

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
234/4, A.J.C. BOSE ROAD, 2ND M.S.O. BUILDING NIZAM PALACE
COMPLEX, KOLKATA-700020

O.A. No. 350/00054 of 2018

Dr. Arunava Kundu

.....Applicant

-Versus-

Employee's State Insurance
Corporation & Ors.

.....Respondents

(I) DETAILS OF APPLICATION:

Dr. Arunava Kundu,
Associate Professor and HOD,
Department of Ophthalmology, ESI
PGI MSR & ESIC Medical College,
Joka (Diamond Harbour Road), Post
Office- Joka, Kolkata-700104.

- Versus -Applicant

1. Union of India, service through the
Ministry of Labour & Employment,
Govt. of India, Sharam Shakti Bhawan,
Rafi Marg, New Delhi-110001.
2. Employees State Insurance
Corporation, Panchdeep Bhawan,
C.I.G. Marg, New Delhi- 110002.

3. The Director General,
Employees State Insurance
Corporation, office at Panchdeep
Bhawan, C.I.G. Marg, New Delhi-
110002.

4. The Dy. Director
(Recruitment), Employees State
Insurance Corporation, office at
Panchdeep Bhawan, C.I.G. Marg,
New Delhi-110002.

5. The Dean, Employees State
Insurance Corporation - Post
Graduate Institute of Medical
Science & Research & Employees
State Insurance Corporation Medical
College at Diamond Harbour Road,
Post Office- Joka, Kolkata-700104.

6. The Medical Superintendent,
Employees State Insurance
Corporation - Post Graduate
Institute of Medical Science &
Research & Employees State
Insurance Corporation Medical

WSE

Collegat Diamond Harbour Road,
Post Office- Joka, Kolkata-700104.

.....Respondents

10/11

O.A.No.350/54/2018

Date :29.01.2018

Coram : Hon'ble Mr. A.K. Patnaik, Judicial Member

For the applicant : Mr. N. Roy, counsel
Md. N. Chowdhury, counsel

For the respondents : None

ORDER(Oral)**A.K. Patnaik, Judicial Member**

The instant O.A. has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

- a) An order be passed directing the respondents to modify the advertisement dated 15.12.2017 by cancelling the reservation in the post of professor ophthalmology of respondent no.6 and declaring the said post unreserved.
- b) And further order be passed directing the respondents to extend the last date of making application for the said post after dereserving the said post allowing the candidates who do not belong to any reserved category to apply for the said post;
- c) Any further order or orders, direction or directions as may deem fit and proper.

2. I have heard Mr. N. Roy, Id. counsel for the applicant. None appears for the respondents. No notice has been issued to the respondents.

3. Brief facts of this case as narrated by Mr. N. Roy, Id. counsel for the applicant are that the applicant is working as Associate Professor in the Department of Ophthalmology of Employees State Insurance – Post Graduate Institute of Medical Science and Research & ESIC Medical College, ESIC Hospital & ODC(Eastern Zone) and he is very much eager to apply for the higher post of Professor Ophthalmology. Mr. Roy further submits that the respondents, particularly the respondent No.4 published an advertisement dated 15th

December, 2017 inviting applications for different posts fixing the closing date of receipt of on line application till 16.01.2018 upto 5 P.M. In the said advertisement one post of Professor in Ophthalmology has been sought to be filled up which is not lower than the Group-A post. Ld. counsel for the applicant submitted that the post of Professor in Ophthalmology is a scientific and technical post and such post is exempted from reservation for Schedule caste, Schedule Tribes and other Backward Classes under the guidelines of the Department of Personnel and Training, but in the impugned advertisement published by the respondent No.4 the said post of Professor in Ophthalmology has been purportedly reserved for candidates who belong to Scheduled Caste Category. The Ld. counsel for the applicant further submitted that the applicant not being a Scheduled Caste candidate is prevented from making application for the said post and thereby his valuable rights granted under Article 16 of the Constitution of India has been severely infringed. Being aggrieved the applicant has made a representation dated 23.12.2017 (Annexure A/5) to the Respondent No.3 i.e. the Director General, Employees' State Insurance Corporation, Panchadeep Bhawan, CIG Marg, New Delhi ventilating his grievances therein, but till date no reply has been received from the respondent authorities. Hence, this application has been filed seeking appropriate relief.

4. Ld. counsel for the applicant Mr. N. Roy submitted that the applicant would be satisfied for the present if a direction is given to the Respondent No.3 i.e. the Director General, Employees' State Insurance Corporation, Panchadeep Bhawan, CIG Marg, New Delhi to consider and dispose of the representation of the applicant dated 23.12.2017 (Annexure A/5) by passing a well reasoned order as per the rules and regulations governing the field within a specific time frame.


Wd

5. Considering the aforesaid facts and circumstances, I am of the view that it will not be prejudicial to either of the parties if a direction is given to the respondent authorities to consider and dispose of the representation of the applicant dated 23.12.2017 (Annexure A/5) as per the extant rules within a specific time frame. Accordingly, the Respondent No.3 i.e. the Director General, Employees' State Insurance Corporation, Panchadeep Bhawan, CIG Marg, New Delhi is directed to consider and decide the representation of the applicant dated 23.12.2017 (Annexure A/5) by passing a well reasoned order as per rules and regulations governing the field within a period of six weeks from the date of receipt of a certified copy of this order and communicate the decision to the applicant forthwith. If the applicant's claim is found to be genuine, the benefits as claimed in his representation shall be extended to him within a period of further six weeks from the date of taking decision in the matter.

6. It is made clear that I have not gone into the merits of the case and all the points raised in the representation are kept open for consideration by the respondent authorities as per rules and guidelines governing the field.

7. As prayed by the Id. Counsel for the applicant, a copy of this order along with the paper book may be transmitted to the Respondent No.3 by speed post by the Registry for which Id. counsel for the applicant undertakes to deposit the cost within one week.

8. With the above observations the O.A. is disposed of. No order as to cost.


(A.K. Patnaik)
Judicial Member