

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 3106 of 2015**

R.P.Dwivedi S/o Late K.P.Dwivedi, Aged about 31 years, R/o Qtr. No. E-398, HTPS Colony, Darri, P.O Korba, Korba District Pin 495451 Chhattisgarh State.

---- Appellant

Versus

1. Union of India Through General Manager, SEC Railways, Bilaspur, Bilaspur District Chhattisgarh State Pin 495004
2. Chief Personnel Officer, SEC Railways, Bilaspur Division, Bilaspur, Chhattisgarh PIN 495004
3. Asst. Personnel Officer, SEC Railways, Divisional Office, Personnel Branch, Bilaspur, Chhattisgarh State Pin 495004

---- Respondents

For Appellant	:	Shri K.R.Nair, Advocate.
For Respondents	:	Shri Abhishek Sinha, Advocate.

Hon'ble Shri Navin Sinha, Chief Justice**Hon'ble Shri P. Sam Koshy, J.****Judgment on Board****Per Navin Sinha, Chief Justice****26/08/2015**

1. The present writ petition challenges the order dated 4.8.2015 passed by the Central Administrative Tribunal, Jabalpur, Circuit Sitting, Bilaspur (hereinafter referred to as 'the Tribunal') in Original Application No. 815 of 2015. The Tribunal declined to interfere with the order for posting of the Petitioner dated 16.8.2013 as Constable/RPF Outpost Korba.

2. Learned Counsel for the Petitioner submits that the Railway Medical Officer on 27.7.2013 has opined that the Petitioner was fit for service in Class Cee-One. His medical condition has not been considered while passing the impugned order. The Petitioner is entitled to be assigned duties commensurate with his physical condition as opined by the Railway Medical Officer.

3. Learned Counsel for the Railways submits that the Petitioner on his request was examined by a Medical Board finding him fit for discharge of duties in his original medical category i.e. Bee-One as Constable/RPF. This was approved by the Chief Medical Director on 6.8.2012. Thereafter, the Petitioner did not report for duty from 2.11.2012 to 19.7.2013 purportedly on the ground of sickness and joined on 20.7.2013. The Railway Medical Officer was not apprised of the earlier Medical Board report dated 25.7.2012. The report of the Medical Board will always prevail over the individual opinion of the Railway Medical Officer. It is forcefully emphasised that the Railway has to be given the discretion to decide the place of posting and utilization of an employee especially if he has already been examined by a Medical Board.

4. We have considered the submissions and put one question only to Learned Counsel for the Petitioner with regard to the nature of his ailment. Our attention was invited to the pleadings in para 8.2 as follows:

"Due to swelling on his leg, he was not able to walk or sit properly"

5. We are of the considered opinion that if the Court were to start interfering with the jurisdiction and discretion of the employer in matters like the present, administration will come to a stand still.

6. The writ application is dismissed.

Sd/-

(Navin Sinha)
CHIEF JUSTICE

Sd/-

(P. Sam Koshy)
JUDGE