

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Dated the Friday 7th day of December Two Thousand And Eighteen

PRESENT:

THE HON'BLE MR. R. RAMANUJAM, MEMBER (A)

THE HON'BLE MR. P. MADHAVAN, MEMBER (J)

O.A. 310/1713/2017

&

MA 310/670/2018

in

O.A. 310/1713/2017

A. Kalpana Muthuraj

W/o. Muthuraj,

Aged about 46 years,

No. 22, Type -III, Block 6, JIPMER Quarters,

Puducherry- 605 006.

....1st respondent in MA./Applicant in OA

(By Advocate: M/s. Sai Bharat & Ilan)

Versus

1. Jawaharlal Nehru Institute of Post Graduate

Medical Education & Research,

Rep. by its Director,

Puducherry- 605 006;

2. The Deputy Director (Administration),

Jawaharlal Nehru Institute of Post Graduate

Medical Education & Research,

Rep. by its Director,

Puducherry- 605 006;

3. The Director (Health & Family Welfare)

Ministry of Health & Family Welfare

Government of India,

New Delhi.

.....Shown as Official Respondents 2,3 & 4 in M.A./ shown as
official respondents 1, 2 & 3 in OA

4. Dr. C. Sivakumar,

No.33, Sree Velan Vassam,

Sri Ram Nagar,

Dhanvanthri Nagar Post,

Pondicherry- 605 006.

.....Applicant in MA/Respondent No.4 in OA

(By Advocate: Mr. M.T. Arunan, for R1-R3

M/s. C. Sakthimanikandan, R/4)

ORAL ORDER

(Pronounced by Hon'ble Mr. R. Ramanujam, Member (A))

M.A.670 of 2018 seeks to advance the date of hearing. With the consent of both sides, M.A. is allowed. Hearing is advanced to today.

2. Matter is heard on admissibility of this O.A.

3. This OA has been filed seeking to quash the advertisement dated 08.07.2017 calling for applications to fill up certain posts including one post of Assistant Professor (Health Education and Family Welfare). It is alleged that the impugned notification was without jurisdiction and illegal in as much as it concerned the post of Assistant Professor which had not officially been created due to the proposal pending with the 3rd respondent for approval. It is only the post of Lecturer that could be advertised and not Assistant Professor in terms of the recruitment rules, it is submitted.

4. It is further submitted that the existing post of Lecturer had been notified on 07.07.2009. The applicant was fully qualified for the same and on her application, she was issued with a call letter dated 14.11.2009. She appeared for interview on 05.12.2009. She also submitted all the requisite certificates for verification. It is alleged that the applicant was also selected for the post but the select list was never published. The applicant, therefore, sent a representation dated 09.05.2013 requesting the authorities to appoint her to the post of Lecturer. However, there was no positive response even after repeated representations and, therefore, the applicant is before this Tribunal with this OA.

5. Learned counsel for the respondent would submit that the applicant is not affected in any way by the issuance of the impugned notification as she had never applied for the post of Assistant Professor in pursuance thereof. As a matter of fact, she is now over aged and the fact or otherwise of the 2009 notification for the post of Lecturer

not being proceeded with does not influence this case in any manner. If any cause of action had arisen in 2009, the applicant would have agitated her claim at the relevant time. This could be no ground for seeking stay or quashment of the impugned notification.

6. On perusal, it is seen that the applicant is challenging the Annexure A12 notification for employment dated 08.07.2017 on the ground that the applicant had appeared in response to a call letter in an earlier selection process for the post of Lecturer in 2009 and was selected. If so, it is not clear why the applicant would keep silent till 2013 even to make a representation to the authorities. Further, there is no explanation why the applicant did not pursue the matter even thereafter till October 2017 when this undated OA was presented on 31.10.17 and listed before the Bench on 10.11.2017. No prayer appears to have been made for condonation of delay much less with any justification therefor.

7. Further, as per the impugned notification, it appears that the applicant was not eligible in terms of age limit. If it is the applicant's case that she would have been eligible, if necessary relaxation is applied for S.C. and in service candidates, it is all the more reason that she should have applied for the post and then challenged the decision of the competent authority not to grant age relaxation if such decision was contrary to the rules/policy of the respondents.

8. Since the applicant has not even applied for the post, this OA cannot be entertained. It is accordingly dismissed. No costs.

(P. MADHAVAN)
MEMBER (J)

(R. RAMANUJAM)
MEMBER (A)

07.12.2018

Asvs.