

**Central Administrative Tribunal
Principal Bench
New Delhi**

OA No.2131/2015

This the 16th day of November, 2018

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

Pratap Singh Bist S/o late Mohan Singh Bist,
TGT (Social Science), 350, Pocket-5, Sector-2,
Rohini, Delhi-110085. ... Applicant

(By Mr. Pankaj Sinha, Mr. Anurag Ojha, and Mr. Sanjay Kumar
Upadhyay, Advocates)

Versus

University Grants Commission
through its Secretary,
Ministry of Human Resources Development,
Bahadurshah Zafar Marg,
New Delhi-110002. ... Respondent

(By Mr. Apoorv Kumar, Mr. A. C. Bomi Patro, and Mr. G.
Kaushal, Advocates)

O R D E R

Justice L. Narasimha Reddy, Chairman :

The applicant is a Post Graduate in History from Chaudhary Charan Singh University, Meerut. He is a visually handicap person. University Grants Commission, the respondent herein, issued an advertisement on 16.02.2013 inviting applications for appointment to the post of Education Officer. The qualifications stipulated for the post are that a candidate must hold a Master's Degree with 55% marks from a

recognized University, and must have five years' experience of teaching/research/educational administration. Seventeen posts were notified, and one of them was reserved in favour of physically handicapped candidates. The applicant responded to the notification and submitted his application. Written test was conducted on 14.07.2013, and the candidates were short-listed, five times the number of vacancies. The applicant secured 146 marks in the written test, and interviews were held thereafter. A candidate with 140 marks was appointed against the vacancy reserved for physically handicapped candidates. The applicant herein was not treated as qualified on the ground that he scored less than 55% marks in the PG degree.

2. The applicant filed a representation before the Chief Commissioner for Persons with Disabilities (CCPD), complaining that the benefit of relaxation to the extent of 5% marks in the post graduation was not extended to him. Reliance was also placed upon an order issued by the UGC on 10.03.2009 providing for extension of the benefit of reservation to the physically handicapped candidates on par with SC/ST candidates.

3. The CCPD passed an order dated 19.03.2015 observing that the communication dated 10.03.2009 issued by

the UGC does not cover the post of Education Officer, and refused to grant any relief to the applicant. However, a suggestion was made to the effect that such relaxation may be extended to the post of Education Officer also, in future.

4. This OA is filed challenging the order dated 19.03.2015 passed by the CCPD, and the advertisement dated 16.02.2013.

5. The applicant contends that once the UGC itself has taken a decision to extend the benefit of relaxation as regards the marks in the PG level, on par with SC/ST candidates, there was no basis for them to restrict its application only to certain posts, or to exclude the post of Education Officer from its purview. He contends that the CCPD did not take a correct view, and that the advertisement dated 16.02.2013, insofar as it did not provide for relaxation of 5% marks in favour of physically handicapped candidates, is illegal, arbitrary and contrary to the provision of "The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (for short, the Act of 1995).

6. The respondent filed a counter affidavit opposing the OA. It is stated that the applicant did not hold the qualifications stipulated for the post of Education Officer. It is

also stated that though the relaxation to the extent of 5% of marks in the PG degree was extended to various posts, the post of Education Officer was not included therein, and the applicant cannot claim such a benefit.

7. We heard Shri Pankaj Sinha, with Shri Anurag Ojha, and Shri Sanjay Kumar Upadhyay, learned counsel for the applicant; and Shri Apoorv Kumar, Shri A. C. Bomi Patro, and Shri G. Kaushal, learned counsel for the respondents.

8. Though the applicant challenged the order dated 19.03.2015 passed by the CCPD, it was not pursued vigorously before us. The attack was mostly on the clauses contained in the advertisement, and the non-extension of the benefit under the letter dated 10.03.2009. In the advertisement, it was clearly mentioned that a candidate must hold a master's degree with minimum of 55% marks from a recognized University. It is not in dispute that the applicant does not have 55% marks in the PG degree. The advertisement is silent about the relaxation of the percentage of marks in favour of any category of candidates whatever. However, the UGC itself issued letter dated 10.03.2009 stating that the relaxation to the extent of 5% marks at the master's level was extended to the physically and visually handicapped persons for appointment to the post of

Lecturer vide letter dated 17.10.2002, and in its meeting held on 24.02.2009, the UGC decided to extend it to other posts. The resolution was extracted in the letter, and it reads as under:

“The Commission approved the relaxation of 5% i.e. from 55% to 50% marks at Master’s level and 5% relaxation at graduate level under the term of “Good academic record” at par with SC/ST candidates to the physically and visually handicapped candidates for appointment as Principal, Professor, Reader, Lecturer, Registrar, Dy. Registrar, Asstt. Registrar, Librarian, Asstt. Librarian, College Librarian, Director of Physical Education & Sports, Dy. Director of Physical Education & Sports, Asstt. Director of Physical Education & Sports and College Director of Physical Education & Sports.”

A perusal of the resolution discloses that though the benefit of relaxation was extended to more than ten categories of posts in favour of physically and visually handicapped candidates, the post of Education Officer does not figure therein. A person can claim the benefit of relaxation if only it is specifically provided for. Further, no one can compel an employer to provide reservation or relaxation, unless it is mandated by a statute. Though the reservation is mandated under the Act of 1995, relaxation does not have any such statutory support.

9. The CCPD, which makes all efforts to protect the interests of the physically handicapped candidates, made an endeavour to salvage the situation, but on finding that the letter

dated 10.03.2009 does not cover the post of Education Officer, it expressed its inability to grant relief to the applicant. Hence, no exception can be taken to it.

10. So far as the advertisement is concerned, the applicant is not able to point out as to how it is illegal, or defective. The UGC has every right to stipulate the qualifications for the various posts in its establishment. The applicant cannot insist on blanket relaxation of the condition. Much would depend upon the nature of the post and the view that an employer takes about it.

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

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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