

**IN THE HIGH COURT OF DELHI AT NEW DELHI**

**SUBJECT : SERVICE MATTER**

**WP(C) No. 8203/2002**

**Reserved On: November 21, 2008**

**Date of Decision: December 05, 2008**

**ABHISHEK and ANR. ....**

**Petitioners.  
Through Mr. Viraj R. Datar, Advocate**

**Versus**

**DMRC and ORS. ....**

**Respondents  
Through Mr. Vibhu Shankar, Advocate with  
Mr. Sunil Kr. Sinha, Assistant General  
Manager (Recruitment and Training) DMRC**

**MANMOHAN, J:**

1. The present petition has been filed under Article 226 of the Constitution of India seeking quashing of application of A-1 Medical standard by Delhi Metro Rail Corporation Ltd. (hereinafter to be referred as DMRC) for appointment to the posts of Station Assistant/General Assistant/Jr. Station Assistant in its Corporation.

2. Mr. Datar, learned counsel for the Petitioners contended that the advertisement dated 5th October, 2001 did not mention that the candidates would have to meet A-1 Medical Standard. He submitted that the said posts are neither technical nor operational as they involve mere discharge of administrative functions. According to him, the application of A-1 Medical Standard to the said posts by DMRC was arbitrary as it had no relation with the object sought to be achieved.

3. Mr. Datar further pointed out that the Railway Recruitment Board prescribed varying medical standards for different posts and the stringent A-1 Medical Standard had been prescribed for very few posts like Guards, Station Masters, Engine Drivers. He stated that application of A-1 Medical Standard by DMRC, irrespective of the nature of the duties performed, showed that the standard prescribed was completely arbitrary and irrational. He further pointed out that the Respondent had realised its mistake in as much as, subsequently in the year 2003, DMRC itself had prescribed a lower C-1 Medical Standard for the post of Office Assistant.

4. On the other hand, Mr. Vibhu Shankar, learned counsel for DMRC contended that Station Assistant, General Assistant and Jr. Station Assistant are entitled to be promoted

as Station Controller and/or Train Operator and the duties of both the Station Controller and Train Operator in DMRC are interchangeable. He pointed out that after induction both the Station Controllers and Train Operators are trained together and after every six months there is a role reversal which means that a Train Operator becomes Station Controller and a Station Controller assumes the role of a Train Operator.

5. Mr. Shankar stated that the experience of Indian Railways had shown that separate cadres of Train Drivers and Station Masters had resulted in placing a very high premium on the job of Train Drivers, who on many occasions had paralysed the Rail Services. To improve upon the said situation, a conscious decision was taken by DMRC to combine the cadre of Station Controller and Train Operator. He stated that due to interchangeability of the posts, the A-1 medical standard, which is required for Train Operator even in the Indian Railways, is also prescribed for Station Controller. Therefore, he submitted that consequent to the concept of inter-changeability of posts, the medical standards for the three posts for which the Petitioners had applied for, were fixed as A-1, which is required keeping in view the operational exigencies, safety of passengers and safety of rolling stock.

6. He further stated that in order to have a lean and effective manpower structure, DMRC had adopted the concept of multi-skilling and multi-tasking. According to him, due to incorporation of concepts like inter-changeability of posts, multi-skilling and multi-tasking, the present deployment of manpower for operations and maintenance activities is about 35 staff per route kilometer in comparison to Kolkata Metro which presently operates at about 100 staff per route kilometer. He further contended that, at no point of time, any relaxation of medical standard had been provided by DMRC.

7. As far as reference by Mr. Datar to the advertisement with regard to the post of Office Assistant is concerned, Mr. Vibhu Shankar pointed out that such post is ministerial in nature while the posts of Station Assistant/General Assistant/Jr. Station Assistant fall in the line of hierarchy of Station Controller/Train Operator. Thus, according to him, the post of Office Assistant could not be equated to the three posts for which the Petitioner had applied.

8. Mr. Vibhu Shankar also drew my attention to a judgment and order passed by the learned Single Judge of this Court in CWP 6347/2003. The said order is reproduced hereinbelow for ready reference:- +CW 6347/2003 and 11111/2003 This writ petition has been filed by the petitioner who is aggrieved by non-appointment to the post of Junior Engineer (Civil) in Delhi Metro Rail Corporation (DMRC). Ms. Salwan has contended that the petitioner has Amblyopia in his right eye. She has contended that Amblyopia is a medical term which means a lazy eye. However, the petitioner has got accurate vision of 6/6 in the left eye. The appointment of the petitioner was rejected on medical ground. Ms. Salwan has contended that the petitioner is fit in any normal desk work related with his post. Ms. Salwan has also relied upon medical opinion given by doctor who is specialist in Ophthalmology. On the other hand, Mr. Virender Sood, learned counsel for respondent/DMRC has contended that the work in the DMRC project is not only desk work but passenger safety is paramount importance and for purposes of structural

designing a person has to work day and night in unfriendly conditions and person has to be absolutely fit to perform the job. He has further contended that if this Court interferes then that will open flood gate with regard to the selection of fitness personnel to the job. I have considered the arguments advanced by learned counsel for both the parties. Delhi Metro Rail Corporation (DMRC) is a very prestigious project and passenger safety has to be taken into consideration. The choice of the personnel to be appointed has to be left with the specialist and expert knowledge of the respondent. Interference from the Court should be minimum as far as recruitment of personnel is concerned because the parameters of requirement and efficiency by the Delhi Metro Rail Corporation should not only be higher but superior to other existing communication infrastructure in the Country. Petitioner may be a brilliant person, he may be otherwise fit for performing a desk work but this Court will not substitute its own opinion as far as fitness to perform work is concerned for that of the respondent. Therefore, there is no merit in this writ petition. Same is dismissed. Petition is dismissed.

9. In rejoinder, Mr. Datar submitted that if DMRC has a uniform cadre and every workman is entitled to be promoted as a Station Controller or Train Operator, then a uniform A-1 medical standard should have been applied for all DMRC posts. Mr. Datar once again reiterated that the only ground on which the Petitioners have been found medically unfit was weak eye sight, but that certainly could not be an impediment in the way of Petitioners performing administrative/clerical duties.

10. Mr. Vibhu Shankar submitted that the submission with regard to a uniform cadre had not been taken by the Petitioners in any of their pleadings. He further submitted that this is not the case because DMRC employees, though divided into clusters are accorded different pay scales and the clusters are not according to job specifications.

11. It is pertinent to mention that despite two opportunities, the Petitioners did not file any response to the additional affidavit of DMRC wherein the rationale behind adoption of concepts of multi-skilling and multi- tasking were given in detail. Even in the rejoinder affidavit, except a bald averment, there is no serious challenge to the concept of inter-changeability of posts of Station Controller and Train Operator. Thus, the present petition has to be decided on the basis of unchallenged concepts of multi-skilling, multi- tasking and inter-changeability of posts.

12. Keeping in view the aforesaid facts and arguments advanced before this Court, I am of the opinion that as the posts of Station Assistant/General Assistant/Jr. Station Assistant are in the line of hierarchy to the posts of Station Controller and/or Train Operator, then the highest medical standard of all these posts, namely, that of a Train Operator would apply. Admittedly, even in the Indian Railway it is the A-1 medical standard that applies for Train Operators and, therefore, the applicants for the posts of Station Assistant/General Assistant/Jr. Station Assistant would have to meet the aforesaid medical standard.

13. It is well settled that it is the experts and employers prerogative to lay down medical standards for any particular post and a court will only interfere if the same is

arbitrary or vitiated by malice or the standard has no relation to the objectives sought to be achieved. Since in the present case the Petitioners, who though have applied for the post of Station Assistant/General Assistant/Jr. Station Assistant, but have the potential to be promoted to the post of Station Controller and/or Train Operator, would have to meet the highest medical standard for the posts to which they could be promoted. In any event, the application of A-1 Medical Standard in the present case cannot be said to be arbitrary or irrational.

14. The Petitioners argument that DMRC has a uniform cadre or that the post of Office Assistant is equivalent to the post of Station Assistant/General Assistant/Jr. Station Assistant is not correct as the post of Office Assistant not only belongs to a different cluster in comparison to the jobs to which the Petitioners had applied but its classification and pay-scales are also different.

15. Moreover, from the pleadings on record it is apparent that by adoption of concept of inter-changeability of posts, multi-skilling and multi-tasking, DMRC has been able to achieve a very low deployment of manpower per route kilometer which has consequently resulted in reduction of expenditure in running a basic infrastructural facility. Needless to say, the aforesaid concepts are in public interest as it means not only a lower tariff but also enables the largest number of people to have access to a basic infrastructural facility. Therefore, the present petition is dismissed but with no order as to costs.

Sd./-  
MANMOHAN, J

DECEMBER 05, 2008