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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.317 of 2012

Cuttack this the 20th day of June, 2017

Smt.Snehalata Senapati...Applicant

-VERSUS-

Union of India &Ors. ...Respondents

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ? ✓
2. Whether it be referred to CAT, PB, New Delhi for being circulated to various Benches of the Tribunal or not ? ✓


(R.C.MISRA)
MEMBER(A)


(A.K.PATNAIK)
MEMBER(J)

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CENTRAL ADMINISTRATIVE TRIBUNAL
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CORAM:

HON'BLE SHRI A.K.PATNAIK, MEMBER(J)

HON'BLE SHRI R.C.MISRA, MEMBER(A)

Smt.Snehelata Senapati, aged about 42 years, W/o. Sri Birendra Ku.Rout, presently working as Medical Attendant, Health Care centre, Integrated Test Range, Chandipur, Dist-Balasore and presently residing at Qr.No.495/8, ITR Defence Colony, Chandipur, Dist-Balasore-756 025

...Applicant

By the Advocate(s)-M/s.S.K.Ojha
S.K.Nayak

-VERSUS-

Union of India represented through:

1. The Secretary to Government of India, Ministry of Defence, Sena Bhawan, New Delhi-110 011
2. The director General& Scientific Adviser to Rakhya Mantri, Research & Development Organization, Ministry of Defence, Sena Bhawan, New Delhi-110 011
3. The Director, Interim Test Range, At/PO-Chandipur, Dist-Balasore-756 025
4. Selection Board, represented through the Chairman-cum-Director, Interim Test Range, At/PO-Chandipur, Dist-balasore-756 025
5. Labanyabati Kar, W/o.Ranjan Kumar Mishra, At-Postal Colony, Jail Road, Azimabad, Balasore

...Respondents

By the Advocate(s)-Mr.S.Behera
M/s.G.Sinha
A.Mishra



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ORDER**A.K.PATNAIK, MEMBER(J)**

Applicant in the instant O.A is working as a Medical Attendant, Health Care Centre, Integrated Test Range (ITR), Balasore in the State of Odisha. Her grievance is directed against the scheduled date of holding the Limited Departmental Competitive Examination (LDCE) for filling up the post of Sr. Technical Assistant 'B' (in short STA 'B') in pursuance of the notification dated 17.02.2012(A/1). He has filed this O.A, seeking for the following relief.

- i) To admit the Original Application.
- ii) To direct the Respondents more particularly, Respondent No. 3 & 4 to fix another date & allow the applicant to sit in the interview/selection meant for the post of Nursing Midwifery, advertised vide notification dtd. 17.02.2012 or
- iii) To direct the Respondents to cancel the selection and issue fresh selection notification as an alternative arrangement.
- iv) To pass any other order/orders as deemed fit and proper in the circumstances of the case and for ends of justice.

2. Shortly stated, the facts of the case are that the Respondent No.3 issued a notification dated 17.2.2012 (A/1) calling for applications from the departmental employees possessing the required qualification as mentioned therein for filling up one post of STA 'B' through the LDCE. Both the applicant and intervener (Res.no.5) were the candidates for the post in question. In response

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to their applications, the Respondents issued intimations to both of them for appearing at the written test and interview on 27th/28th March, 2012. While the matter stood thus, the applicant submitted a representation dated 26.3.2012(A/6) to Respondent No.3 to postpone the scheduled date of examination as she had been admitted to District Hq. Hospital, Balasore on 24.3.2012 due to severe chest pain. However, the Respondent No.3 without considering the same, conducted the LDCE on the date fixed for the purpose. Aggrieved with this action, applicant has invoked the jurisdiction of this Tribunal in the instant praying for the relief as mentioned above.

3. It is the case of the applicant that had there been a large number of candidates for the LDCE, the matter would have been different. In the instant case, there being only two candidates for one post, non-appearance of the applicant due to her illness for the written test and interview on the date fixed, should have weighed with the respondents and to bring about transparency in the matter of selection, they should have postponed the LDCE to a suitable date without conducting the same for a lone candidate. Therefore, applicant has stated that one candidate for one post vitiates the process of selection. Applicant has also alleged bias and mala fide by stating that the Respondent No.3 is interested to promote the intervener (Res.no.5) and therefore, the LDCE is nothing but an eyewash. Further, the applicant has pointed out that as per the

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stipulation, a Medical Officer should have been a Member of the Selection Board and since, there is no Medical Officer in the selection board, the constitution of Selection Board is thus violative of the statutory rules.

4. On the other hand, opposing the prayer of the applicant, the official respondents in their reply statement have submitted that just a day before the examination, the applicant sent an application on 26.3.2012 seeking postponement of selection process on account of her illness, with a request to hold LDCE suitably at a later date. Applicant's request was examined and keeping in view the pros and cons of the matter, it was not considered administratively feasible to postpone the examination as it would cause prejudice to the other candidate, besides inconvenience would have been caused to the Board. It was also considered that postponement of the examination on the request of a candidate would set a bad precedent for the future. Keeping in view all these factors, it was decided to hold the LDCE on the date fixed. In the reply, the allegation of bias has been controverted and in the end, it has been submitted that the LDCE was conducted as per the laid down rules and regulations.

5. Intervener (Res.no.5) also by filing a reply opposed the prayer of the applicant. It has been submitted that on earlier occasions also in the LDCE, the sole candidate was made eligible to appear. In this connection instances of S/Shri S.Kar and G.Panda, who had appeared in the LDCE in the years 2002 and 2003, respectively,

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41 and got promotion have been cited by the intervener. It has been stated that there is no cause of action for the applicant to approach the Tribunal and therefore, the O.A. should be dismissed.

6. Applicant has filed rejoinder separately to the reply statements filed by the official respondents as well as the intervener.

7. Heard the learned counsels for the parties and perused the records including the written notes of submission filed by both the sides.

8. From the pleadings of the parties the short point to be considered is whether in the facts of circumstances of the case, the respondents were justified in conducting the LDCE.

9. Departmental Examination for filling up the post is a process which once started should be accomplished as per the schedule. In the instance case, the applicant has not been deprived of her opportunity to participate in the LDCE. Her grievance is that due to her illness she was unable to appear at the test/interview on the scheduled date for which she had made a representation to the authorities for postponement of the examination to another date. This, in our considered view does not appear to be wholesome. It is to be borne in mind that individual interest is always subordinate to the public interest. If at all the applicant could not avail of the opportunity of appearing at the test/interview for whatever reasons, it is due to her own cause and she cannot superimpose her cause on the administration in order to be bound by that. In an LDCE there are

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certain norms and yardsticks prescribed for getting through. If the intervener(Res.No.5) does not acquire the standard so fixed, she can by no stretch imagination would have been declared successful in the LDCE in order to get promotion. Therefore, appearance in the LDCE by one candidate or more is not quite enough to postpone the scheduled date of examination and if such a prayer is allowed, it would encroach upon the right of the other eligible candidate/candidates to appear at the test/interview on the date fixed. This apart, a person aggrieved by any reason or action, must have to establish his/her right while seeking relief. No such authority has been cited to establish a right by the applicant in support of the relief sought in the O.A. Obviously, the Tribunal cannot grant relief based on the conjectures and surmises.

10. As regards the constitution of the Selection Board, as has been alleged by the applicant, we would like to note that it is too premature on her part to raise such an objection. She having not appeared at the test/interview, is estopped to raise any such objection.

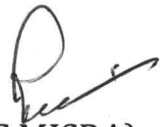
11. Accordingly, we answer the point in issue that the respondents in the facts of circumstances of the case, were justified in conducting the LDCE.


12. From the discussions held above, we are of the view that the applicant has not been able to make out a case for any of the

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relief sought for. In the result, the O.A. being devoid of merit is dismissed. No costs.


(R.C.MISRA)
MEMBER(A)


(A.K.PATNAIK)
MEMBER(J)

