

(2011) 02 SC CK 0085

In the Supreme Court Of India

Case No : Civil Appeal No. 1630 of 2011 (Arising out of SLP (Civil) No. 35013 of 2009)

S.K.M. Haider

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 14-02-2011

Acts Referred:

Citation : (2012) AIRSCW 594 : (2011) AIRSCW 4947 : (2011) AIRSCW 1285 : (2011) AIRSCW 1160 : (2011) 3 AWC 3255 : (2011) 129 FLR 134 : (2011) 2 JT 110 : (2011) 2 SCALE 411 : (2011) 4 SCC 700 : (2011) 1 SCC(L&S) 741 : (2011) 2 SCR 909 : (2011) 2 Supreme 56 : (2011) 7

Hon'ble Judges : R. M. Lodha, J;Aftab Alam, J

Bench : Division Bench

Advocate : P.S. Patwalia, Jagjit Chhabra, Aman Preet Singh Rahi and Tushar Bakshi, for the Appellant; A. Mariar Putham Subhash Kaushik, Harish Bagchi and Arvind Kumar Sharma, for the Respondent

Final Decision : Allowed

Judgement

R.M. Lodha, J.—Leave granted.

2. A short question that arises for consideration in this appeal, by special leave, is as to whether the Appellant has been rightly denied promotion to the post of Ticket Collector (TCR), Group 'C' post, on account of his having not been declared medically fit in Class B-2 under Para 510 of Indian Railway Medical Manual (for short, 'IRMM').

3. The Appellant--S.K.M. Haider--joined the service in Northern Railway as Luggage Porter, Group 'D' post, on December 3, 1991. The next channel of promotion from Luggage Porter is to the post of Ticket Collector. Having acquired eligibility for promotion to the post of Ticket Collector, the Appellant appeared in the written test held by the Respondents on January 8, 2003. He was successful in the written test and was called for viva-voce by the Interview Committee on February 25, 2003. On June 24, 2003, a provisional list of the candidates who

were found suitable for the post of Ticket Collector on the basis of written test and viva voce was prepared in which the Appellant's name was placed at Serial No. 25.

4. On July 3, 2003, the Appellant appeared before the Medical Superintendent, Northern Railway, DRM Office, Ambala Cantt. (Respondent No. 3) for medical examination but he was not declared fit in Class B-2.

5. The Appellant challenged the medical report dated July 3, 2003 by filing an appeal before the Chief Medical Director, Northern Railway. He was asked to appear before the Medical Board on September 15, 2004. The Medical Board found the Appellant fit in Class C-2 with glasses. Based on the opinion of the Medical Board, the appeal preferred by the Appellant challenging the medical report dated July 3, 2003 was rejected.

6. The Appellant then got himself examined at All India Institute of Medical Sciences, New Delhi on November 3, 2004 and it is his case that he was found medically fit in Class B-2.

7. The Appellant aggrieved by his non-promotion to the post of Ticket Collector approached the Central Administrative Tribunal, Chandigarh Bench (for short, 'the Tribunal'). The Tribunal, on February 8, 2006, after hearing the counsel for the Appellant and the counsel for Respondents, rejected the original application filed by the Appellant.

8. Being not satisfied with the order of the Tribunal, the Appellant moved the High Court of Punjab and Haryana for redressal of his grievance but there, too, he was unsuccessful and the writ petition filed by him was dismissed on March 21, 2009.

9. Para 510 in Chapter v of the IRMM deals with classification of staff for the purpose of vision tests of candidates and of serving Railway employees. It reads as follows:

510. Classification of staff:

(1) for the purpose of visual acuity and general physical examination of candidates and of serving Railway employees, the non-Gazetted Railway services are divided into the following broad groups and classes. The detailed categories of Railway posts under each of the classes/groups mentioned below are given in Annexure IV to this chapter:

(2) As the foot-plate staff have to pay sustained attention, it is necessary to have separate standards for these staff. These are enumerated in para 520 below.

10. The standards of visual acuity requirements are set out in Para 512 of IRMM. The relevant extract of that provision is as follows:

11. It would be seen from Para 510 of IRMM that non- Gazetted Railway services have been divided into three broad groups, namely, groups 'A', 'B' and 'C' for

the purpose of vision tests. These three groups have been divided into different classes. Group A has been divided in Classes A-1, A-2 and A-3 while groups B and C have been divided in two Classes each, viz; B-1, B-2 and C-1, C-2 respectively. The division of groups, A, B and C for vision tests appears to have been made keeping in mind the objective, viz; 'in the interest of public safety'; 'in the interest of the employee himself or his fellow workers or both' and 'in the interest of administration only'. The classification of different staff in various 'classes' is apparently founded to achieve the above objective. The detailed categories of Railway posts under each of the classes/groups are given in Annexure IV appended to Chapter V Insofar as post of Ticket Collector is concerned, it is categorized in Class B-2 under the head 'station supervisory and artisan staff'.

12. Though post of Ticket Collector is categorised in Annexure IV in Class B-2 but while doing so the underlying object of division of staff into three broad groups A, B and C for vision tests of candidates and of serving Railway employees in non-Gazetted Railway services seems to have been overlooked. Broadly, Class B-2 covers a certain staff in workshops and engine rooms engaged on duties. It has been so done because failing eyesight may endanger themselves or other employees from moving parts of the machinery and crane drivers on open line. This is in consonance with the objective of group B viz; 'in the interest of the employee himself or his fellow workers or both'. Insofar as Ticket Collectors are concerned, vision tests for them are not required 'in the interest of employee himself or his fellow workers or both' as contemplated in group B but it is required in the interest of administration only - the objective contemplated in group C. In this view of the matter, there seems to be no rational basis, in relation to the object set out in Para 510 of IRMM, of categorizing the post of Ticket Collectors under Class B-2 in Annexure IV. However, it is for the Respondents to have a fresh look insofar as categorisation of posts pertaining to non-Gazetted Railway services in Annexure IV is concerned. Suffice it to say that categorization of posts for the purpose of vision tests must have nexus with the object set out in Para 510. Having regard to the objective of division of groups/classes for the purpose of vision tests under Para 510 of IRMM, the post of Ticket Collectors can not be held to be covered by Class B-2 but rather will be covered by Class C-2. Any inconsistency in categorization of Railway posts in Annexure IV, in our view, must not operate against the Appellant in getting promotion to the post of Ticket Collector.

13. We hold, as it must be held, that the Appellant could not have been denied promotion to the post of Ticket Collector as he had passed written test and viva voce and was provisionally selected for the post of Ticket Collector and had been declared medically fit in Class C-2.

14. Consequently, appeal is allowed; judgment and order passed by the Punjab and Haryana High Court on March 21, 2009 and the order dated February 8, 2006 passed by the Central Administration Tribunal, Chandigarh are set aside.

The Respondents shall now consider the Appellant's claim for promotion to the post of Ticket Collector on the basis of his medical fitness in Class C-2 and his empanelment in the provisional list dated June 24, 2003 and appropriate order in this regard will be issued within two months from today. The parties shall bear their own costs.