENT

Date of Decision : 04-09-2019

Acts Referred:

Citation : (2019) 09 CAT CK 0005

Hon'ble Judges : S.N. Terdal, J;A.K. Bishnoi, Member (A)

Bench : Division Bench

Advocate : Ravindra S. Garia, Shashank Singh, Mona Sinha, Ruchira Gupta

Final Decision : Dismissed

Judgement

S.N. Terdal, J

1. We have heard Mr. Ravindra S. Garia, counsel for applicant and Ms Mona Sinha for Ms. Ruchira Gupta, counsel for respondents, perused the pleadings and all the documents produced by both the parties.

2. In this OA, the applicant has prayed for the following reliefs:

"A) That the medical examination dated 04.02.2015 and communication dated 31.07.2015, 19.11.2015 and 13.04.2016 be quashed.

B) That the applicant be directed to be appointed as Conductor pursuant to the call letter dated 12.11.2014 issued by the respondent Corporation.

C) Pass any order as may be deemed fit and proper in the facts and circumstances of the case."

3. The relevant facts of the case are that the applicant had applied for engagement as Conductor on short-term contract basis for a period of one year as a sponsored candidate through Employment Exchange (EE) in response to the advertisement issued by the respondent-Delhi Transport Corporation (DTC) vide their advertisement letter dated 12.11.2014. In the said advertisement, it was

specifically stated that the selected candidates would be engaged subject to their medical fitness to be adjudged by the DTC Medical Board in accordance with the laid down standards of medical examination and training. The applicant appeared before the DTC Medical Board and after examination of the applicant the said medical board found him unfit for the post of Conductor due to he being colour blind as per the medical standards, which were notified as per the Standing Order dated 02.07.1986. The applicant made representation and online complaint and he also sent a legal notice which were rejected by communications dated 31.07.2015, 19.11.2015 and 13.04.2016 respectively. The counsel for the applicant vehemently and strenuously submits that the applicant had secured four medical certificates from one private doctor and three from Delhi Government hospitals to the effect that he has not got any colour vision defect and on the basis of that he submits that the impugned communication of the medical board of the respondent dated 04.02.2015 holding him unfit for colour blindness be set aside and he be appointed as Conductor on short-term contract basis. He further contended that an independent medical board be constituted for examining about his medical fitness. In support of his contention, the counsel for the applicant relied on the judgment of the Tribunal (PB) in the case of Rupesh Kumar Vs. DTC through Chairman, Delhi Transport Corporation (OA 2510/2009).

4. The counsel for the respondent vehemently and strenuously contended that as per the Standing Order regarding recruitment of the respondent-DTC in so far as the medical fitness is concerned, the Medical Officer of the DTC is the competent authority to issue the fitness certificate and the decision of the Medical Officer will be final and no appeal or representation will be entertained against the same. The relevant portion of the said standing order is extracted below:-

"After a candidate has been selected by the Selection Board for appointment, he will be examined in respect of his physical fitness by the Medical Officer of the DRTA before his appointment. Any person declared unfit by the Medical Officer will not be appointed. The decision of the Medical Officer will be final and no appeal or representation will be entertained."

5. The counsel for the respondent in support of her contention further brought to our notice the judgments passed by the Hon'ble High Court of Delhi dated 08.03.2007 in the case of Shri Raj Singh Vs. Delhi Transport Corporation (CM No. 417/2006 in WP (C) 635/2004) and dated 23.08.2017 in the case of Jai Singh Vs. Delhi Transport Corporation through its Chairman and Another (WP (C) 7290/2017. The counsel for the respondent specifically brought to our notice, para 6 of the judgment passed by the Hon'ble High Court in Raj Singh case (supra), which clearly states that the opinion given by the DTC Medical Board would bind the court vis-à-vis the medical opinion given by any other experts who may be otherwise competent to opine on fitness of a person. The said para is extracted below:-

"6. I have given my considered thought to the rival contentions. There is no dispute that the Regulations of the DTC required the petitioner, who was a driver,

to be medically examined by the medical board of the DTC. Undoubtedly, this medical board would consist of experts who would be best placed to give an appropriate opinion with regard to a medical disability which may be suffered by a candidate seeking to render service with the DTC. It is this medical board which would be the expert for giving the opinion bearing in view the requirements of the service which an employee of the DTC is required to render and the special needs which the service may demand. Undoubtedly, the opinion given by the medical board would bind this court over and above the medical opinion given by any other experts who may be otherwise competent to opine on fitness of a person."

6. In the facts and circumstances of the case and in view of the clear provision of the Standing Order regarding medical certificate in the said recruitment, para 9 of which is extracted above and in the light of para 6 of the judgment passed by the Hon'ble High Court in the case of Shri Raj Singh Vs. Delhi Transport Corporation (supra) is extracted above, we are of the view that the medical certificate issued by the Medical Board of DTC cannot be faulted.

7. Accordingly, the OA is dismissed. No order as to costs.