

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (S) No.4248 of 2009

Sukh Ram Dhruwa (dead) through Legal Representatives

1. Anil Kumar Dhruwa, S/o late Sukh Ram Dhruwa, aged about 51 years, R/o Village Chunchuniya, Ward No.14, P.S. Sargaon, District Mungeli (C.G.) at present R/o Shivaji Ward No.22, Singhpur Road, Near FCI Godown, In front of Odiya Mohalla, Shahdol, District Shahdol (M.P.)
2. Laxmi Devi, D/o Late Sukh Ram Dhruwa, aged about 33 years, R/o Village Chunchuniya, Ward No.14, P.S. Sargaon, District Mungeli (C.G.) at present R/o Shivaji Ward No.22, Singhpur Road, Near FCI Godown, In front of Odiya Mohalla, Shahdol, District Shahdol (M.P.)
3. Geetavali Dhruwa, D/o Late Sukh Ram Dhruwa, aged about 43 years, R/o Village Chunchuniya, Ward No.14, P.S. Sargaon, District Mungeli (C.G.)
4. Umesh Kumar Dhruwa, S/o Late Sukh Ram Dhruwa, aged about 36 years, R/o Village Chunchuniya, Ward No.14, P.S. Sargaon, District Mungeli (C.G.)

---- Petitioners

Versus

1. South Eastern Central Railway, Through the Director General, Rail Protection Force, Rail Bhawan, New Delhi.
2. Chief Security Commissioner, R.P.F. South Eastern Central Railway, Bilaspur (C.G.)
3. Chief Medical Superintendent, South Eastern Central Railway, Bilaspur (C.G.)
4. Chief Medical Director, South Eastern Central Railway, Bilaspur (C.G.)
5. Staff Officer, Office of the Chief Security Commissioner, R.P.F. South Eastern Central Railway, Bilaspur (C.G.)

---- Respondents

For Petitioners:	Mr. F.S. Khare, Advocate.
For Respondents:	None present.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

24/06/2021

1. Proceedings of this matter have been taken-up through video conferencing.
2. The petitioner was promoted from the post of Assistant Sub Inspector (Railway Protection Force) to the post of Sub Inspector (SI) on ad hoc basis by order dated 28-12-2005, thereafter, he was directed to appear in the examination for the post of SI which was fixed on 25-8-2007 and the petitioner was required to undergo medical examination and he was medically examined on 24-8-2007 in which he was found with defective vision and he was not found fit in the present post in medical category Bee/One and Bee/Two, and hence, he was decategorised and declared fit in medical category Cye/One and below with glasses with effect from 17-8-2007 against which as per the rules, he preferred appeal before the respondents on 30-8-2007. It is the case of the petitioner that without waiting the result of appeal preferred by the petitioner, respondent No.5 has de-categorised the petitioner on the post of ASI and the petitioner's appeal was rejected by order dated 12-12-2007 by respondent No.5 against which he again preferred appeal before respondent No.2 on 9-1-2008. The petitioner was directed to appear before the Screening Committee on 17-1-2008, though he appeared, but could not receive the report of the Screening Committee and in the writ petition preferred by the petitioner before this Court, this Court directed to decide the appeal within a period of two months. Meanwhile, the petitioner retired from service on 30-4-2009 and thereafter, in the contempt petition, it was informed that it has been ordered to constitute fresh Medical Board if the petitioner produces valid medical fitness certificate as per the IRMM 200 Rules, para 5.23, which the petitioner came to know after he has retired from service on 30-4-2009. As such, the petitioner

could not produce valid fitness certificate on account of having no information about production of valid fitness certificate as per IRMM 2000 Rules, para 5.23 and meanwhile, he has also died.

3. Mr. F.S. Khare, learned counsel appearing for the present petitioners / LR's of the original petitioner, would submit that though in appeal, order has been passed to constitute fresh Medical Board for submission of valid fitness certificate as per IRMM 2000 Rules, para 5.23, but no such information was given to the petitioner right in time and he could not produce the same and thereafter, he died and therefore the respondents be directed to grant notional promotion to the petitioner from 25-8-2007.
4. None present for the respondents. No representation is made.
5. I have heard learned counsel for the petitioners herein / LR's of the original petitioner and considered his submissions and also went through the material available on record with utmost circumspection.
6. It is true that before the petitioner could appear in the examination, he was found medically unfit for the post of SI in medical category Bee/One and Bee/Two, which was required for the said post and the dispute remained pending before the higher authorities with regard to fitness, though direction for examination was given as per IRMM 2000 Rules, para 5.23, but before he could come to know and could have gone for medical fitness certificate as per the said rules, unfortunately he died, therefore, medical fitness certificate could not be produced and in that view of the matter, though it is in absence of medical fitness, no direction for consideration of the petitioner's case for promotional post can be given.
7. In the opinion of this Court, in the matter of promotion, the respondent

Railway could have considered for promotion and acted more promptly, but any how, the matter remained pending and decision of the Board could not be communicated, therefore, the petitioner has suffered and his case could not be considered for the promotional post. In that view of the matter, no direction is issued and accordingly, the writ petition is closed. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

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