

CENTRAL ADMINISTRATIVE TRIBUNAL CHANDIGARH BENCH

Order Sheet

Item no.: 6
O.A./1207/2022 (CHANDIGARH)
[ABSORPTION]
Court No.: 1

No of Adjournment:

Order Dated: 17/11/2022

**DINESH KUMAWAT
Vs
NORTHERN RAILWAY**

For Applicant(s) Advocate : SH. D.R. SHARMA

For Respondent(s) Advocate :

Order of The Tribunal

Heard.

Issue notices to all the respondents.

Sh. Sanjay Goyal, learned CGSC accepts notices on behalf of all the respondents and seeks time to file reply.

The applicant has sought for the following interim direction:-

"During the pendency of the present OA, the applicant prays that the respondents be directed to let the applicant work under supervision of Chief Loco Inspector, Kalka where the applicant is presently working and not to be forced to work Technician-II.

Prima facie the applicant has good case and balance of convenience is also lies in his favour"

This original application has been filed against notice dated 17.08.2022 issued by respondent No.3, whereby the applicant has been ordered to be posted on the post of Technician-II on account of medical de-categorization which is against para 12.9 of Annexure III of IRMM, 2000 (Annexure A-1).

The contention of the applicant is that the applicant was medically de-categorized and as per Annexure A-4, he has been diagnosed with 'Idiopathic Generalised Epilepsy'. Thereafter, the respondent department has issued Annexure A-1 and a supernumerary post of Tech-II/C&W in GP-2400 level-IV has been created. The contention of the applicant is that this is a Technical post and applicant has to work on the machine.

To support his claim, learned counsel for the applicant referred to para 12.9 of IRMM, relevant part of which reads as under-

“12.9 Epilepsy: Epileptics should not be employed in or near running lines or moving machinery and never on train running and passing duties.”

This Tribunal has considered the matter and it is clear that as per Annexure A-4, applicant has been diagnosed with 'Idiopathic Generalised Epilepsy' and as per Annexure A-8 (paragraph 12.9), Epileptics should not be employed in or near running lines or moving machinery and never on train running and passing duties.

In view of said position, this is a fit case where interim protection is to be given.

Resultantly, respondents are restrained from giving effect to Annexure A-2 and A-3 till and next date of hearing and the applicant shall be allowed to continue on the same position as of today.

List on 16.12.2022.

Copy of the order be supplied to parties.

The respondents may file reply within four weeks.

Ramesh Singh Thakur
Member (J)

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