

(2023) 03 CAT CK 0031

In the Central Administrative Tribunal

Case No : Original Application No. 4026 Of 2017

Yashpal

APPELLANT

Vs

General Manager, Northern Railway, Headquarter Office,
Baroda House, New Delhi & Ors

RESPONDENT

Date of Decision : 14-03-2023

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19

Citation : (2023) 03 CAT CK 0031

Hon'ble Judges : Anand Mathur, Member (A); Manish Garg, Member (J)

Bench : Division Bench

Advocate : Aparbal Singh, Sakshi Yadav

Final Decision : Dismissed

Judgement

Anand Mathur, Member (A)

1. Learned counsel for the applicant stated as under:-

1.1 Pursuant to Employment Notice No.220-E/Open Mkt./RRC/2013 published through Railway Recruitment Cell (RRC), Northern Railway on 30.12.2013 to fill up various Group 'D' posts, the applicant applied and was declared qualified in the written examination on 09.11.2014 under Roll No.20000794. He also cleared the Physical Efficiency Test (PET) on 21.04.2015 and was called for document verification as also for medical test.

1.2 The applicant successfully passed the medical test for the post in B-2, C-1 & C-2 category. As the applicant attempted his written examination very well, he was confident to secure more than 90% marks. Hence, when the result was declared in November, 2015, his name was provisionally cleared for empanelment. However, in January, 2016, when he received information from the respondents' official website that though he was provisionally cleared for empanelment but he could not get any post as per his medical fitness as all such posts had been allotted to candidates having higher merit than him.

1.3 The respondents finally, without issuing any notice or supplying the merit/cut off list of the applicant in the month of October, 2016, rejected his candidature. The applicant made an application dated 06.10.2016 under RTI Act for providing certified copy of the merit list of candidates who were either successful in medical examination or found medically unfit. In turn, the respondents informed him that no such merit list had been prepared by them. However, the applicant, through his counsel, requested the respondents for empanelment of his name on the ground that the respondents deliberately did not provide certified copy of the merit list of candidates, who were declared eligible for the post in question. He also sent reminders to that effect to the respondents but he received no response from them. Hence, the applicant has filed the instant Original Application under Section 19 of the Administrative Tribunals Act, 1985 seeking the following relief:-

"i) This Hon'ble Tribunal may kindly be pleased to summon the letter/record Ref.No.220-E/Open Mkt/RRC/RTI/2016/2614 and letter/record Ref.No.220-E/Open Mkt/RRC/RTI/2016/2709 dated 09.01.2017 and quash the order of rejection of candidature of applicant;

ii) This Hon'ble Tribunal may kindly be pleased to summon the cut-off list/merit list of the candidates who has cleared for posting, and also summon the merit list and medical reports of the applicant.

iii) Cost of this application may also be awarded in favour of the applicant.

iv) Any other order which this Hon'ble Tribunal deem fit and proper be also passed in favour of the applicant."

2. Per contra, the respondents filed a counter affidavit opposing the OA. Without disputing the factual matrix of the case, the respondents stated as under:-

"3. Further the case of the applicant was processed in the computer based software without any manual interference for posting on available vacancies as per his medical fitness and result of the software processing was that candidate could not be allotted post for the reason of non-availability of vacancies as per the medical fitness of the candidate (i.e. Bee-Two) already filled by the candidates having higher in merit and accordingly status of the candidate along with several other similarly placed candidates was updated on RRC website as "Rejected" as no post could be allotted to the applicant as per his Medical fitness category for the reason that all such notified post occupied by candidates having higher merit than the applicant. It is important to note here that the applicant has scored 87.65 marks in the written examination as UR candidate and the last provisionally empanelled UR candidate with medical fitness category Bee-Two has scored 88.00 marks. As such, no cause of action accrues in favour of the applicant and OA needs to be dismissed accordingly in view of Principal Bench of this Tribunal order dated 03.04.2017 in OA No.884/2017 annexed as Annexure R-1."

3. We have heard Sh. Aparbal Singh, learned counsel for the applicant and Ms. Sakshi Yadav for Mr. Sanjeev Yadav, learned counsel for the respondents and have perused the material on record.

4. On 13.02.2023, the matter was heard at length and the crux of the matter boiled down to paragraph No.3 (wrongly mentioned as 5) of the counter affidavit, and the following order was passed:-

"The matter was heard at some length and argued by both the learned counsel. The crux of the matter boils down to paragraph No.5 of the counter affidavit wherein it has been recorded as under:-

"5... It is important to note here applicant has scored 87.65 marks in the written examination as UR candidate and the last Provisionall Empanelled UR candidate with medical fitness category Bee-two has scored 88.00 marks. As such no cause of action accrue in favour of applicant and O.A. need to be dismissed accordingly in view of Principal Bench of this Tribunal order dated 03.04.2017 in O.A. No.884/2017."

Learned counsel for the applicant, therefore, states that although the respondents have clarified the marks obtained by the last selected candidate in medical category B-2, they have not mentioned about categories C-1 and C-2 for which also the applicant is eligible.

Learned counsel for the respondents on the other hand draws our attention to paragraph No. 4 of the counter which reads as under:-

"4. Applicant was declared unfit in Aye-Two, Aye-Three, Bee-One and fit in Bee-Two & below by Sr. DMO Moradabad vide Medical fit Memo No.367746 dt. 12.07.2015"

The sole point to be clarified is if the applicant has secured 87.65 marks and the last selected candidate in B2 category has secured 88.00 marks, then what about the cut off marks for the medical classification C1 and C2. Learned counsel for the respondents seeks and is granted two weeks' time to seek clarification on this issue.

Let the matter be listed on 06.03.2023 as part heard."

4.1 In order to clarify the sole point raised by the Tribunal to the learned counsel for the respondents on 06.03.2023, he produced a document reflecting the marks obtained by the last selected candidate in the medical classification C1 and C2 wherein the marks for C1 category and C2 category were shown to be 88.00 and 98.60 respectively, both of which were more than the marks obtained by the applicant i.e. 87.65. For the sake of clarity, the document produced by the learned counsel for the respondents, is extracted hereunder:-

LAST POSTED CANDIDATE VIDE EMP. NO.220-E/OPEN MKT/RRC/2013

LAST POSTED CANDIDATE VIDE EMP. NO.220-E/OPEN MKT/RRC/2013

Control

No.

Roll No.

File No.

Category

Medical Category

Candidate Name

DOB

MARKS

12527909

40020544

103402

UR

C1

SACHIN KUMAR

4/3/1991

88.00

11277472

20320791

101122

UR

C2

RAVINDER

20/02/1989

98.06

4.2 Admittedly the applicant secured only 87.65 marks. Perusal of the above table clearly reveals that the applicant has failed to secure marks higher than the last selected candidates in C1 and C2 categories i.e. 88.00 and 98.06 respectively. As already mentioned in para 4 above, the marks obtained by the last selected candidate in B2 medical category was 88.00 which were higher than those of the applicant. Therefore, we are of the considered opinion that the applicant has no claim in the instant OA and the same is accordingly dismissed

being devoid of merit.

5. No order as to costs.