

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

O.A.No.310/00850/2015

Dated Thursday, the 15th day of November, Two Thousand Eighteen

PRESENT

**HON'BLE MRS.JASMINE AHMED, MEMBER(J)
&
HON'BLE SHRI R.RAMANUJAM, MEMBER(A)**

V.Rajalakshmi,
W/o.Sandamourty,
No.6, Mariamman Koil Street,
Old Saram, Puducherry. ... Applicant

By Advocate M/s V.Ajayakumar

Vs.

1.Union of India rep., by
the Government of Puducherry
through the Secretary to Government
for Health & Family Welfare, Chief Secretariat,
Puducherry.

2.Director, Directorate of Health & Family
Welfare Services, Old Maternity Hospital
Building, Puducherry.

3.Satya, Dietician,
Health & Family Welfare Department,
Puducherry.

4.Kavitha, Dietician,
Health & Family Welfare Department,
Puducherry. ... Respondents

By Advocate Mr.R.Syed Mustafa (R1&2)

ORDER**(Pronounced by Hon'ble Mr.R.Ramanujam, Administrative Member)**

The applicant has filed this OA under Section 19 of the Administrative Tribunal's Act, 1985 seeking the following reliefs:

"(i)To call for the records of the second respondent with no.A.12020/2/2014/E5/DHFWS/71 dated 08.06.2015 and to quash the selection of the 3rd and 4th respondent for the post of Dietician and to quash the same and consequently to direct the respondents 1 & 2 to appoint the applicant to the post of Dietician on the basis of the marks obtained by her with effect from the date on which the other selected candidates are appointed with all other consequential benefits including seniority and arrears of wages and to pass such other or further orders in the interest of justice and thus render justice."

2. It is submitted that the applicant is a B.Sc degree holder in Clinical Nutrition and Dietetics and belongs to the OBC category and accordingly she was entitled to be appointed on a reserved post. The second respondent issued a notification dated 01.03.2014 calling for applications for the post of Dietician for six vacancies. The applicant applied for the same on 01.04.2014 before the last date of 04.04.2014. In the selection process that ensued, the aggregate marks secured by the 3rd respondent was 86.20 and the 4th respondent 85.77 whereas the applicant had secured 86.21. Hence the applicant was entitled to be selected under the General category itself in place of the 3rd respondent. However, the applicant was deprived of her appointment allegedly with ulterior motives. Her subsequent appointment by Annexure R-6 Memorandum dated 04.04.2017 was also on adhoc basis and no reason had been stated why it could not be a regular appointment.

3. The respondents would contest the claim of the applicant pointing out that the applicant's allegation that she had secured 86.21 marks was not correct. It is submitted that the applicant had secured 84.71 marks only and

was accordingly ranked below the 3rd and 4th respondents. She was placed in the wait list for Unreserved category. Her name also figured in the wait list for MBC category. Accordingly she had a right to be appointed against the first vacancy in the said two categories. When a vacancy arose in the Unreserved category, the respondents passed Annexure R-6 order dated 04.04.2017 granting the applicant a temporary appointment on adhoc basis to the post of Dietician in Level 7 in the Pay Matrix (pre-revised Pay Band-2) of Rs.9300-34800 with Grade Pay of Rs.4600. However, the applicant has not joined the post for reasons best known to her.

4. Learned counsel for the respondents would submit that the applicant had clearly scored below the 3rd and 4th respondents in the Unreserved category and, therefore, there was no question of her being granted appointment ahead of the two candidates. The applicant had secured 74.21 percent for degree and had been granted 10.50 additional marks at the rate of 1.5 marks for each completed year after registration with the Employment Exchange. Learned counsel for the respondents would also submit that the applicant had been given 'adhoc' appointment only because the matter was sub judice.

5. Learned counsel for the applicant would, however, allege that the applicant had been wrongly assessed and she was entitled to 12 additional marks instead of 10.50 marks.

6. On perusal of the pleadings, we are not able to see any contradiction by way of a rejoinder of the marks that the applicant was granted under "Additional Marks". It is further seen that the applicant had obtained Annexure A-3 certificate dated 27.06.2008 for the purpose of registration with the Employment Exchange. In the employment notification, it was

made clear that 1.5 marks would be awarded for every completed year of seniority from the date of registration in the employment exchange of the requisite educational or technical qualification till the last date for receipt of duly filled in applications subject to a maximum of 15 marks. As the selection was concluded in the year 2015, the applicant had been granted 10.5 marks at the rate of 1.5 for 7 completed years. We are unable to fault the award of marks in respect of the applicant for the said period.

7. Clearly, the applicant had secured lower marks than the 3rd and 4th respondents and, therefore, her claim for appointment in the Unreserved category ahead of them is misplaced. It is also noted that the applicant after having been granted appointment from the wait list on 04.04.2017 has not joined the post till date which raises a doubt about the applicant's seriousness to take up the appointment. Accordingly, the OA is, frivolous, devoid of merits and is dismissed without costs.

(R.RAMANUJAM)
MEMBER (A)
M.T.

15.11.2018

(JASMINE AHMED)
MEMBER (J)