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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. No. 205 of 2013
Cuttack the 10th day of April, 2013

CORAM
HON'BLE MR. A.K. PATNAIK, MEMBER (JUDL.)
HON'BLE MR. R.C. MISRA, MEMBER (ADMN.)
.....

Dr.Kanta Das Mohapatra,
Aged about 52 years,
W/o. Akhaya Kumar Das,
At-Pubasasan,
PO-Kausalyagang,
Bhubaneswar,
Dist. Khurda,
At present working as Principal Scientist,
Central Institute of Freshwater Aquaculture,
Kausalyagang,
Bhubaneswar.

.....Applicant

(Advocates: Mr.D.Mishra)

VERSUS

Union of India represented through -

1. Secretary,
Ministry of Agriculture,
Krushi Bhawan,
New Delhi-110 001.
2. Indian Council of Agricultural Research,
Represented through its Secretary,
Krushi Bhawan,
New Delhi-110 001.

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3. Agricultural Scientists Recruitment Board,
Represented by its Secretary,
Krishi Anusandhan Bhawan-1,
Pusa,
New Delhi-110 012.

.....Respondents

(Advocate: Mr.S.B.Jena)

ORDER

(Oral)

A.K.PATNAIK, MEMBER (I):

The Applicant (Dr. Kanta Das Mohapatra) who is working as Principal Scientist, Central Institute of Freshwater Aquaculture, Kausalyagang, Bhubaneswar being aggrieved for not calling her to appear at the selection for the post of Head Division of Fish Genetics and Bio-Technology has filed this Original Application U/s. 19 of the Administrative Tribunals Act, 1985 with the following prayers:

“.....to admit the original application and issue notice to the Respondents to show cause as to why the relief sought for shall not be granted and consequentially directing the Respondents to issue interview call letter for the post of Head Division of Fish Genetics and Bio-Technology in favour of applicant and further hold and declare that the selection process pursuant to advertisement under Annexure-2 (Sl.No. 218) is vitiated and void ab-initio and consequentially hold the interview for the same afresh and call for the records and on perusal of causes shown

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if any or upon insufficient causes shown be pleased to allow the original application. And may pass such other order/orders as deemed just and proper. And for this act of kindness, the applicant shall as in duty bound ever pray.

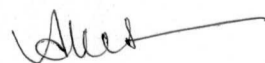
2. Further by way of ad interim measure, the Applicant has sought the following relief:

“Pending disposal of the Original Application this Hon’bel Tribunal may be graciously pleased to direct the Respondents not to issue any order of appointment for the post of Head Division of Fish Genetics and Bio Technology, Central Institute of Freshwater Aquaculture, Bhubaneswar.

And may pass such other order/orders as deemed just and proper. And for this act of kindness, the applicant shall as in duty bound ever pray.

3. We have heard Mr.D.Mishra, Learned Counsel appearing for the Applicant and Mr.S.B.Jena, Learned Counsel (on whom copy of this OA has already been served) for the Respondents and perused the pleadings and materials placed in support thereof.

4. Mr.Mishra’s contention is that as per the provision/Guidelines issued by the ICAR on 18.6.2012 (Annexure-5) the applicant should have been called to appear at the test as she fulfilled all the norms of the provisions. She was also called upon to appear at the test in the year 2011. But this time while other



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candidates, who are/were not eligible, were called to face the test, for no reason, she was deprived of her legitimate right to appear at the test for the post of Head Division of Fish Genetics and Bio-Technology. According to the Applicant she has agitated before the Respondents through representation against such action of the Respondents in not calling her to appear at the test but there was no response. Further stand of the Applicant is that since result of the selection has not been published to avoid protracted litigation the Respondents may be directed not to publish the result till final decision on this OA.

On the other hand Mr. S.B.Jena, Learned Additional Standing Counsel appearing for the Respondents submitted that this OA is liable to be dismissed being premature as also the applicant has approached this Tribunal without exhausting the remedy by way of making representation. He has contended that though the applicant has mentioned about submission of representation but copy of such representation has not been annexed to this OA. Mr.Jena, also contended that the applicant has filed this OA seeking quashing of the selection and raising many thing against some of the candidates who were called to appear at

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the test without making any of them as party. Hence, according to Mr.Jena, this OA is also liable to be dismissed on the ground of nonjoinder of necessary party.

5. On being confronted, Mr. Mishra, Learned Counsel appearing for the Applicant has sought leave of this Tribunal to make another comprehensive representation stating the points as raised in this OA before the competent authority (i.e. Respondent Nos.2&3) and as result of the examination is likely to be published shortly Mr.Mishra has prayed to direct the Respondents to consider and dispose of the said representation before publication of the final result of the selection. In our considered view, none would be prejudiced, if this OA is disposed of at this stage by granting the prayer made by Mr.Mishra, as above as the competent authorities have the competence to remove the injustice caused to an individual at any point of time and in the instant case they can do so if it is found that by mistake/omission the applicant has been left while calling others to appear at the test.

6. Accordingly, without expressing any opinion on the merit of this matter this OA is disposed of at this admission stage with direction to the Respondent Nos.2&3 that in case the

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applicant makes a representation within a period of seven days hence; on receipt of the same Respondent Nos.2&3 should consider the same keeping in mind the provisions of the ICAR dated 18.6.2012 (Annexure-5) and communicate the result thereof in a reasoned order to the Applicant within a period of thirty days from the date of receipt of such representation. There shall be no order as to costs.

7. Copy of this order along with OA be transmitted to Respondent Nos.2 &3 by Speed Post by the Registry at the cost of the Applicant; for which Learned Counsel for the Applicant undertakes to furnish the requisite postage in the Registry by 12.4.2013.



(R.C.MISRA)
Member (Admn.)



(A.K.PATNAIK)
Member (Judl.)