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HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (S) No.6578 of 2017

{Arising out of order dated 7-11-2017 passed by the Central Administrative Tribunal, Jabalpur Bench, Circuit Sitting: Bilaspur in Original Application No.203/00894/2017}

Nitin Kumar Bareth, S/o Shri Samaru Nath Bareth, Aged 32 years, Unemployed, Qr. No.365/D, Zone-II, BMY-CHARODA – 490025, Distt. Durg (C.G.)

---- Petitioner

Versus

1. Union of India, Through the General Manager, S.E.C. Railway, Bilaspur Zone, General Manager's Office, Bilaspur – 495004 (C.G.)
2. The Chairman, Railway Recruitment Board, S.E.C. Railway, Besides GM Office, Bilaspur – 495004 (C.G.)
3. The Dy. Chief Personnel Officer (HQ), S.E.C. Railway, Headquarter's Office, Bilaspur – 495004 (C.G.)

---- Respondents

For Petitioner:	Mr. B.P. Rao, Advocate.
For Respondents:	Mr. Abhishek Sinha, Advocate.

Hon'ble Shri P.R. Ramachandra Menon, CJ and
Hon'ble Shri Sanjay K. Agrawal, J.

Order On Board

Sanjay K. Agrawal, J

26/06/2019

1. This writ petition under Article 227 of the Constitution of India is directed against the order passed by the Central Administrative Tribunal in Original Application No.203/00894/2017, whereby the learned Tribunal has rejected the original application filed by the petitioner under Section 19 of the Administrative Tribunals Act, 1985 finding no merit in his application and holding that he has rightly not been selected and appointed on the Group-D post notified by the

respondent Railways.

2. Mr. B.P. Rao, learned counsel appearing for the petitioner, would submit that though the petitioner has applied and participated in the recruitment of erstwhile Group-D post notified by the Department, he secured merit in the written test as well as qualified in the Physical Efficiency Test and after document verification in the medical test, he was found medically fit in B-2 Medical Category, but though the other candidates have less merit in the written test than the petitioner, still they were selected, but the petitioner was not appointed in any of the Group-D posts and thereby the respondents have adopted dual merit in the written examination as well as in the medical test which runs contrary to the terms and conditions stipulated in Employment Notification No.SECR/3/2012, as such, the learned Tribunal committed illegality in rejecting his original application dismissing the same summarily without notice to the respondents, therefore, the impugned order deserves to be set aside.
3. Mr. Abhishek Sinha, learned counsel appearing for the respondents, while supporting the order passed by the Tribunal, would submit that the said Tribunal is absolutely justified in dismissing the original application, as though the petitioner was successful in the written examination as well as in the Physical Efficiency Test, but in Medical Category, he was awarded B-2 and in B-2 Medical Category, there was no post available and in C-1 Medical Category there were 75 vacancies out of which 49 posts were reserved for the persons with disability under the Rights of

Persons with Disabilities Act, 2016. He would further submit that the petitioner has secured 68.22% of marks, whereas the last selected candidate in B-2/C-1 Medical Category secured 76.89%, therefore, the petitioner has not rightly been empanelled for selection and appointment on the said post. As such, the learned Tribunal is absolutely justified in dismissing the application of the petitioner which warrants no interference in exercise of the jurisdiction of this Court under Article 227 of the Constitution of India.

4. We have heard learned counsel for the parties and considered the rival submissions and went through the record with great care and caution.
5. It is not in dispute that the petitioner appeared and he was also qualified in the written test as well as in the physical efficiency test i.e. PET, but on document verification, in the medical test he was awarded B-2 Medical Category and in B-2 Medical Category, finding no vacancy, he was not selected. The case of the petitioner as projected is that person with C-1 Medical Category has been selected and granted appointment which is apparent from the document filed by the respondents in Annexure R-1. He referred to the name of Yado Kumar Nishad who is also an OBC candidate and has obtained 87.47% and also referred to the name of one Umakant who has secured 87.20%, both persons being in C-1 Medical Category, they have been empanelled. Employment Notification Annexure P-5 clearly indicates the name of the posts and the Medical Standard prescribed for particular category. Serial

Nos.6, 8 and 9 are the posts earmarked for C-1 Category. Though the petitioner is in B-2 Medical Category, but he has secured less marks i.e. 68.22% than Yado Kumar Nishad and Umakant, with whom the petitioner has compared his case, have obviously secured more marks than the petitioner i.e. 87.47% and 87.20%, respectively, and therefore in C-1 Category, they have rightly been selected. It is not the case of the petitioner that he secured more marks than Yado Kumar Nishad and Umakant, but yet in B-2 or / C-1 Category, he has not been selected. In view of that, we find that the learned Central Administrative Tribunal is absolutely justified in not entertaining the application of the petitioner at the initial stage of admission. We do not find any perversity or illegality in the impugned order warranting interference in exercise of jurisdiction under Article 227 of the Constitution of India. The petition is dismissed accordingly leaving the parties to bear their own cost(s).

6. In consequence of the dismissal of the writ petition, the application for amendment in the writ petition, now filed, stands finally disposed of.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Sanjay K. Agrawal)
Judge