

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16154 of 2024

Vineet Prakash Son of Sri Vinay Sharma Resident of Village-/Mohalla- B-528, Sonalika Co-Operative Colony, Ranipur (Paijaba), P.O. Jhauganj, P.S. Bypass, District - Patna-800008.

... .. Petitioner/s

Versus

1. The Union of India Ministry of Railways, through its Secretary, Rail Bhawan, 256-A, Raisina Road, Raj Path Area, Central Secretariat New Delhi-110001.
2. Railway Recruitment Board, Mahendru Ghat, Patna through its Chairman Patna-800004 (Bihar)
3. The Principal Chief Medical Director, East Central Railway, Hajipur P.O.-Digghikala, P.S.-Hajipur (Town), District-Vaishali-844101 (Bihar).
4. The Divisional Railway Manager, East Central Railway, Sonapur, P.O. and P.S.-Sonapur, District-Saran-841101 (Bihar).

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Vineet Prakash (In Person)
For the Respondent/s : Mr.Additional Solicitor General

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 12-02-2025

Petitioner in-person – *Vineet Prakash* has assailed the order of CAT dated 12.07.2023 passed in O.A. No. 572 of 2021 along with M.A. No. 62 of 2022.

2. Petitioner is a candidate for recruitment to the post for Traffic Apprentice, Goods Guard & Assistant Station Master pursuant to the advertisement dated 26.12.2015. He was subjected to process of recruitment and he had qualified up to the stage of issuance of provisional appointment as a Goods Guard on stipend



as admissible per month plus usual allowances as per extent rules in the light of communication of the respondent dated 13.12.2018 vide Annexure-P/3 to the rejoinder to the counter affidavit on behalf of the Respondent Nos. 1 to 4. Thereafter, he was subjected to medical fitness test. In the medical fitness test, he was found to be not fit, such decision has been taken by the Medical Board. Medical Board has recorded in their conclusions and it reads as under:-

*“6. **Conclusion:-** After examining clinically and radiologically, it is concluded that Mr. Vineet Prakash, IME Candidate for Goods Guards is suffering from hereditary Multiple exostosis with restricted squatting with valgus deformity Lt.Knee with short Lt. Upper Limb with gynaecomastia. The condition is congenital and has malignant potential with chances of pathological fracture. Further there is limited ROM of Lt. Ankle leading to difficulty in squatting which can hamper his duty. As per IRMM chapter V para 511(1), 511(2), 511(3f), he is unfit as candidate for Goods Guard is medical safety Category A-2(Aye two).”*

3. Resultantly, he was not drafted to undergo training before regularly appointing/posting to the post of Goods Guard.

4. This is second round litigation on behalf of the petitioner. In the earlier litigation before the CAT, there were certain directions to the concerned official respondents to subject the petitioner for re-medical examination. Thereafter, once again



he was subjected to medical fitness in which also he was not found fit in the medical examination.

5. Feeling aggrieved by the respondent's action insofar as disqualifying the petitioner in the medical test, he has invoked remedy before the CAT in filing O.A. No. 572 of 2021 under Section 19 of the Administrative Tribunal Act, 1985. The Tribunal rejected the petitioner's Original Application. Hence, the present writ petition.

6. Petitioner vehemently contended that petitioner cannot be subjected to medical test beyond item no. 9 of the advertisement - medical fitness test which is part and parcel of advertisement dated 26.12.2015. On the other hand, official respondents while subjecting petitioner for a medical fitness test they had gone beyond the test stipulated in Para 9 of the advertisement dated 26.12.2015. Therefore, whatever the medical test beyond the test prescribed in the advertisement cannot be taken into consideration for the purpose of determining whether petitioner is medically fit or not? It is also submitted that the aforementioned post was reserved for disabled persons, in such an event question of finding any infirmity in the physical fitness is incorrect. Therefore, the respondents have committed error in disqualifying the petitioner and so also such disqualification



affirmed by the CAT is not in order in the light of Para 9 of the advertisement dated 26.12.2015.

7. *Per contra*, learned counsel for the respondents resisted the aforementioned contentions and submitted that Chapter 1 of Indian Railway Establishment Manual deals with recruitment, training, confirmation and re-employment. Under the aforementioned chapter, Para 113 read with Para 511 are relevant for the purpose of subjecting medical examination of the petitioner among others for the post of Traffic Apprentice/Goods Guard/Assistant Station Manager. Therefore, not exhaustively mentioning the medical fitness of a candidate in the advertisement and taking the materials in the India Railway Establishment Manual for the purpose of medical fitness test of a candidate and restricting to whatever the medical fitness test stipulated in Para 9 of the advertisement would not hold good. In view of the language employed in the note under Para 9 of the advertisement dated 26.12.2015. In the light of these material information the petitioner has not made out a case and there is no infirmity in CAT order dated 12.07.2023 passed in O.A. No. 572 of 2021.

8. Heard learned counsels for the respective parties.

9. Core issue involved in the present *lis* is whether petitioner is medically fit to hold the post of Goods Guard in the light of provisions for appointment as a Goods Guard dated



13.12.2018 or not? The petitioner was subjected to Medical Board in which he was found not fit. Thereafter, he had invoked remedy before the CAT and CAT had issued a direction for re-medical examination of the petitioner and in the re-medical examination also he was found unfit. Thereafter, once again he has knocked the door of CAT and suffered an order. It is necessary to re-produce portion of the advertisement, in particularly Para 9, it reads as under:-

“9. MEDICAL FITNESS TEST:

Candidates recommended for appointment will have to pass requisite medical fitness test(s) conducted by the Railway Administration to ensure that the candidates are medically fit to carry out the duties connected with the post. Visual Acuity Standard is one of the important criteria of medical fitness of railway staff. The medical requirements against different medical standards for different categories are outlined below:

(a) A-2: Physically fit in all respects. Visual Standards-Distance Vision: 6/9, 6/9 without glasses. Near Vision: Sn: 0.6, 0.6 without glasses and must pass test for Colour Vision, Binocular Vision, Field of Vision & Night Vision.

(b) C-1: Physically fit in all respects. Visual Standards-Distance Vision: 6/12, 6/18 with or without glasses. Near Vision: Sn: 0.6, 0.6 with or without glasses when reading or close work is required.

Note: (1) Before indicating option(s) for categories in ONLINE Application, the applicant must ensure that he/she fulfills the prescribed medical standards for that category/post. (ii) Candidates qualifying in examinations for these posts but failing in prescribed medical examination(s) will not, under any circumstances, be considered for any



alternative appointment. (iii) Candidates who do not fulfill the prescribed medical standards need not apply. (iv) The above medical standards (Criteria) are indicative and not exhaustive and apply to candidates in general. (v) For Ex-Servicemen different standards apply.”

[Underline Supplied]

10. Similarly, Indian Railway Establishment Manual,

Para Nos. 113, 124 and 511 reads as under:-

“113. The names of successful candidates who are recommended by the Railway Recruitment Boards or selected by the Railway Admn. themselves for appointment on Indian Railways will be exhibited on notice boards, in the Recruitment Board's office, Employment Exchange concerned and published as "news item" in the newspapers free of cost as also by the Railway Administrations in their Divisional and Headquarters offices. Selection of a candidate by a Board or a Railway administration is, however, no guarantee of employment on the railway which is subject to his qualifying in the prescribed medical examination and to his being otherwise suitable for service under Government.

(iii) GUARDS

124. (1) The posts in the category of Goods Guards in the pay scale of Rs.4500-7000(RSRP) will be filled as under:

(i) 60% by general selection from amongst serving regular employees with a minimum of three years service working in Grade Pay Rs.1900/- (level-2) to Rs. 2400/- (level-4), in the categories of Train Clerks(GP Rs. 2000), (level-3)/Sr. Train Clerks, (GPRs: 2400), (level4), Commercial Clerks (GP Rs. 2000), (level-3), Ticket Collectors (GP Rs. 2000), (level-3), Cabin man(GP Rs. 1900), (level-2) & (GP Rs. 2400), (level -4), Switchmen/Leverman/Points man/ Shuntman(GP Rs. 1900), (level-2), and Asst. Guards(GP Rs. 1900), (level-2) /Sr. Asstt. Guards(GP Rs. 2400),



(level-4): Individual quotas for each of these categories being fixed by the Zonal Railways.

(ii) 15% by LDCE plus shortfall, if any, against (i) above, from amongst serving regular non-ministerial employees in Operating and Commercial Departments with a' minimum of three. years regular' service, working in GP RS.1800 (Level-i) to GP Rs. 2400 (level-4) up to 40 years of age (45 years in case of SC/ST) with educational qualification of Graduation;

(iii) 25% by direct recruitment through Railway Recruitment Boards with graduate qualification.

(iv) Shortfall in General Selection as per (i) above to be added to LDCE and shortfall in LDCE will be transferred to GDCE quota open for all Departments.(Authority: Board's letter No. E(NG)I-2012/PM1/22dated 12.05.2017)

(3) Channel of Promotion/Higher grades ;—

The following higher grades are available in this category :—

511. General physical examination:-

(1) A Candidate as well as a serving Railway employee must be in good mental and bodily health and free from any defect likely to interfere with the effective performance of the duties of his appointment.

(2) Examiners will use their own discretion as to the scope of the general physical examination in each case and will judge cases on their merits, taking into consideration the prospective duties of the examinee as also the age of the examinee and need for continued fitness for the remaining years of service.

(3) Measurement of height, weight and chest girth will be recorded if specifically required. The skin, the connective tissues, the circulatory, respiratory, digestive, nervous, genitourinary, skeletal and muscular system will be subjected to such examination as is deemed necessary. The principal points attended to are connected with ascertaining:-

(a) the condition of heart and lungs;



(b) the condition of teeth and gums (well filled teeth will be considered as sound);

(c) whether there is any evidence of abdominal disease;

(d) whether there is any hernia or tendency to hernia;

(e) whether there is any degree of hydrocoele, varicose veins or piles;

(f) whether there is free movement of the joints;

(g) whether there is any inveterate skin disease;

(h) whether hearing in each ear is good and whether there is any disease of the ear;

(i) whether there is any speech defect;

(j) whether there is any contagious disease of the eyes or any other condition likely to lead to impairment of vision;

(k) whether there is any acute or chronic disease pointing to an impaired constitution; and

(l) whether there is any communicable disease.

Note:- No candidate whose chest measurement is less than 81.3 cms unexpanded and 86.4 cms expanded and whose height is less than 167.6 cms [except hill-man and other exempted class in whose case it should not be less than 160 cms] shall be enlisted for recruitment in Railway Protection Force. Recruits for appointment as Sainiks who are between 18 and 20 years and who show signs of growing and filling out may, however, be enlisted if they are 165.1 cms in height and 76.2 cms unexpanded and 81.3 cms expanded in chest measurement provided that the medical officer concerned certifies that the recruit is under 20 years of age and that he is likely to attain standard measurement.

[Underline Supplied]

(4) Hearing: *In the examination of hearing of the candidate/serving employee, the speaking voice test will be employed. The examiner will speak in any ordinary conversational voice; the examinee will be at a*



distance shown in the note below and with his/her back to the examiner, will be separately tested for each ear by the occlusion of the other ear or the use of Barrany's whistle, if this is available.

Candidates: (i) on appointment, the testing distance will be 6 meters for each ear for all categories.

(ii) The use of hearing aid should not be permitted for candidates in categories 'A' and 'B'.

Employees: (i) on re-examination, the testing distance will be 3 meters for all categories of staff.

(ii) The use of hearing aid should not be permitted for Railway employees in categories 'A' and 'B'. However, it may be permitted at the discretion of the Chief Medical Director in Categories, B-1 and B-2. Relaxation of standards of hearing in certain categories like Boiler maker etc., may be given by the Chief Medical Director

(5) Speech:

Candidate: Stammering is not to be considered a serious defect disqualifying a candidate in clerical duties, especially such of them as do not have to come in direct contact with the public.

Employees: for serving Railway employee, stammering is not to be considered a serious defect in clerical duties, especially such of them as do not have to come in direct contact with the public. However, in cases where slight speech defects have been detected during the course of periodical medical examination of Railway employee who has put in a number of years of service, the Chief Medical Director may consider relaxation in all types of cases, in consultation with the department concerned.

(6) Head injuries:- *Candidates and serving employees in categories A-1, A-2 and A-3, when they come up for medical examination or re-examination, should give a declaration if they had a head injury earlier and if so, a history of the case, even though fully cured at the time of declaration. In the case of persons with past*



history of loss of memory, a full neurological examination and a fitness certificate from a neurologist would be required. As instances are known where temporary loss of memory and some other mental disturbances have occurred in such cases, it is desirable that a close watch is kept on all such cases of head injury in the foot-plate staff, specially drivers, and followed up, to ensure that there is no recurrence of loss of memory in such persons.

(7) Physically handicapped: *(i) At the time of medical examination of the physically handicapped, namely the blind, the deaf/deaf mute and the orthopedically handicapped, (for each of the categories 1% of the posts in C and D groups have been reserved), the medical officer should find out the individual's suitability for the appointment against the post nominated for the handicapped persons with the instructions given and ensure that the proposed appointment is without much detriment to the efficiency and the physical handicap is not likely to hamper the work or enhance the occupational risks to the worker himself or to the others, especially if the post happens to be in the sheds and work shops or in station yards, along railway tracks and on bridges etc. Although the intention is to help such physically handicapped persons duly waiving the physical standards which ordinarily stand in the way of their being passed fit, it is clarified that no relaxation are to be made in visual standards while considering cases of physically handicapped persons for appointment under the deaf and orthopedically handicapped quota, excepting in the categories of clerks to the extent that they may be examined as per standards of C-2 though they belong to C-1. Certain posts should be earmarked for being filled up by only disabled persons eg., Lift man, Daftry, Office Clerks, Care-takers etc.*

(Rly Bd.'s No. 79/H/5/10 dt. 28/06/1979)

(ii) The categorisation of physically handicapped person for the purpose of reservation in employment is as below:-



a) The blind: The blind are those who suffer from either of the following conditions:

1.Total absence of sight.

2.Visual acuity not exceeding 6/60 or 20/200 (Snellen) in the better eye with correcting lenses.

3.Limitation of the field of vision subtending an angle of 20 degrees or worse.

b) The deaf: The deaf are those in whom the sense of hearing is nonfunctional for ordinary purposes of life. They do not hear, understand sounds at all events with amplified speech. The cases included in this category will be those having hearing loss more than 60 decibels in the better ear (profound impairment) or total loss of hearing in both ears.

c) The orthopedically handicapped: The orthopedically handicapped are those who have a physical defect or deformity which causes an interference with the normal functioning of the bones, muscles and joints.

(Bd.'s No.E(NG)III-77RC1/54 dt. 08/01/78 and No. 2003/H/23/4 dt 12-3-3)

iii) Candidates:- As and when handicapped persons are recommended by the Employment exchange for employment against Group C and Group D posts, they should be examined by CMS/MS in charge of the division and decision taken in consultation with the department concerned.

iv) Employees: The cases should be decided by the CMS/MS in charge of the division in consultation with the departmental officers taking into account the nature of disability and duties of the post.

Note: Such of the serving Railway employees who lose one of their hands while in service may not be put against train working duties, particularly those involving operation of any equipment.

8) Urine:

Candidates & Employees: In A-I Urine examination is compulsory.

Other categories: Urine will be examined if the examinee is over 30 yrs of age. If there is any reason to suspect renal disease or



diabetes in any examinee under 30 yrs age, his urine will be examined.

(9) Infective conditions and other disorders : *Candidates: Candidates exhibiting the under noted conditions will be rejected irrespective of the employment sought:-*

(a) Contagious and infective disorders: provided that the condition of the candidate having ceased to be contagious or infectious, the sequelae arising from such disorder will not be regarded as disqualifying, unless they are in themselves likely to interfere immediately or later with the efficient performance of the duties of their appointment. The following conditions fall inter-alia under the above category:-

(i) Pulmonary tuberculosis.

(ii) Venereal infection.

(iii) Trachoma and other infectious ocular diseases.

(iv) Leprosy.

(b) Conditions commonly predisposing to invalidity or seriously enhancing the candidate's liability to occupational risks, eg:-

(i) Hernia, and well marked hydrocoele, varicose veins or piles: provided that such conditions having been satisfactorily treated by operation, the evidence of their previous existence shall not disqualify;

(ii) Un-descended testes, intra-abdominal in position, and un-associated with an inguinal hernia, should not be a cause for rejection. Ectopic testes, located in the inguinal canal, abdominal wall or thigh, being more liable for trauma/torsion, should be passed fit only after the examinee has undergone surgical treatment:

(iii) Flat foot, or knock knees, except in sedentary occupations;

(iv) Epilepsy;

(v) Asthma;

(vi) Otorrhea.

(c) Conditions rendering the association of the candidates with others objectionable, e.g:-

(i) Repulsive inveterate skin diseases.



(ii) *Ozoena*

(iii) *Foetor associated or otherwise with pyorrhoeaalveolaris.*

(d) *Constitutional disorders commonly deemed progressive and chronic disorders liable of recurrent exacerbation of a disabling kind.*

Employees: In the case of serving employees, if there is reason to believe that any such defect can be remedied early by treatment or operation, the Railway employee should be advised to undergo necessary treatment or operation, prior to final decision.”

11. The portion of the note in Para 9 of the advertisement reads as under:-

“The above medical standards (criteria) are indicative and not exhaustive and apply to candidates in general.”

It is not exhaustive, therefore, the other material is with reference to Indian Railway Establishment Manual Para 113, 124 and 511 is required to be taken into consideration for the purpose of medical examination-medical fitness test for the post of Traffic Apprentice, Goods Guard & Assistant Station Master. On this count, the petitioner has not made out a case to the extent that whatever the medical fitness test prescribed in the advertisement is required to be taken into consideration. In fact, Para 9 relating to medical fitness is not exhaustive with reference to Indian Railway Establishment Manual cited (supra). Further, it is to be noticed that Indian Railway Establishment Manual has a statutory provision and it is required to be strictly followed while issuing



advertisement. If any thing is left out in the advertisement insofar as medical fitness test is concerned, in that event, Railway Authorities were permitted to take aid of the Indian Railway Establishment Manual, in order to give effect to the statutory provision like Indian Railway Establishment Manual and the same has been adhered by the Railway-Selection and Appointing Authority to the post of Traffic Apprentice/Goods Guard/Assistant Station Manager.

13. The petitioner pointed out that the post of Traffic Apprentice/Goods Guard/Assistant Station Manager were notified even for disabled persons. Therefore, if there are any defects in the physical standard, in that event, petitioner shall not be disqualified. In other words, the post of Goods Guard handled by physically abled persons and so also with certain disabled persons. Therefore, Railway Authorities cannot insist upon to medical fitness with reference to advertisement Para 9 read with Indian Railway Establishment Manual. The aforementioned contention cannot be appreciated in the absence of challenge to the certain provisions under Para 511 of the Indian Railway Establishment Manual in which there are 12 items which have been narrated and under sub-para 3 of Para 511 of Indian Railway Establishment Manual. The petitioner case fall under Para 511(3)(f) of Indian Railway Establishment Manual for the post of Goods Guard. In the absence



of challenge to the aforementioned provision to the extent that even if there is a defect in the joint movements, candidate is suitable for the post of Goods Guard with reference to the fact that Goods Guard post is reserved for disabled persons.

14. In the light of these facts and circumstance, the petitioner has not made out a case so as to interfere with the impugned order of the CAT 12.07.2023 passed in O.A. No. 572 of 2021.

15. Accordingly, the present CWJC No. 16154 of 2024 stands dismissed.

(P. B. Bajanthri, J)

(Sunil Dutta Mishra, J)

abhishekk/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.02.2025
Transmission Date	NA

