



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

OA No. 100/1552/2020

This the 12th day of May, 2021

(Through Video Conferencing)

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

Dr.Inamual Haque,
A-49, Street No.3,
Chandu Nagar,
New Delhi- 110 094.

... Applicant

(By Advocate: Mr. Anant Ram Mishra)

Versus

1. Department of Health and Family Welfare,
GNCTD, through Secretary, 9th Level,
A Wing, IP Extension, Delhi Secretariat,
New Delhi-110 002.
2. Union Public Service Commission,
Through Secretary, UPSC Bhavan,
Shahjahan Road, Man Singh Road Area,
New Delhi, Delhi-110 003. ...Respondents

(By Advocate : Ms.Esha Mazumdar, for Respondent No.1 and
Mr.R.V.Sinha with Mr.Amit Sinha, for Respondent No.2)



ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman :

The applicant finished MBBS course in the year 2012. He claims to be a physically handicapped candidate with 70% locomotor disability. The Delhi administration intended to fill up the post of General Duty Medical Officer (GDMO), and entrusted the selection to the UPSC, the 2nd respondent herein. An advertisement was issued on 12.01.2019, and the applicant responded to the same. He is said to have cleared the written test, but was not selected. When he approached the 2nd respondent to verify the reason, he was issued a letter dated 23.12.2019, stating that the Physically Handicapped (PH) certificate, submitted by him, disclosed disability in both legs, and that the same does not fit into the criterion prescribed for the post, and accordingly his candidature is cancelled.

2. The applicant filed this OA with a prayer to quash the letter dated 23.12.2019, and to direct the respondents to include people with locomotor disability on both legs as equivalent to the one of the disability on one arm or one leg, as mentioned in the Advertisement No.1/2019, dated 12.01.2019.

3. The applicant contends that once the disability of a leg is not treated as bar for the post, it should not make any difference if the disability on both legs. He made reference to certain guidelines said to have been issued under the Right of Person with Disabilities Act, 2016, and submitted



that the disability in both legs needs to be included in the relevant column in the advertisement.

4. The respondents filed a detailed counter affidavit. They raised a preliminary objection stating that once the applicant participated in the selection process, he cannot challenge the very notification. Reference is made to the judgment of the Hon'ble Supreme Court in **Manish Kumar Shahi v. State of Bihar & Others** (2010) 12 SCC 576, and number of other judgments. They contend that even while providing for reservation in favour of candidates with physical disability of different categories, the appointing authority stipulates the nature and extent of disability, keeping in view, the job requirement. They contend that a Doctor with locomotor disability in both the legs would not be in a position to discharge his duties as GDMO, and in that view of the matter, disability only in one leg is recognized for this purpose.

5. We heard Mr. Anant Ram Mishra, learned counsel for the Applicant, and Mrs. Esha Mazumdar, learned counsel for the Respondent no,1 and Mr. R.V. Sinha with Mr. Amit Sinha, learned counsel for Respondent No.2.

6. The applicant suffered disability in both legs and the Physically Handicapped certificate issued to him discloses that. In the advertisement, the respondents clearly stated that the permissible disability is only in one arm or one leg. In other words, disability in both legs stood excluded. The



applicant took part in the competitive examination. He was not selected in PH category. He claimed the benefit of reservation in favour of PH candidate. It is only after declaration of the results that he came forward with the plea of inclusion of disability in both legs for PH category in both limbs.

7. On more occasions than one, the Hon'ble Supreme Court held that once a candidate takes part in the selection process, he cannot challenge the conditions stipulated therefor, after he becomes unsuccessful. The applicant was very much aware that the disability on both the legs, is not included in the list of disabilities, in the advertisement. In case, he wanted the disability on both legs to be included in the advertisement, it was expected of him to approach the Tribunal before he submitted his application.

8. Even otherwise, it is for the concerned department or appointing authority to identify the exact nature of disability that can be permitted, in the context of extending the benefit of reservation. For example, for a post, which needs the operation of a key board or a typewriter, one cannot expect a person with disability on both the hands, to be treated as eligible. Similarly, where the post involves analysis of samples by operating microscope, the person with complete blindness cannot be treated as eligible. Obviously, for that reason, the concerned department of the Government made classification of about 20 categories, of various



physical disabilities, and then left it to the appointing authority, to indicate the disabilities, which would not hamper the work attached to the post.

Highly specialized establishments with the involvement of experts and statutory bodies, examine the issue meticulously. The Tribunal cannot enter that area unless clear infraction of any particular provision of law is established.

9. We do not find any merit in the OA and the same is accordingly dismissed. There shall be no order as to costs.

(Tarun Shridhar)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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