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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CALCUTTA BENCH, CALCUTTA

O. A. No. 351/ 1548 of 2018

IN THE MATTER OF:

Mr. LINU ALEX, son of Shri M. Chandi, aged about 45 years, residing at ABC Apartment, Block-GIC, 1st Floor, Shadipur, Port Blair District- South Andaman, Pin-744106 and working to the post of Laboratory Technician at CHC Diglipur, North Andaman-744202 under Andaman and Nicobar Administration, Directorate of Health Services.

...Applicant

-Versus-

1. UNION OF INDIA, service through the Secretary, Ministry of Health & Family Welfare, Government of India, 'A' Wing, Nirman Bhawan, New Delhi- 110011.
2. THE CHIEF SECRETARY, Andaman & Nicobar Administration, Secretariat, Port Blair- 744101;

all

3. THE PRINCIPAL SECRETARY (HEALTH),

Andaman & Nicobar Administration,
Secretariat, Port Blair- 744101.

4. THE DIRECTOR OF HEALTH SERVICES,

Andaman & Nicobar Islands, Andaman &
Nicobar Administration, Secretariat, Port Blair-
744101.

5. THE ASSISTANT DIRECTOR

(ADMINISTRATION), office of Directorate of
Health Services, Andaman & Nicobar
Administration, Port Blair- 744101.

6. SHRI ABDUL ZABIT.**7. SHRI BHARAT HALDER,****8. SHRI ADHER SAHA,****9. SHRI SREENATH,****10. SHRI MOHAMMED IQBAL.**

(The private respondents Nos. 6 to 10 are
working to the post of Laboratory Assistant
(Non-Gazettted/Non-Ministerial) under the
Directorate of Health Services, Andaman &
Nicobar Administration under the control and
authority of Assistant Director (Administration)
at Port Blair-744101.)

.....Respondents

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CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH

O.A/351/1548/2018

Date of Order: 10.10.2018

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

For the Applicant(s): Mr. P. C Das, Counsel

For the Respondent(s): Mr. S. Sen, Counsel

ORDER (ORAL)

A.K Patnaik, Member (J):

Heard Ld. Counsel for both the parties.

2. Mr. S.Sen, Ld. Counsel for the Official Respondents, submitted that although he has instruction to appear in this case, he has not received copy of the O.A., to which, Mr. P.C.Das objected by stating that unless copy has been received by the department, how department can engage Counsel on his behalf. Mr. Das filed affidavit of service.

3. This O.A. has been filed under Section 19 of the Administrative Tribunals Act, 1985 with the following prayers:

- "a) To quash and/or set aside the impugned notification of amendment of the Recruitment Rules, dated 6th November 2017 to the post of Laboratory Assistant which has been made by the Andaman and Nicobar Administration only to give facility for promotion of the private respondent by decreasing the educational qualification and also abolished the technical course of two years of MLT by way of such amendment of Recruitment Rules which is utter violation of the Recruitment Rules dated 14th July, 2010 being Annexure A-13 of this original application.
- b) to quash and/or set aside the impugned amendment Recruitment Rules dated 19th July 2016 to the post of Laboratory Assistant whereby and whereunder the qualification of the Class-XII Standard has been decreased to Class X Standard and two years' diploma in MLT is not there in respect of promotion of the Laboratory Attendant which is utter

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violation of the Recruitment Rules dated 14th July, 2010 being Annexure A-12 and A-9 of this original application.

- c) to quash and/or set aside the impugned office order dated 21st March, 2018 whereby the respondent authority decreased the qualification and experience and also shifted the technical course of MLT only to give facility for promotion of the private respondent to the post of Laboratory Assistant which is utter violation of the statutory Recruitment Rules dated 14th July, 2010 being Annexure A-14.
- d) to pass an appropriate order directing upon the respondent authority to give appropriate pay scale to the post of Laboratory Technician in favour of the applicant against the post which your applicant is functioning duty with effect from 31st May, 1999 [Rs. 5000-8000 (pre-revised)] along with consequential arrear benefits instead of Rs. 4000-6000 (pre-revised) since it is a constructional guarantee that the employee should get the equal pay for equal work."

4. The case of the applicant in short is that having possessed the prescribed qualification, he was appointed as Laboratory Assistant on 31.05.1999. The grievance of the applicant is that although he was directed to work against the post of Laboratory Technician, which is a higher post, but he was not given the pay scale attached to that post. Further grievance of the applicant is that most of the Laboratory Attendants and Laboratory Assistants have been transferred to the post of Laboratory Technicians but the applicant was forced to work against the post of Laboratory Technician without any higher remuneration. In the meantime, impugned orders dated 19.07.2016 and 06.11.2017 were issued decreasing the educational qualification for the post of Laboratory Assistant. Ld. Counsel for the applicant submitted that ventilating his grievance the applicant has preferred a representation dated 29.08.2018 (Annexure-A/16) before Respondent Nos. 4 and 5 but nothing has been communicated to him till date.

5. Having heard Ld. Counsel for the parties, without going into the merit of the matter, I dispose of this O.A. by directing Respondent Nos. 4 and 5 to consider the representation of the applicant, if the same has been filed and is pending before him for consideration, and pass a reasoned and speaking order as per rules and

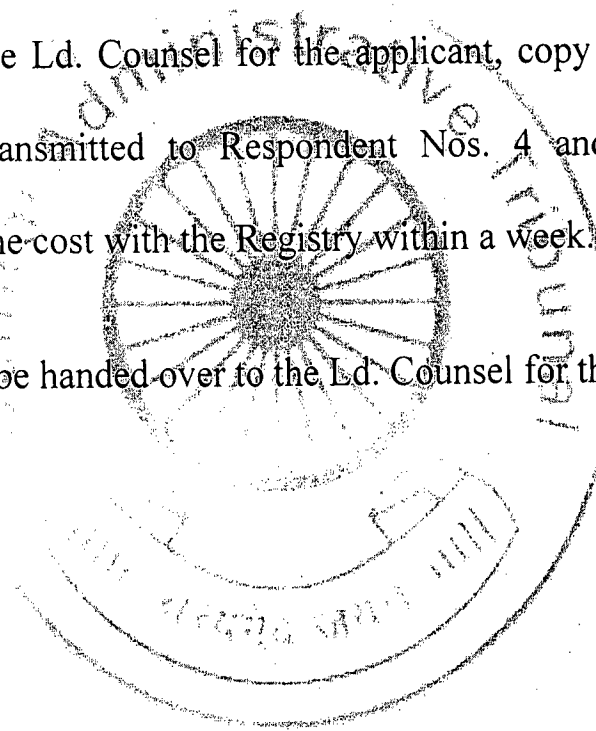
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regulations within a period of six weeks from the date of receipt of copy of this order. I make it clear that if after such consideration the applicant is found to be otherwise eligible for promotion then expeditious steps be taken to grant him benefit of promotion and other ancillary benefits within a further period of six weeks. I make it clear that if in the meantime the said representation has already been disposed of then the result thereof be communicated to the applicant within two weeks.

6. With the aforesaid observation and direction, this O.A. stands disposed of. No costs.

7. As prayed for by the Ld. Counsel for the applicant, copy of this order, along with paperbook be transmitted to Respondent Nos. 4 and 5, for which, he undertakes to deposit the cost with the Registry within a week.

8. Copies of this order be handed over to the Ld. Counsel for the parties.



(A.K.Patnaik)
Member(J)

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