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**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
ORIGINAL APPLICATION NO.060/00631/2014

Order Reserved on 22.04.2015
Pronounced on 28.4.2015

...
CORAM: HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)
HON'BLE DR. BRAHM A. AGRAWAL, MEMBER (J)

...
Umeshwari Sharma daughter of Sh. Baldev Raj resident of House
No.1508, Sector 42-B, Chandigarh.

... Applicant

Versus

1. The Union Territory, Chandigarh through its Administrator, Sector-9, Chandigarh.
2. Director Sports, Chandigarh Administration, Department of Sports, Hockey Stadium, Sector-42, Chandigarh.
3. Joint Director Sports, Chandigarh Administration, Department of Sports, Hockey Stadium, Sector 42, Chandigarh.

... Respondents

Present: Sh. Chanderhas Yadav, counsel for the applicant.
Sh. H.S. Sullar, counsel for the respondents.

ORDER

BY HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)

1. This O.A. has been filed under Section 19 of the
Administrative Tribunals Act, 1985, seeking the following relief:

- b) For setting aside the order dated 23.07.2014 vide which respondent no.3 had rejected the candidature of the applicant.
- c) With a further prayer for direction to the respondent authorities to consider the applicant as departmental

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candidate and permit her to participate in the recruitment process for the post of Junior Weight Lifting Coach and thereafter, select the applicant as she is the meritorious candidate.

- d) The operation of the impugned order dated 23.07.2014 may kindly be stayed in the interest of justice."

2. Interim relief was also sought that the applicant be permitted to participate in the interview scheduled to be held on 31.07.2014 for the post of Junior Weight Lifting Coach. The same was allowed when the matter was heard regarding admission of the O.A.

3. Averment has been made in the O.A. that the applicant completed her Master's in Physical Education, which is a two years course, during the session 2008-10, in which she scored 76% marks (Annexure A-3 Colly). As a sports person, the applicant participated in the All India Inter-University Championship, Senior National Women's Weight Lifting Championship, U.P. Weight Lifting Championship etc. and certificates of her participation and level of Performance/Awards have been annexed (Annexure A-4 to A-14).

4. The applicant was selected as Weight Lifting Coach in 2007 and joined Chandigarh Sports Council where she worked till 19.07.2012 (Annexure A-15). She was appointed as Gym Instructor in Chandigarh Judicial Academy on 16.08.2012 (Annexure A-23) and she joined there

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without a single day's break as she was relieved from Chandigarh Sports Council and joined Chandigarh Judicial Academy on the same day.

5. The respondent Department advertised post of Junior Weight Lifting Coach in general category in April 2013 (Annexure A-24) and applicant submitted her application for this post through proper channel (Annexure A-25). However, the respondent department changed the terms and conditions of the selection/appointment by issuing another advertisement in September 2013 (Annexure A-26). The applicant submitted her application in response to this advertisement also on 17.09.2013 (Annexure A-27) but she was advised through impugned letter/order dated 23.07.2014 that her candidature had been rejected (Annexure A-29). The ostensible ground for rejection was that applicant was not a departmental candidate, therefore, she was not entitled to age relaxation and was overage for the advertised post. The applicant submitted a representation on 24.07.2014 to the respondent department (Annexure A-30) but to no avail. Hence this O.A.

6. In the grounds for relief it has, inter alia, been stated as follows:-

- i. The applicant had continuous service though with notional breaks with the respondent Department itself w.e.f. 2007 to 2012 but without any break and on 23.08.2012 she had joined service with Chandigarh Judicial Academy. Therefore, her continuous service with Chandigarh Sports Department as well as Chandigarh Judicial Academy be considered as continuous service under Government.

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- ii. Chandigarh Judicial Academy is also a Government run organization as its funds come from States of Punjab and Haryana.
- iii. Sports Authority of India has given relaxation in age to the departmental candidates and it has also considered period of contractual engagement and the relevant portion reads as follows:

"5.0 Relaxation in age Limit

- a)(i) Up to a maximum of 10 years in case of departmental candidates.
 - (ii) Personnel/candidates who are not regular employees of SAI, but have been engaged on contract basis would be provided age relaxation for the entire period of their engagement on contract basis in SAI plus three years i.e. such person(s) shall be allowed to deduct the period of such service from his/her actual age and if the resultant age does not exceed the maximum age limit prescribed for the post by more than 3 years. He/she shall be deemed to satisfy the condition regarding age limit. They will have to meet the other qualifying conditions of education etc."
- iv. The applicant is a departmental candidate. Definition of departmental candidate has not been given in the rules of respondent Sports Department itself and since the applicant has worked with the Sports Department for the last 7 years first with Chandigarh Sports Council and then with the Judicial Academy, her application could not have been rejected and she was entitled to age relaxation in this account.

7. In the written statement filed on behalf of the respondents facts of the matter have not been disputed. It has been stated that the candidature of the applicant had been rejected by the designated scrutinizing Committee stating that the applicant is not a departmental candidate, therefore, she was not entitled for age relaxation and hence

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she was overage. However, no application as at Annexure A-30 was received in the office for setting aside order dated 23.07.2014. The applicant was working with the Chandigarh Sports Council and not with the Sports Department, U.T. Chandigarh. There was notional break in services with the Council so the continuous service of the applicant could not be considered for the purpose. Chandigarh Judicial Academy does not come under U.T. Chandigarh. Age relaxation is being given by Sports Authority of India up to a maximum of 10 years in case of departmental candidates. The government servants working in other departments do not fall within the ambit/definition of departmental candidates and only the government servants working in the same department fall within the ambit/definition of departmental candidate. The Department of Personnel, Chandigarh Administration, Chandigarh vide their U.O. No.28/6/94-IH(7)-2014/106871, dated 05.09.2014 informed that the Government servant working in other departments do not fall within the ambit/definition of departmental candidate and only the Government servants working in the same department fall within the ambit/definition of departmental candidate (Annexure R-2).

8. Rejoinder has been filed on behalf of the applicant reiterating the content of the O.A. It has also been stated that the Chandigarh Sports Council is managed by officers of Chandigarh Administration and hence the Council is part of Chandigarh Sports

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Department. On the same grounds it has been stated that Chandigarh Judicial Academy is also part of Chandigarh Administration.

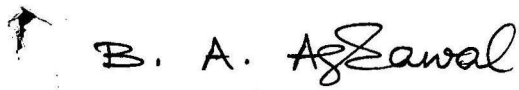
9. Arguments advanced by learned counsel for the parties were heard when both the counsel reiterated the content of the OA, rejoinder and written statement respectively.


10. We have given our thoughtful consideration to the matter and perused pleadings of the parties. From the material on record, it is clear that the applicant is indeed an outstanding sport person. Her application for the post of Junior Weight Lifting Coach has been rejected on the ground that she had worked with the Chandigarh Sports Council and later with the Chandigarh Judicial Academy and since both these bodies were not government departments, the applicant could not be considered as a Departmental candidate and hence she was overage for the post she had applied for.

11. Since the applicant was allowed to appear in the selection, the details of marks awarded by the Selection Committee to the various candidates were perused on 22.01.2015 and it was seen that the applicant had been placed at serial no.1 in the merit list and other candidates were far behind her. We are therefore of the view that the matter requires reconsideration by the Chandigarh Administration in view of the credentials of the applicant and the fact that outstanding sports persons

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are not always available to work as coaches while it is such persons who can provide the right motivation, encouragement and training to other aspiring sports persons in their field. Hence this O.A. is disposed of with direction to the Chandigarh Administration that the case of the applicant for being considered as departmental candidate and/or for age relaxation may be examined. Such consideration may take place at the level not below that of the Advisor to the Administrator, U.T. Chandigarh and decision taken in the matter within a period of two months from the date of a certified copy of this order being served upon the respondents.


(DR. BRAHM A. AGRAWAL)
MEMBER (J)


(RAJWANT SANDHU)
MEMBER (A)

Place: Chandigarh.

Dated: 28.4.2015.

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