

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.3925 of 2017 (O&M)

Date of Decision: 01.03.2017

Shishu Paul Verma

... Petitioner

VS.

Union of India & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR.JUSTICE SUDIP AHLUWALIA

Present: Mr. Shailendra Sharma, Advocate for the petitioner

SURYA KANT, J. (Oral)

(1) In view of Rule 541 of the Indian Railways Medical Manual (R1), a Railway employee who has been on leave on medical certificate cannot be permitted to resume duty till he/she produces the fitness certificate or duty certificate in a prescribed form from the competent Railway doctor.

(2) The petitioner was admittedly on leave on medical certificate and was required to produce a 'fitness certificate' in the prescribed format before he could be permitted to resume duties in compliance of the order passed by Revisional Authority dated 13.10.2014 (Pg. 63). It may be mentioned here that the petitioner was departmentally punished and was removed from service. His revision petition was allowed taking a lenient view and the lesser punishment of reduction of bottom of pay grade for a period of five years with cumulative effect was imposed. The period from the date of dismissal to the date of reinstatement has been treated as *dies non* which will not qualify for any purpose. The petitioner instead of joining the duties along with the medical fitness in the prescribed format insisted to allow him to join the duties on the basis of a certificate issued by a private medical practitioner. Since such a certificate was not accepted by the

(3) The Tribunal vide order dated 17.07.2015 dismissed his OA holding as follows:-

“3. We have heard the applicant and the learned counsel for the respondents, perused the pleadings and the rulings cited by them, and given our thoughtful consideration to the matter.

4. We do not think that the respondents have been unfair to the applicant. The respondents’ insistence on a proper medical examination as per para 541 of the IRMM (Annexure R-7) before he is allowed to join his duty, cannot be faulted.”

(4) The petitioner’s review application was also dismissed on 25.08.2015.

(5) It is apparent that the petitioner is insisting not to get himself medically examined before the prescribed authority and is adamant to join the duties on the basis of the certificate of a private medical practitioner. Such a stand of petitioner is contrary to Rule 541 of the IRMM referred to in the opening paragraph of this order.

(6) The fact that he has chosen to approach this Court after a period of one and a half year also suggests that either he is not inclined to join the duties or he does not want to produce the medical certificate in the prescribed format.

(7) While we do not find any ground to interfere with the orders of the Tribunal, but in the interest of justice, another opportunity is granted to the petitioner to appear before the competent medical authority and produce the medical certificate whereupon the respondent-authorities are directed to

consider his request for joining the duties as per the order of revisional authority referred to above. In case the petitioner would be permitted to join duties on compliance of necessary conditions, nothing shall be paid to him for the interregnum.

(8) If the prescribed medical authority refuses to examine him or issue the medical certificate, the appropriate recourse for him would be to again approach the Tribunal.

(9) With these observations, directions and liberty, the writ petition stands disposed of.

(Surya Kant)
Judge

01.03.2017
vishal shonkar

(Sudip Ahluwalia)
Judge

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes
No