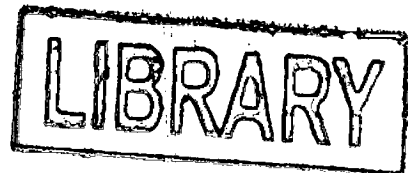


CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH



No. OA 350/00914/2015

Date of order : 15.7.2016

Present: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Ms. Jaya Das Gupta, Administrative Member

SANJOY GAYEN

VS

UNION OF INDIA & ORS. (ESIC)

For the applicant : Mr.S.K.Dutta, counsel
Mr.B.Chatterjee, counsel

For the respondents : Mr.P.C.Das, counsel
Mr.T.K.Chatterjee, counsel

O R D E R

Ms. Bidisha Banerjee, J.M.

1. Ld. Counsels were heard and materials on records were perused.

2. This is the second journey of the applicant to this Tribunal. In the earlier round this Tribunal had directed the authorities to take up the following exercise :

"Having considered the matter in its entirety and in view of the decisions referred to hereinabove the OA is disposed of with a direction upon the respondents to allow the applicant to furnish the necessary certificates, if the same were not furnished earlier, within a period of 15 days and upon production of the same, to evaluate his merit and proceed accordingly with the selection."

3. Pursuant to the said direction the respondents communicated on 6/7.5.15 (Annexure A/10) that as per recommendation of the Selection Committee the applicant was found eligible for selection to the post of Pharmacist in SC category on the basis of his merit as well as documents submitted after the order along with the documents submitted previously. However, since no post of Pharmacist in SC category was available in ESIC hospital and two posts were already filled up by the candidates who were parties in the case, as soon as the vacancy of Pharmacist in SC category is available the applicant would be considered for recruitment.

4. The respondents on an earlier occasion on 4.9.15 were directed to take instruction whether any vacancy of Pharmacist (Allopathic) under SC quota

5: During the course of hearing Id. Counsel for the applicant would vociferously submitted that the applicant having stood first as per merit under SC quota ought to be assigned seniority over and above two SC candidates granted appointment against two available vacancies. Id. Counsel for the said two SC candidates already appointed (impleaded as respondent Nos. 6 & 7 herein) dispelled the claim on the ground that having entered service way back in 2015 the seniority of the said respondents ought to be protected.

6. Irrefutably and admittedly the applicant secured way above the SC candidates impleaded as respondent No. 6 & 7 in the present OA. The seniority in the post is fixed in terms of the merit at the selection and therefore for the ends of justice the seniority of the applicant who stood first in terms of merit but was wrongly left out, should be fixed over and above the two other selected candidates.

7. In the aforesaid backdrop the present OA is disposed of with consent of the parties with a direction upon the competent authority to suitably adjust and fix seniority of the applicant over and above respondent Nos. 6 & 7 with all consequential benefits from the date the respondent Nos. 6 & 7 were appointed, with pay fixation from that date but without any arrears of salary. Let appropriate orders be issued within two months from the date of communication of this order.

8. No order is passed as to costs.

(JAYA DAS GUPTA)
MEMBER (A)

(BIDISHA BANERJEE)
MEMBER (J)

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