

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No. 505/2021

This the 05th day of March, 2021

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

Macchita Malik

S/o Shri Satvir Singh Malik

R/o 240, Pocket-24

Sangam Apartments

Sector-24, Rohini

New Delhi

Aged about 38 years.

...Applicant

(By Advocate: Shri Yashpal Rangi)

VERSUS

1. Union of India

Through the Secretary

Ministry of Personnel

Public Grievances & Pensions

Department of Personnel & Training

Govt. of India, New Delhi.

2. The Director (AIS)

Ministry of Home Affairs

Department of Personnel & Training

North Block, New Delhi.

3. Dr. Ram Manohar Lohia Hospital

Through its Director

Baba Kharak Singh Rd

Near Gurudwara Bangla Sahib

Connaught Place, New Delhi-110001. ...Respondent

(By Advocate: Shri Satish Kumar)



ORDER (Oral)



Hon'ble Mr. Justice L. Narasimha Reddy, Chairman:

The applicant took part in the Civil Services Examination (CSE), 2012, and was successful in the Preliminary as well as Mains examination. He was interviewed on 04.04.2013, and was sent to medical examination on 05.04.2013. It is stated that when the final selection was about to take place, he was implicated in a criminal case and thereby his candidature could not be considered. Since final results were not declared, he filed OA No.2385/2013. The OA was disposed of directing the declaration of the results of the applicant. Ultimately, his results were declared on 27.03.2015. However, due to the pendency of the criminal case, further steps could not be taken.

2. The applicant filed OA No.723/2017 with a prayer to direct the respondents to appoint him on the basis of his merit. The OA was taken up for hearing recently on 17.01.2020. It was noted that further steps in the context of selection and appointment of the applicant were not concluded on account of the pendency of the criminal case and that, in turn, has ended on acquittal on 06.04.2019. The OA was disposed of directing the respondents to pass orders on the representation made by the applicant on 02.09.2019.



3. In compliance with the directions issued in the OA, the respondents passed an order dated 07.12.2020. It was mentioned that the applicant was referred to medical examination on 05.04.2013 and when he appeared on that day, his case was referred to Special Ophthalmic Board and he was required to appear before it on 27.04.2013, but he did not turn up. The order proceeded to mention that in terms of Rule 21 of CSE Rules, 2012, the candidature of the applicant stood cancelled on account of his failure to attend the medical examination. The same was accordingly intimated to the applicant. This OA is filed challenging the order dated 07.12.2020.

4. Shri Yashpal Rangi, learned counsel for the applicant submits that the selection and appointment of the applicant met with several hurdles and ultimately when everything was clear with the acquittal in the criminal case, the respondents have passed the impugned order which is contrary to the record and it is the result of arbitrary exercise of power.

5. We heard Shri Yashpal Rangi, learned counsel for the applicant and Shri Satish Kumar, learned counsel for the respondents at the stage of admission.



6. It is almost a decade ago that the applicant took part in the CSE Examination, 2012. He was successful in the Preliminary and Mains examination and was also interviewed. Obviously, because of his meritorious position, he was also referred to medical examination on 05.04.2013. After preliminary examination of his health condition, he was referred to Special Ophthalmic Board, which was to take place on 27.04.2013. For one reason or the other, he did not turn up on that day. No representation was made for seeking any further date for postponement of the date of medical examination.

7. Two OAs filed by the applicant were disposed of just in the context of the criminal case. However, the factum of the applicant not turning out for the medical examination on 27.04.2013 did not fall for consideration at all. In the impugned order, the respondents have extracted the letter dated 23.06.2020 issued by the RML Hospital in respect of the applicant. The relevant part reads as under:-

“the candidate Sh. Macchita Malik has come for medical examination on 05.04.2013. The candidate was referred to special ophthalmic board on account of scatter laser (R) eye in Sep 2012, and was asked to appear for eye board on 27.04.2013. The candidate did not appear for medical board.”

8. The Rules of CSE invariably incorporate a condition stating that howsoever a meritorious candidate may turn out to be, the selection would be complete only on his being found



medically fit. The applicant did not turn up for medical examination which was mandatory. At this length of time, no relief can be granted to him once his candidature stood cancelled in the year 2013 itself.

9. The OA is accordingly dismissed. There shall be no order as to costs.

(Mohd. Jamshed)
Member (J)

(Justice L. Narasimha Reddy)
Chairman

/pj/ns/ankit/akshaya/