

(2008) 08 JH CK 0129
In the Jharkhand High Court

Union of India (UOI)

APPELLANT

Vs

Central Administrative Tribunal and Another

RESPONDENT

Date of Decision : 08-08-2008

Acts Referred:

Citation : (2008) 3 JCR 714

Hon'ble Judges : M.Y. Eqbal, J;Ajit Kumar Sinha, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

M.Y. Eqbal, J.—Since common questions of law and facts are involved in both the writ applications, they have been heard together and are disposed of by this order.

2. By these writ petitions, the petitioners have challenged the order passed by the Central Administrative Tribunal, Patna Bench, Patna in O.A. No. 186 of 2005 and O.A. No. 210 of 2005 whereby direction was issued to the petitioners to allow the respondents to join in Group-D post as per offer of appointment.

3. The facts of the case lie in a narrow compass:

Some posts were advertised for employment in the Railway under handicapped quota vide notification dated 10.2.1999. Pursuant to the aforesaid notification, the private respondents including other handicapped persons applied for Group-D posts with disability between 40% and 70%. The respondents being physically handicapped having 40% visual and hearing disability, claimed to be the persons entitled to get employment as per Disability Act. 1995. However, the petitioner-appellant denied appointment on the ground that the applicants do not come within the purview of handicapped persons as defined under the Act.

4. The respondents' case was that other disabled candidates with 40% disability were provided employment by the Railway authorities, but the employment of the respondents was denied.

5. It appears that selection was made and a panel was notified on 9.1.2001 and it was stipulated that offer of appointment will be issued as and when vacancies are available. However, the claim of the respondents-applicants was rejected on the ground that since they are suffering from only 40% disability, they have not fulfilled the criteria under the Act.

6. The Tribunal, after considering the facts of the case, provisions of the Act and the Rules, found that the persons, who are to be considered for handicapped quota by the Railway authorities, had hearing impairment having 40% and 70%. Admittedly, the respondents had 50% visual and hearing impairment and hence, they were entitled for appointment in Group-D posts as per the advertisement published by the petitioner authority.

7. We have heard Mr. Mahesh Tiwari, learned Counsel appearing for the petitioner-appellant and, Ms. M.M. Pal, learned counsel appearing for the respondents.

8. The Persons With Disability (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 defines the term "person with disability" which means a person suffering from not less than 40% of any disability as certified by a medical authority. Admittedly both the respondents are having 40% visual disability and hearing impairment which has been duly certified by competent authority of Railway hospital. In our view, therefore, the Tribunal has rightly taken a decision that the respondents are having visual and hearing impairment between 40% and 70% and hence they are entitled to be considered for appointment in Group D post as per the advertisement published by the petitioner-Railway. We do not find any reason to differ with the reasoning given by the Tribunal. For the reasons aforesaid we do not find any merit in these writ petitions which are, accordingly, dismissed.

Ajit Kumar Sinha, J.

9. I agree.