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Desh Vijay
Vs.
Union of India and others.

Mr. Kushi Prasun Chatterjee
... for the Union of India

Mr. Ray, learned Advocate appearing on behalf of the petitioner, submits that under the rules applicable to the Railway Protection Force (in short, RPF), upon

the expiry of the period of retention on the sick list, an employee is either to be declared fit to resume duty and restored to his original post, or a de-categorization certificate is to be issued in his favour, following which he should be placed in a post involving lighter duties. He further submits that an employee may be retained on the sick list for a maximum period of six months, and if the employee does not resume duty upon the expiry of this period, payment of salary is automatically discontinued.

However, in order to avoid such a harsh outcome which would have resulted in serious financial hardship, the petitioner resumed duty despite his physical limitations and has continued to perform the duties assigned to him from time to time. In view of the petitioner's condition and continued service despite his deformity, he prays for a direction upon the respondent authorities to issue a de-categorization certificate in favour of the petitioner and to place him in a post with lighter duties, in accordance with the relevant rules.

Mr. Chatterjee, learned advocate appearing for the respondents, refers to the report filed on behalf of the petitioner in the form of an affidavit and submits that the petitioner has already been permitted to rejoin the force.

Heard the learned Advocate appearing on behalf of the respective parties and perused the material on record.

To shed light on the issue, it would be appropriate to refer to the relevant provisions applicable to the matter, as contained in Section F of the Indian Railway Medical Manual. 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.

Paragraph 561(A)(4) of the Indian Railway Medical Manual provides that if the 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.

Clause (B) of paragraph 561 is as follows:

“(B) Certificate of decategorisation 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.”

Therefore, as per the provisions of paragraph 561(B), if after expiry of 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. I have been told that the certificate, which is issued in the prescribed form as given in annexure XX, is commonly called de-categorization certificate.

Admittedly, the petitioner was retained on the sick

list for a period of more than six months, during which his medical condition was periodically reviewed. Upon the latest assessment, the Medical Officer has declared and certified that the petitioner is suffering from a permanent deformity, which is unlikely to show any improvement in the future.

Thus, from the medical certificate and opinion referred to above, it is evident that although the petitioner continues to serve in the Railway Protection Force, he has developed a permanent deformity that renders him incapable of squatting, forward bending, lifting heavy weight, prolonged standing, walking and running on uneven surface. Given the nature of duties expected in a disciplined armed force, it is inconceivable that a member of such a force could be allowed to continue in active service without the ability to handle arms. Nevertheless, the respondents contend that the petitioner has been reinstated to his original post, albeit with the assignment of lighter duties, and that he continues to receive his salary.

Administrative decision must be in accordance with law and must stand to test the reasonability and rationality. When the rules framed by the Railway themselves provide that, in the event an employee is found medically unfit to discharge the duties of his

original post due to illness or deformity, a de-categorization certificate shall be issued in his favour, and he shall be placed in an alternative post involving lighter duties, the authorities are bound to act accordingly.

A Co-ordinate Bench of this Court had the occasion to consider a similar issue in WPA 8620 of 2021. Upon examining all relevant aspects, the Bench directed the concerned respondents to issue a de-categorization certificate in favour of the petitioner therein or, in the alternative, to issue a certificate for change of occupation.

I am informed that an intra-court appeal was filed challenging the decision of the Co-ordinate Bench in WPA 8620 of 2021. However, during the pendency of the appeal, the Railway authorities complied with the order under appeal, thereby rendering the appeal infructuous. This indicates that the Railway authorities have effectively accepted the decision of the Single Bench in that case, which dealt with a similar issue.

Applying the principles established by the Bench in a similar case and considering the facts and circumstances of the present matter, the writ petition is hereby disposed of with a direction to the concerned respondent, i.e. the respondent no. 6 herein, to issue a

de-categorization certificate or, in the alternative, to issue a certificate for change of occupation in favour of the petitioner.

The entire process shall be completed within a period of eight weeks from the date of receipt of this order.

However, it is hereby clarified that until the aforesaid direction is complied with, the petitioner shall be permitted to continue discharging his duties in his original post.

In view of disposal of the writ petition, connected application being CAN 1 of 2020 (Old CAN 4049 of 2020) is also disposed of.

There shall, however, be no order as to costs.

(Partha Sarathi Chatterjee, J.)