

**Central Administrative Tribunal
Principal Bench**

**OA No.276/2017
MA No.280/2017
MA No.1337/2018
MA No.3448/2018**

New Delhi, this the 27th day of August, 2018

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Pradeep Kumar, Member (A)**

Shri Santosh Kumar, Aged 51 years,
(Unemployed),
S/o Shri Nauratan Singh,
Permanent R/o Village Dudhauna,
Post Jagatpur, District Mainpuri,
U.P.
At present
R/o H.No.48, Gali No.8,
Mukundpur-II,
Mathur Chowk,
Delhi-84.

...Applicant

(By Advocates : Shri Anshuman Sinha with Shri Vijay
Kumar Pandey)

Versus

1. Union of India,
Through its Secretary,
Ministry of Women & Child Development,
Shastri Bhawan,
New Delhi.

2. The Chairman,
National Commission for Protection of Child Rights,
Under Ministry of Women & Child Development,
5th Floor, Chanderlok Bldg., 36, Jan Path,
New Delhi.

...Respondents.

(By Advocate : Shri Ranjan Tyagi)

ORDER (ORAL)**Justice L. Narasimha Reddy, Chairman :-**

An advertisement was issued on 04.11.2014 by the Ministry of Women and Child Development, Government of India, inviting applications for appointment of Members, National Commission for Protection of Child Rights (NCPCR) Act, 2005 (for short the Act). The applicant responded to the same and submitted his application. Ultimately, the Commission selected some persons, and coming to know that his name does not figure in the list, the applicant filed OA No.1986/2016. The said OA was disposed of directing the respondents to consider the representation and legal notice got served by the applicant within a period of two months.

2. In compliance of the order in the OA, the Ministry passed order dated 28.07.2016, stating that though the application was submitted by the applicant herein, it was found that he did not furnish the details of experience, as required, and on finding that the application was incomplete, his name was not considered for appointment. The applicant contends that the experience certificate had been enclosed. Challenging the order dated 28.07.2016,

the present OA is filed. The applicant contends that in case his application was defective, he ought to have been informed of the same and that there is no justification in excluding his name from consideration.

3. The respondents filed counter affidavit raising objections as to the maintainability of the OA. It is stated that the office of Member, under the Act does not partake the characteristics of a civil post and, as such, the OA is not maintainable. On merits also, it is stated that the application submitted by the applicant was incomplete and as such, he was not selected.

4. We heard Shri Anshuman Sinha, learned counsel for applicant and Shri Ranjan Tyagi, learned counsel for respondents.

5. The serious doubt arises as to the maintainability of the OA. The reason is that the appointment to the Commission and the nature of the duties attached thereto are, in no way, akin to that of a civil post. Further, no adjudicatory functions are to be discharged by the Commission.

6. Reliance is placed upon the order dated 31.01.2001 passed by the Ernakulam Bench of this Tribunal in OA No.621/2000 and the judgment of Hon'ble Orissa High Court dated 19.03.2010 in WP(C) Nos.3388 and 3752 of 2010. Extensive discussion was undertaken in those judgments in relation to the status of the Administrative Tribunal and other similar agencies, such as, Railway Claims Tribunal. However, the subject matter of those cases was not the appointment to the Commission which is distinct from a Tribunal or Department.

7. Learned counsel for applicant submits that on an earlier occasion, he approached the Hon'ble Delhi High Court and on objection being taken about the maintainability, he approached this Tribunal. Had it been a case where the High Court decided as a question of law, that the Tribunal has jurisdiction in matters of this nature, we would have certainly entertained the OA and adjudicated the matter. There is nothing on record to disclose that any such adjudication has taken place either by the Delhi High Court or by other High Courts. The Commission constituted under the Act, does not discharge any executive functions and its duties are only to recommend to the Central Government on various aspects

for the welfare of the children. On perusal of the Act and Rules framed thereunder, we find nothing to suggest that the appointments to the Commission are amenable to the jurisdiction of this Tribunal. We, therefore, decline to entertain the OA. As such, we do not intend to delve into the merits of the matter. OA is, accordingly, dismissed as not maintainable.

6. All pending MAs stand disposed of.

7. There shall be no order as to costs.

(Pradeep Kumar)
Member (A)
'rk'

(Justice L. Narasimha Reddy)
Chairman