

**1305
2025**

TUESDAY

Court : MB-07
Item : DL-01
Bench : SINGLE
Matter : WPA
Status : DO
ID : 266057
AR : NANDY

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPA 8626 OF 2021

**JAGANNATH MONDAL
VS.
UNION OF INDIA & ORS.**

**MR. UJJAL ROY, ADVOCATE
MR. ARPA CHAKRBORTY, ADVOCATE**

.....for the Petitioner

MR. KUSHI PRASUN CHATTERJEE, ADVOCATE

.....for the Respondent/UOI

1. The present writ petition has been filed, alleging inaction on the part of the respondent authority in issuing the de-categorization certificate in favor of the petitioner.
2. Briefly stated, the facts that led to the filing of the present writ petition are that the petitioner joined the Railway Protection Force (RPF) in 1993 and was subsequently promoted to the post of Constable in 2006. During the course of his employment, he fell ill and was examined by the Railway Doctor to assess his medical condition. On 09.11.2018, he was placed on the sick list. After evaluating his physical condition, the Railway Doctor opined that the petitioner could resume duty, provided he should have avoided lifting heavy objects, bending forward, prolonged standing or walking, and climbing stairs. However, the record reveals that, for better treatment, he was referred to the Bangur Institute of Neurology.
3. The petitioner claimed that despite receiving the best medical attention, he could not regain the ability to serve in the force, and a permanent disability developed, rendering him incapable of lifting heavy objects, including firearms, bending

forward, stepping forward, and prolonged working. He submits that the petitioner was kept on the sick list for almost one and a half years. However, the Railway Authority did not issue any de-categorization certificate despite the lapse of the stipulated time.

4. Mr. Ujjal Ray, learned advocate appearing on behalf of the petitioner, by producing medical documents, submits that the petitioner was attended to by the Railway Doctor during this period he was retained on the sick list on several occasions. However, he was not declared fit to resume his duties. He submits that paragraph 561(A)(4) of the Indian Railway Medical Manual states that if an employee having been placed on the sick list is unable to resume duties within the specified period, the authority shall have no alternative but to issue a de-categorization certificate in his favour. Mr. Ray further submits that, in contravention of their own manual, the Railway Authority has withheld the certificate. Accordingly, he prays for an appropriate direction for the issuance of the de-categorization certificate or in the alternative, a certificate for change of occupation in favour of the petitioner.
5. Mr. Kushi Prasun Chatterjee, learned advocate representing the Railway Authority, opposed the petitioner's contention. Inviting my attention to certain paragraphs from the affidavit-in-opposition filed on behalf of the respondents nos. 1 to 8, he submits that neither the Railway Doctor nor the Doctor from Bangur Institute confirmed that the petitioner was unfit to resume duty. According to him, the petitioner was merely advised to avoid heavy lifting, squatting, forward bending, etc. He

submits that a de-categorization certificate or a certificate for change of occupation cannot be issued unless the Railway Doctor, after assessing the physical condition, declares the petitioner unfit to resume his duties. He further submits that the petitioner did not attend the Railway Hospital and even failed to join the transferred post.

6. In reply, Mr. Roy submits that the petitioner is not in a position to resume his duties. He further submits that, in light of this fact, an appropriate direction should be issued.
7. Heard the learned Advocate for the parties. Perused the materials-on-record placed before me.
8. The record reveals that by an order dated 20.04.2021 passed in this writ petition, a coordinate Bench of this Court observed that the Railway Authority should consider whether the petitioner was medically fit to serve as a Constable in the RPF, or take a suitable decision in this regard. However, no such decision has been made in compliance with the order dated 20.04.2021.
9. For a better appreciation of the issue, it would be appropriate to refer to the relevant provisions applicable to this matter as contained in Section F of the Indian Railway Medical Manual.
10. Paragraph 559 of the Manual deals with the types of medical recommendations that may be issued under its framework. It clarifies that medical recommendations can be made by Railway Medical Officers in favour of employees, including recommendations for light duty or a change of occupation, depending on the medical condition of the concerned employee.
11. Paragraph 561(A)(4) of the Indian Railway Medical

Manual provides that if a competent authority is unable to offer the employee temporary light duty or an alternative occupation, the employee should continue to remain on the sick list until he is either declared fit to resume duty or is formally de-categorized. It further stipulates that the period of such waiting shall not exceed six months.

12. Clause (B) of paragraph 561 of the said Manual is quoted as below:

“(B) Certificate of de-categorization or change of occupation; 1) if after the expiry of the period of six months granted under the certificate of recommendation of light duty, the employee is considered by the Railway Doctor medically unfit for the duties of his original post, but not unfit for service on the other posts, the competent Medical Officer will issue the necessary certificate in the prescribed form as given in the annexure XX to this chapter, for a suitable permanent alternate appointment either in the same medical category or in a lower category.”

13. Therefore, as per the provisions of paragraph 561 (A) (4), if, after the expiry of the six-month period granted under the certificate of recommendation for lighter duty, the employee is considered by the Railway Doctor to be medically unfit for the duties of his original post but fit for service in other posts, the competent medical officer will issue the necessary certificate in the prescribed format as given in Annexure XX to the Chapter, recommending a suitable permanent alternate appointment either in the same medical category or in a lower category. Needless to state that the certificate issued in the prescribed form as given in Annexure XX is commonly referred to as the de-categorization of service.
14. Although the petitioner was retained on the sick list for more than one and a half years and, during that

period, was under the continuous medical supervision of the Railway Doctor, the Railway Authority should have issued the de-categorization certificate and/or a certificate for change of occupation.

15. At this stage, after the lapse of several years, the plea raised on behalf of the Railway that the petitioner did not report to his duties cannot be accepted.
16. I am informed that a coordinate Bench of this Court had occasion to consider a similar issue in WPA 8620 of 2021. Upon examining all relevant aspects, the Bench directed the concerned respondent to issue a de-categorization certificate in favour of the petitioner therein or, in the alternative, to issue a certificate for a change of occupation. The decision of the coordinate Bench was challenged before the Hon'ble Division Bench through an intra-Court appeal. However, during the pendency of the appeal, the order under appeal was complied with, rendering the appeal infructuous.
17. This indicates that the Railway Authority has accepted the decision of the coordinate Bench of this Court rendered in WPA 8620 of 2021. The Bench observed that after the six-month period, as specified in paragraph 561(A)(4) of the Manual, declaring the petitioner to be in unauthorized absence cannot be considered proper, as such an action contradicts the provisions of paragraphs 559 and 561 of the Manual.
18. Moreover, after the expiry of the six-month period, as specified in paragraph 561, the Railway Authority cannot justify withholding the de-categorization certificate or an alternative certificate for change of

occupation by raising the plea that the petitioner did not join duties after the period specified in paragraph 561 of the Manual.

19. I do not find any reason to disagree with the decision of the coordinate Bench. Therefore, applying the principle established by the Bench in WPA 8620 of 2021 and considering the facts and circumstances of the present case, I direct the concerned respondent to issue a de-categorization certificate or, alternatively, a certificate of change of occupation in favour of the petitioner.
20. The entire process shall be completed within a period of eight weeks from the date of receipt of a copy of this order.
21. With these observations and order, the writ-petition being **WPA 8626 of 2021** is **disposed of**.

(PARTHA SARATHI CHATTERJEE, J.)

