

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.2953 OF 2014

New Delhi, this the day of February, 2016

CORAM:

**HON'BLE SHRI SUDHIR KUMAR, ADMINISTRATIVE MEMBER
AND
HON'BLE SHRI RAJ VIR SHARMA, JUDICIAL MEMBER**

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Km.Ritu,
daughter of Sh.Mir Singh,
H.No.486/11, near Metro Station,
V & PO Mundka, Delhi 110041 Applicant

(By Advocate: Shri Jagdish Singh)

Vs.

1. Director,
All India Institute of Medical Sciences,
Ansari Nagar,
New Delhi 110029
2. Chief Administrative Officer,
All India Institute of Medical Sciences,
Ansari Nagar,
New Delhi 110029
3. Assistant Controller of Examinations,
All India Institute of Medical Sciences,
Ansari Nagar,
New Delhi 110029 Respondents

(By Advocate: Shri R.K.Gupta)

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ORDER**RAJ VIR SHARMA, MEMBER(J):**

The applicant has filed the present O.A. seeking the following reliefs:

- “(a) That the respondents be directed to consider the applicant against the six reserved vacancies of Physically handicapped.
- (b) That the respondents be directed to carry out necessary changes in their software such as application/Registration form be modified to the effect that it should contain the whole information about the candidates to prevent the respondents to accept the registration of the candidate only for one category to enable the candidates to indicate their sub categories i.e. the PH, Ex-Serviceman or National Physically handicapped with their categories.
- (c) Any other relief which the Hon’ble may be pleased to grant under the facts and circumstances of the case.”

2. The respondents have filed a Counter Reply opposing the O.A. The applicant has also filed a Rejoinder Reply thereto.

3. We have perused the O.A. and Rejoinder Reply filed by the applicant, and the Counter Reply filed by the respondents. We have heard Shri Jagdish Singh, the learned counsel appearing for the applicant, and Shri R.K.Gupta, the learned counsel appearing for the respondents.

4. In brief, the undisputed facts of the case are as follows:

4.1 All India Institute of Medical Sciences, New Delhi (hereinafter referred to as 'AIIMS, New Delhi') published Recruitment Notice No.10/2013 (for short, 'Recruitment Notice') inviting applications from eligible persons in the prescribed form through online mode for recruitment to various Group 'B' and Group 'C' posts, at AIIMS, New Delhi, including the post of Lab. Technician (PB-1 Rs.5200-20200 + Grade Pay of Rs.2800/-). The Recruitment Notice indicated 179 (90-UR, 28-SC, 14-ST & 47-OBC) vacancies in the said post of Lab. Technician. The online registration was made available from 2.12.2013 A.M. to 31.12.2013, 5.00 P.M..

4.2 The applicant made her application online on 21.12.2013, as a candidate belonging to OBC (Non-Creamy Layer), for the post of Lab. Technician.

4.3 In continuation of the Recruitment Notice, a Corrigendum was issued by the AIIMS, New Delhi, which was published in the 'Hindustan Times' dated 7.1.2014, stating that 6 vacancies in the post of Lab. Technician were reserved for Physically Handicapped persons (3-OH and 3-HH), and

that the last date for making online applications was extended up to 31.1.2014.

4.4 After issuance of the Corrigendum, *ibid*, another Recruitment Notice (hereinafter referred to as 'Second Recruitment Notice') was also issued by the AIIMS, New Delhi, inviting applications from eligible persons in the prescribed form through online mode for recruitment to various Group 'B' and Group 'C' posts, at AIIMS, New Delhi, including the post of Lab. Technician (PB-1 Rs.5200-20200 + Grade Pay of Rs.2800/-), which had earlier been advertised in the first Recruitment Notice. The Second Recruitment Notice also indicated 179 (90-UR, 28-SC, 14-ST & 47-OBC) vacancies in the said post of Lab. Technician, and did not mention about reservation of 6 vacancies in the post of Lab. Technician for PH candidates. The online registration was indicated to be made available from 2.12.2013 A.M. to 31.1.2014, 5.00 P.M..

4.5 On the basis of the Admit Card issued by the AIIMS, New Delhi, the applicant appeared in the written test held on 30.3.2014 for recruitment to the post of Lab. Technician, as an OBC (Non-Creamy Layer) candidate.

4.6 The result of the said written test was declared on 27.6.2014, and in the list of successful candidates, the

applicant's name did not appear. In the result notice (Annexure E), it was mentioned that the tentative dates for interview would be held on and from 6th August to 8th August 2014, and that call letters showing the date, time and venue of interview would be uploaded on the website of AIIMS, New Delhi, on 2.7.2014, which were downloadable by the candidates through 'My Page' after login.

5. In the above backdrop, it is contended by the applicant that though she belongs to OBC, and is a Physically Handicapped person, the registration of her candidature as OBC-PH was not accepted by the software/online registration system, because no vacancy in the post of Lab. Technician for PH sub-category was indicated in the Recruitment Notice.

5.1 It is also contended by the applicant that though the Recruitment Notice was published in the Employment News, the AIIMS, New Delhi, got the Corrigendum (*ibid*) published in the 'Hindustan Times' dated 7.1.2014, as a consequence of which she and other similarly placed PH candidates remained in darkness about the Corrigendum, *ibid*.

5.2 It is also contended by the applicant that even in the Second Recruitment Notice, the vacancies in the post of Lab. Technician for PH candidates were also not indicated. No

instruction was also issued to the PH candidates, who had earlier submitted their applications in response to the first Recruitment Notice, either to make fresh application or to approach the respondents to change the category of their candidature. Therefore, she was unable to make any request to the respondents to change the category of her candidature at the relevant point of time.

5.3 It is also contended by the applicant that only after coming to know that some PH candidates appeared in the interview for recruitment to the post of Lab. Technician, she made a representation dated 4.7.2014 requesting the respondents to consider her candidature against the vacancies reserved for PH candidates. Therefore, the respondents ought to have considered her candidature as OBC-PH and determined her selection or otherwise. But the respondents, vide letter dated 23.7.2014, rejected her representation on the ground that the request for change of category of her candidature could not be considered after declaration of the result.

6. *Per contra*, it is contended by the respondents that the applicant having failed to approach them for change of category of her candidature as OBC-PH soon after the

Corrigendum and the Second Recruitment Notice were issued by them, and having approached them after the result of the written test was declared, the representation made by her on 4.7.2014 requesting change of category of her candidature was rightly rejected. Therefore, there is no scope for interference.

7. After having given our anxious consideration to the facts and circumstances of the case, and the rival contentions, we have found no substance in the contentions of the applicant.

7.1 By the Recruitment Notice, online applications were also invited by the AIIMS, New Delhi, from eligible persons for recruitment against 02 [(1-UR, 1-ST) (one post reserved for Physically Handicapped –OH(OA,OL))] vacancies in the post of Store Keeper (vide Sl.No.4), 03 [1-OBC, 2-UR) (one post reserved for Physically Handicapped (OA,OL))] vacancies in the post of Technician (Radiology) Grade II(vide Sl.No.7), 01[(UR) (one post reserved for Physically Handicapped (OL,BL, OA, BLV))] vacancy in the post of Vocational Counsellor (vide Sl.No.12), and 08 [(4-UR, 2-ST, 2-OBC)(one post reserved for Physically Handicapped(OL,BL,BLV, LV))] vacancies in the post of Junior Physiotherapist/Occupational Therapist (vide Sl.No.16), besides 179(90-UR,28-SC, 14-ST & 47-OBC) (vide

Sl.No.17) vacancies in the post of Lab.Technican, which is the subject-matter of dispute in the present O.A. Thus, it cannot be said that the software of the online registration system had not been enabled to allow registration of candidates as PH candidates. Furthermore, from the copy of the online application submitted by the applicant on 21.12.2013 (Annexure C), it transpires that the applicant has mentioned against item “No.12: Orthopaedic Physically Handicapped – 12.a) Is Physically Handicapped: **No**”. Had the software of online registration system not been enabled to accept registration of any applicant as a PH candidate pursuant to the first Recruitment Notice, the aforesaid item “No.12: Orthopaedic Physically Handicapped – 12.a) Is Physically Handicapped” would not have been displayed in the online application format, and the applicant would not have been able to indicate “No” against the same at the time of registration of her candidature on 21.12.2013. In the above view of the matter, we are not inclined to accept the plea of the applicant that the software of online application registration system did not accept registration of her candidature as an OBC-PH category candidate pursuant to the first Recruitment Notice.

7.2 Even if it is assumed for a moment that after issuance of the Recruitment Notice, the software of online registration system had not initially been enabled to allow registration of candidates, like the applicant, as PH candidates, they would have approached the AIIMS, New Delhi, when the Corrigendum was published in the 'Hindustan Times' on 7.1.2014 or when the Second Recruitment Notice was uploaded on the website of AIIMS, New Delhi. Had the candidates, like the applicant, been vigilant, requests could have been made by them to the AIIMS, New Delhi, to change the category of their candidatures before the written test was held. The negligence on the part of the applicant has resulted into her sufferance, and she herself is only to be blamed for the events. Therefore, we are not inclined to accept the applicant's plea that because the Corrigendum, *ibid*, was published in the 'Hindustan Times' dated 7.1.2014, and because the Second Recruitment Notice did not indicate the vacancies for PH candidates, she remained in darkness about the reservation of vacancies for PH candidates.

7.3 The other aspect of the matter is that on the basis of registration of the candidatures of the applicants applying for selection and appointment to the post of Lab. Technician,

the candidates were called to appear in the written test, and on the basis their performances in the written test, the list of successful candidates belonging to different categories was published on 27.6.2014, and the interview was held on and from 6.8.2014 to 8.8.2014. Thereafter, the list of selected candidates belonging to different categories might have been published, and the selected candidates might have been appointed in the meantime. Therefore, the respondents cannot be faulted for not entertaining the applicant's representation dated 4.7.2014 to change the category of her candidature from OBC to OBC-PH.

8. In the light of our above discussions, we have no hesitation in holding that the O.A. is devoid of merit and liable to be dismissed. Accordingly, the O.A. is dismissed. No costs.

(RAJ VIR SHARMA)
JUDICIAL MEMBER

(SUDHIR KUMAR)
ADMINISTRATIVE MEMBER

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