

CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

Original Application No. 041/00111/2019

Date of Decision: 30.04.2019

THE HON'BLE MRS. MANJULA DAS, JUDICIAL MEMBER
THE HON'BLE MR. N. NEHSIAL, ADMINISTRATIVE MEMBER

Sri Dwaipayan Bhattacharjee,
S/O-Sri Tarakeswar Bhattacharjee,
Resident of Dhaleswar, Nayapara, Kalyani,
P.O.-Agartala College, P.S.East AGARTALA,
DIST: WEST TRIPURA,
PIN-799004

APPLICANT

By Advocate Mr.P.Maishan

-Versus-

1. The Comptroller & Auditor General of India,
9, Deen Dayal Upadhyaya Marga,
New Delhi-110124 Govt of India
2. The Accountant General (A&E) Tripura,
Bholananda Pali, P.O._Kunjaban
Agartala, West Tripura, PIN-799006
3. The Deputy Accountant General (A&E)
Office of the Accountant General (Audit)
P.O.Kunjaban, Agartala, West Tripura, PIN-799006
4. The Director (P)
Office of the Comptroller
& Auditor General of India
9, DeenDayal Upadhyaya Marga,

New Delhi-110124

5. Shri Udiyan Bose, S/O Sri Uttam Bose,
Resident of –Thakur Para
P.O.Melaghar, P.S.Melaghar,
District-Sepahhijala,
PIN-799115. 9Triputa) Respondents

By Advocate Mr.S.K.Ghosh, Addl.C.G.S.C.

ORDER

Hon'ble Mr.N.Neihial,Member(A)

The case was heard on 8.11.2019 and reserved for orders. During the hearing, the Addl.C.G.S.C. claimed that Shri Nirupam Sen Choudhury, was in the top of the Select List and no marks was awarded to Shri Nirupam Sen Choudhury, in the final Select List, for his participation Under -19 Coach Behar Trophy. Accordingly, the counsel of the Respondent was asked to produce the relevant records containing marks awarded to the candidates in all the Tournaments.

This records have since been submitted for scrutiny. The basic grievance of the applicant is that in the initial Select List , he was placed at Sl.No.2 in the order of merit list obtaining marks of $25+4.5+6=$ total of 34.5. Subsequently, his name has been

removed from the panel and the other candidates in the Select List have been given appointment without any intimation and without any notice to him. Accordingly, in this O.A, he sought for relief as under:-

- “ 8.1 Quashing and cancelling the revised panel as available in the letter, dated 26.07.2018 issued by the Deputy Accountant General (A&E) Tripura, O/O the Comptroller and auditor General of India , so far the Serial No.2 is concern.
- II. Directing the Respondents to appoint the Applicant in Group-C post on the basis of his placement at Serial No.2 of the merit list prepared by the selection committee for filling up 2 Group C Posts of Clerk/DEO/Auditor/ Accountant in the O/o the Accountant General (A&E), Tripura, during the recruitment drive under meritorious sports person quota.
- III. Directing the Respondents to quash the appointment of the Respondent No.5 in posts of Clerk/DEO/Auditor/ Accountant in the O/O the Accountant (A&E), Tripura, on the basis of the revised panel.”

2. The respondent authorities submitted their written statement on 5.8.2019 in which, they have highlighted the written complaint dated 04.9.2017 from Sri Saurav Das, as well as a report in the local daily newspaper namely, Tripura Times Dated 03.09.2017 and Bengali daily dated 02.09.2017 in which irregularities were alleged to have been committed in the recruitment of Sports persons. On re-examination it has detected that his Date of Birth as recorded in the Birth Certificate and the one found recorded with the Board of Control for Cricket in India

(BCCI) did not tally. In spite of this detected malpractice, they have not cancelled his candidature keeping in view of the future prospects of the applicant. Accordingly, they have sent comprehensive report to Headquarter office New Delhi to take final decision in the matter. They further contested that in the selection of the Respondent No.5, i.e Shri Nirupam Sen Choudhury, his participation in Coach Behar Trophy from 14.11.2009 to 24.2.2010 was not considered while assessing his performance and gradings. In spite of this, his rank was at Sl.No.1. Respondent No.5 Sri Udiyan Bose filed his reply on 8.7.2019 and in Para 7, 10 & 11 he highlighted that this applicant was removed from his initial position of Sl.No.2 in the panel due to misrepresentation and committing of fraud regarding his age in his participation under 23 Col.C.K.Naidu Trophy in the month of October 2016. Accordingly, his candidature was cancelled by the respondent authorities.

3. In his rejoinder dated 20.9.2019, the applicant has contested at para 6 that in respect of Sri Nirupam Sen Choudhury, though disputed about his participation under 19 Coach Bihar trophy, denovo assessment of the applicant was not

given properly as he was not given marks for which the applicant was entitled.

4. Apart from the submissions made by the parties, we have gone through the records of selection process made by the respondent authorities. In respect of the applicant Sri Dwaipayan Bhattacharjee awarded marks were as under:-

(A)

Sl No	Name of Tournaments	Marks to be attested	Marks obtained
(i)	Participation in international (Sr.) levels Annexure VI(i)	20	- NIL-
(ii)	Participation in international (Jr.) levels Annexure VI(i)	15	- NIL-
(iii)	Participation in National (Sr. Levels Annexure VI(i)	15	15
(iv)	Participation in National (Jr. Levels Annexure VI(i)	10	10
(v)	Participatin in All India Inter University Tournaments Annexure VI(i)		05

B. Achievements in tournaments = sub total (A) 25

C. Field Trials –Fitness Test Annexure –VII(1 to v) - 4.5

D. Field Trials –Skill Test Annexure –VII((vi) to (ix) - 6

TOTAL (A+B+C+D) 25+4.5+6= 35.5

5. The details of marks for field trials and sports certificate of Sri Nirupam Sen Choudhdury as under:-

(A)

(i)	Participation in international (Sr.) levels Annexure VI(i)	20	-NIL
(ii)	Participation in international (Jr.) levels Annexure VI(i)	15	NIL
(iii)	Participation in National (Sr. Levels Annexure VI(i)	15	15
(iv)	Participation in National (Jr. Levels Annexure VI(i)	10	5
(v)	Participation in All India Inter University Tournaments Annexure VI(i)	05	3
TOTAL (A)		23	

B. Achievements in tournaments

(B) Marks obtained

(i)	Achievement in terms of victories at international Sr.) levels Annexure VI(ii)	06	NIL
(ii)	Achievement in terms of victories at international (Jr.) levels -Annexure VI(ii)	04	NA
(iii)	Achievement in terms of victories at National (Sr.) levels - (Sr. Levels Annexure VI(i)	04	NIL
(iv)	Achievement in terms of Victories at in National (Jr. Levels- Annexure VI(ii)	03	NIL
(v)	Achievement in terms of victories at All India Inter University Tournaments-Annexure VI(ii)	03	NIL
Total (B)		-	-

C. Field Trials –Fitness Test Annexure –VII(1 to v)	-	4
D. Field Trials –Skill Test Annexure –VII((vi) to (ix)	-	10
TOTAL (A+B+C+D)		23+4+10 = 37.

From the above, we are not able to make out what has been excluded from the assessment/ weightage given by the respondent authorities in respect of Nirupam Sen Choudhdury.

6. From the records submitted by the respondent authorities, it is observed that there were some complaint regarding selection of sports persons in the office of the Respondent No.2. One Mr.Sourav Das one of the candidates who have been excluded from participation in the recruitment process requested for exclusion for certificates of participation of Col.C.K.Naidu Trophy as the Date of Birth Certificate did not match with the Certificate issued by Col.C.K.Naidu Trophy. It was also mentioned that another candidate Sl.No.2 in merit list namely Sri Dwaipayan Bhattacharjee (the present applicant) was also over age for participation in Col C.K.Naidu Trophy. In view of this complaint, the Sports Certificate and verification of Date of Birth Certificates of the applicant's case was done again. It was indeed detected that his age did not match with the Birth Certificate and as in Sports Certificate. His candidature

however, was not cancelled but referred to Headquarter office for suitable decision. Similarly, the Date of birth certificates of Nirupam Sen Choudhury was for re-examined. It was noticed that Sri Nirupam Sen Choudhury Sl.No.1 submitted certificate at 19 Coach Behar Trophy and his age was also over 19 years. His Date of Birth as recorded in BCCI, record was 23.10.1990 whereas his actual Date of Birth was 23.4.1990. In respect of Bwaipayan Bhattacharjee the present applicant, the Date of Birth indicated in the certificate was 02.11.1993 and his actual Date of Birth was 02.07.1992. Accordingly, the list of five candidates in order of merits with Nirupam Sen Choudhury, and Sri D. Bhattacharjee, without indicating the actual marks obtained was sent to the HQ office vide their report No.DAG(A&E)/Recrth/Sports/2016-17 dated 02.02.2018. The HQ office, vide their communication dated 27.3.2017 intimated that since the selection of Sri Dwaipayan Bhattacharjee was done on the basis of participation in under 23 Col. C.K. Naidu Trophy, the revised merit list was communicated to the HQ office vide letter dated 26.7.2018 wherein the name of the applicant has been eliminated.

7. From the fair reading of the above records, it would be clearly seen that the applicant, though initially selected and put at Sl.No.2 in the merit list has been removed from the selection due to the misrepresentation (discrepancy) of his age in the certificate is given by the BCCI. If that is so, the respondents authorities have not explained themselves in the case of Shri Nirupam Sen Choudhdury, having the same nature of discrepancy in the Date of Birth. The contention is that his participation in Coach Bihar Trophy, wherein there is discrepancy of the date of birth has not been taken into account in giving weightage of marks is found to be weak argument. If this was an issue of propriety for getting selected in the process of getting appointment in public service, this has to be applied objectively and transparently. Moreover, from the records, we are not able to make out whether to weightage to be given in respect of Coach Bihar Trophy has been deducted from the case of Respondent No.5 , Sri Nirupam Sen Choudhdury .

8. Keeping in view of the above, the respondent authorities are directed to examine once again the grievance of the applicant. Detailed speaking order shall be issued by them within a period of 3 months from receipt of this order.

9. To the above extend, the O.A. is allowed.
10. There is no order as to costs.

(N.NEIHSIAL)
ADMINISTRATIVE MEMBER

(MANJULA DAS)
JUDICIAL MEMBER

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