

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ WP(C) No. 2025/2004

TARUN BHATNAGAR Appellant
Through Mr. Viraj R. Datar, Advocate

Versus

DMRC & ORS. Respondents
Through Mr. Vibhu Shankar, Advocate with
Mr. Sunil Kr. Sinha, Joint General
Manager (Recruitment & Training)
DMRC

CORAM:
HON'BLE MR. JUSTICE MANMOHAN

1. Whether Reporters of local papers may be allowed to see the judgment? No.
2. To be referred to the Reporter or not? Yes.
3. Whether the judgment should be reported in the digest? Yes.

JUDGMENT

MANMOHAN, J (Oral)

1. The present writ petition has been filed under Article 226 of the Constitution of India for quashing and setting aside the prescription and application of 'B-2' medical standard for appointment to the post of Senior System Analyst (ERP) Functional Modules (Non-Executive), hereinafter referred to as Senior System Analyst, with the Respondent Corporation.

2. The facts of the present case are that the Respondent Corporation issued an advertisement inviting applications for various executive and non-executive posts. One of the posts advertised was Senior System Analyst. The advertisement contemplated a three-stage selection process comprising of a written test, personal interview followed by a medical test. It was clarified in the advertisement that the candidates who fail in the prescribed medical tests will not be given any alternative employment.

3. According to the Respondent Corporation, the medical standard applicable to the post of Senior System Analyst is that of category of B-2. Under this category the permissible limit of glasses is upto 4 diopter. Admittedly, in the instant case the Petitioner has deficiency of minus 5 in the left eye and minus 4.5 in the right eye. It is the Respondent Corporation's case that for this reason, the Petitioner was not found suitable for being appointed to the post of Senior System Analyst.

4. Mr. Datar, learned counsel for the Petitioner, submitted that firstly there was no medical standard prescribed in the Respondent Corporation's advertisement and secondly the said standard had no relation with the function to be discharged by the Petitioner, which was primarily of a clerical nature. Mr. Datar stated that in the case of

scheduled caste candidates, the Respondent Corporation had applied a lower medical criteria than stipulated in B-2 and, therefore, the vision standard was not mandatory. Mr. Datar lastly stated that the medical criteria adopted by the Respondent Corporation for the vision test was even higher than the one prescribed by the Indian Railways.

5. Mr. Vibhu Shankar, learned counsel for the Respondent Corporation, contended that the job of a Senior System Analyst is not of a clerical nature as he has to oversee and maintain all on board computerised train equipments and operation systems that means automatic train protection, automatic train operation, train information and management system. According to him the Senior System Analyst has to download all failure reports on train while it is running and he has to maintain all computer based singnalling, automatic fare collection system. A Senior System Analyst has even to do immediate trouble shooting which involves frequent movement of line and trains and to rectify snags of tele communications system.

6. Mr. Vibhu Shankar also drew my attention to a judgment and order passed by the learned Single Judge of this Court in CWP 6347/2003. The said order is reproduced hereinbelow for ready reference:-

This writ petition has been filed by the petitioner who is aggrieved by non-appointment to the post of Junior Engineer (Civil) in Delhi Metro Rail Corporation (DMRC). Ms. Salwan has contended that the petitioner has Amblyopia in his right eye. She has contended that Amblyopia is a medical term which means a lazy eye. However, the petitioner has got accurate vision of 6/6 in the left eye. The appointment of the petitioner was rejected on medical ground. Ms. Salwan has contended that the petitioner is fit in any normal desk work related with his post. Ms. Salwan has also relied upon medical opinion given by doctor who is specialist in Ophthalmology.

On the other hand, Mr. Virender Sood, learned counsel for respondent/DMRC has contended that the work in the DMRC project is not only desk work but passenger safety is paramount importance and for purposes of structural designing a person has to work day and night in unfriendly conditions and person has to be absolutely fit to perform the job. He has further contended that if this Court interferes then that will open flood gate with regard to the selection of fitness personnel to the job.

I have considered the arguments advanced by learned counsel for both the parties. Delhi Metro Rail Corporation (DMRC) is a very prestigious project and passenger safety has to be taken into consideration. The choice of the personnel to be appointed has to be left with the specialist and expert knowledge of the respondent. Interference from the Court should be minimum as far as recruitment of personnel is concerned because the parameters of requirement and efficiency by the Delhi Metro Rail Corporation should not only be higher but superior to other existing communication infrastructure in the Country. Petitioner may be a brilliant person, he may be otherwise fit for performing a desk work but this Court will not substitute its own opinion as far as fitness to perform work is concerned for that of the respondent. Therefore, there is no merit in this writ petition. Same is dismissed.

Petition is dismissed”.

7. Mr. Vibhu Shankar states that even in the Indian railways for similar posts the same medical category is being applied. In this context, Mr. Vibhu Shankar has drawn my attention to the Indian Railway Medical Manual.

8. Mr. Vibhu Shankar further stated on instructions that the Respondent Corporation had applied the same medical standard to all candidates from all streams including reserved categories.

9. Having heard the parties at length and having perused the record, this court is of the view that the medical standards to be applied for any post is the job of an expert and this Court will only interfere if the same is arbitrary or vitiated by malice or the standard has no rational to the object sought to be achieved. In the present case, keeping in mind the functions to be discharged by a Senior System Analyst, this Court is of the view that the standards of vision being applied by the Respondent are not very stringent. In fact a uniform vision standard has been applied to all the candidates who had applied for the post of Senior System Analyst and as the standard is in conformity with the one prescribed in Indian Railways Medical Manual, the same cannot be said to be either irrational or vitiated by malice.

10. Consequently, the present Petition being devoid of merits is dismissed but with no order as to costs.

MANMOHAN, J

SEPTEMBER 12, 2008

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