

CENTRAL ADMINISTRATIVE TRIBUNAL CHANDIGARH BENCH

O. A. No.60/43/2018

Date of decision: 15.01.2018

CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J).
HON'BLE MRS. P. GOPINATH, MEMBER (A).

Nita Mallick W/o N.C. Mallick, age-57 years, presently working as Lower Division Clerk, (Group-C post) Deptt. of Psychiatry, PGIMER, Chandigarh, Sector-12, Chandigarh.

VERSUS ... APPLICANT

1. Post Graduate Institute of Medical Education and Research, Sector-12, Chandigarh through its Director.
2. Deputy Director (Administration), PGIMER, Sector-12, Chandigarh.
3. Sh. Rajesh Saxena son of Sh. Mahesh Chand Saxena, initially appointed as Lower Division Clerk (now Upper Division Clerk), National Institute of Nursing Education, PGIMER, Chandigarh, Sector-12, Chandigarh.

... RESPONDENTS

PRESENT: Sh. H.S. Saini, counsel for the applicant.

ORDER (Oral)

SANJEEV KAUSHIK, MEMBER (J):-

1. Heard.
2. The applicant has impugned order dated 24.11.2017, whereby her claim for appointment to the post of Lower Division Clerk (LDC) has been rejected.
3. We have heard learned counsel for the applicant.
4. Facts are not in dispute. The respondents have issued advertisement on 11.04.1998 notifying 23 posts of LDC in three categories. The applicant who was working with respondents as Ward Servant (Class IV) being eligible applied against general

category post in Category-III. The result was also declared in the year 1998. The applicant's name was not forwarded, whereas name of the other candidates were recommended by the DPC. The recommendation was also accepted by the competent authority on 7.9.1999. It is the case of the applicant that respondent No.3 was also offered appointment as LDC (Cat.III) along with other candidates despite the fact that he had not applied under said Category. Thus it is prayed in the present petition that appointment of respondent No.3 be declared illegal resultantly, on his place applicant be offered appointment.

5. Sh. Saini submitted that matter was pending before the Hon'ble High Court in CWP No.14686 of 2013, which was disposed of on 12.07.2013 with a direction to respondent no.2 therein to take appropriate decision as to whether the person who has not qualified can be offered appointment. It is thereafter, respondents have issued show cause notice to said Rajesh Saxena (Respondent No.3) on 11.09.2013 to which he submitted reply. Learned counsel argued that applicant was not aware of the fact that respondent no.3 was not eligible under said category earlier, it only came to her notice when respondents issued show cause notice in the year 2013. Immediately thereafter, she inquired the matter and came to know that there are two reports of two different Committees who have looked into the issue and have confirmed that respondent no.3 has wrongly been considered and offered appointment under category no.III. Immediately thereafter, the applicant submitted representation on 13.09.2017, making her claim for appointment

against the vacancy occupied by Rajesh Saxena (Respondent No.3), which the respondents have rejected vide impugned order.

6. We have heard learned counsel for the applicant and have given deep consideration to the pleadings as projected and arguments raised.
7. Admittedly, advertisement was issued and selection was finalized in the year 1998. As per the direction of Court, respondents issued show-cause notice to respondent no.3, Respondent No.2 who is competent after considering the reply to show-cause notice as well as two inquiry reports submitted by two Committees has come to the conclusion that in fact while offering appointment to respondent no.3, PGIMER committed mistake. But at the same time, while closing the file, he took sympathetic view that at this stage for the fault of PGI, respondent no.3 cannot be penalized after lapse of 20 years.
8. Once competent authority has taken a pragmatic view, therefore, we find no reason to interfere with the decision. Accordingly the OA is dismissed being devoid of merit. No other point argued. No order as to costs.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Date: 15.01.2018.
Place: Chandigarh.

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