

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION No.382/2018.

Date of Decision: 25.06.2018.

Coram:-HON'BLE SHRI. ARVIND J. ROHEE, MEMBER (J).
HON'BLE SHRI. R.VIJAYKUMAR, MEMBER (A).

Swapnil Parab,
 Mahadeo Sawant House,
 Room No.3, Agarwadi,
 Mankhurd, Mumbai 400 088. *Applicant*
(By Advocate Shri Mayur Agarwal)

VERSUS

1. The Director,
 Bhabha Atomic Research Centre,
 Trombay, Mumbai 400 085.
2. Deputy Establishment Officer,
 Recruitment Section II,
 Bhabha Atomic Research Centre,
 Trombay, Mumbai 400 085.
3. Asst. Personnel Officer;
 Recruitment Section II,
 Bhabha Atomic Research Centre,
 Trombay, Mumbai 400 085. *Respondents*

ORDER (Oral)

Per : Shri A.J. Rohee, Member (J)

Today when the matter is called out for Admission, heard Shri Mayur Agarwal, learned Advocate on behalf of SSPA LAW Firm for the Applicant. We have carefully perused the case record.

2. In pursuance of the Advertisement issued, the Applicant was selected for the

post of Hospital Work Assistant on 28.01.2016. When the attestation form was supplied to him, it is stated that he failed to disclose that a criminal prosecution was pending against him in the Criminal Court. On police verification, this fact was revealed. Thereafter show-cause notice was issued to him as to why his candidature should not be cancelled for suppression of the material fact in the attestation form. He replied to it giving excuses. However, impugned order dated 27.02.2018 (Annexure A-5) is passed cancelling his candidature.

3. In this OA, the following reliefs are, therefore, sought:

“8.1. The Respondents be directed to withdraw the said letter dated 27.02.2018 (being Annexure A-5 hereto) and to forthwith appoint the applicant to the said post Viz. the post of the Hospital Work Assistant/A to which he was duly selected by the Respondents.

8.2. The Respondents be directed to pay to the Applicant a sum of Rs.7,22,000/- towards loss of monthly income suffered by the Applicant till filing this application and further payment of salary till disposal of this case and consequential benefits like PRIS @40% towards loss of income suffered by the applicant on account of wrongful cancellation of his candidature by the respondents together with interest at the rate of 18% p.a. from respective due dates of monthly salary from 28.01.2016 till the date of payment and/or realization.

8.3. *The Respondents be directed to pay to the applicant cost of these proceedings.*

8.4. *Any other relief that this Hon'ble Tribunal may consider just and equitable in the circumstances of the present case".*

4. The record shows that the applicant faced a criminal prosecution along with two co-accused for the offences punishable under Section 324, 323, 504 read with 34 of the Indian Penal Code before the Additional Chief Metropolitan Magistrate, 11th Court, Kurla, Mumbai in Criminal Case No.1658/PW/2012. The date of commission of alleged offence of indulging in assaulting and extending abuses to complainant stated to have occurred on 31.08.2013. The Applicant pleaded not guilty and defended him in trial by the order dated 08.06.2016 (Annexure A-4) all the three accused including the applicant were found not guilty of the charge and accordingly were acquitted. However, the fact remained that the applicant failed to disclose the pending criminal prosecution against him in the attestation form. In such circumstances of the case, especially when he applied for appointment under BARC Trombay, Mumbai, we

do not find any fault with the impugned order of cancellation of his candidature. As such no grounds are made out for intervention of this Tribunal.

5. Consequently, the OA stands ***dismissed in limine.***

6. Registry is directed to forward certified copy of this order to both the parties.

(R. Vijaykumar)
Member (A)

(A.J.Rohee)
Member (J)

dm.