

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 043/00325/2016

Date of Order: This, the 02nd day of August 2018

THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER

THE HON'BLE MR. N. NEHSIAL, ADMINISTRATIVE MEMBER

Shri Iajiedlang Rynjah
Son of Aiborsing Khongjah
Technical Assistant (Contractual)
Department of Anatomy, NEIGRIHMS.

...Applicant

By Advocates: Mr. M. Chanda, U. Dutta, S. Begum & A.K. Das

-Versus-

1. Union of India
Represented by the Secretary to the
Government of India
Ministry of Health and Family Welfare
New Delhi – 110001.
2. The North Eastern Indira Gandhi Regional
Institute of Health & Medical Science
Director's Block, Mawdiangdiang
Shillong – 793018.
3. The Director
NEIGRIHMS, Shillong – 793018.
4. The Dy. Director (Admn.)
NEIGRIHMS, Mawdiangdiang, Shillong – 793018.

...Respondents

By Advocate: Mr. R. Hazarika, Addl. CGSC

O R D E R (ORAL)**N. NEIHSIAL, MEMBER (A):**

By this O.A., applicant makes a prayer to set aside and quash the impugned order dated 05.04.2016 and to direct the respondents to hold re-examination so as to enable him for consideration to the post of Jr. Lab. Technician relaxing the upper age limit required for the post in the light of Govt. of U.T. Administration of Daman & Diu Circular dated 24.04.2012.

2. Mr. M. Chanda, learned counsel appearing on behalf of the applicant submits that the applicant joined North Eastern Indira Gandhi Regional Institute of Health and Medical Sciences, Shillong (in short NEIGRIHMS) in the year 2013 to the post of Jr. Laboratory Technician on contractual basis through a regular selection process. According to Mr. Chanda, though it was on contractual basis, but the applicant applied for the said post pursuant to an Advertisement in the News Paper and thereafter selected through the interview conducted by the NEIGRIHMS Board. Thereafter, an appointment letter was issued to the applicant for the post which is a sanction post of NEIGRIHMS. Prior to the appointment to the said post, the

applicant was working in the office of the Project Director, Meghalaya, AIDS Control Society, Shillong since 2009.

3. Mr. Chanda further submits that in the year 2014, an advertisement was floated inviting applications for filling up of various posts in NEIGRIHMS. The advertisement was published on 19.01.2015 in the Telegraph and also in the Local daily "The Shillong Times" on 06.02.2015 in Employment News. The contents of the advertisement irrespective of the News Paper in which it was published were the same. Being already engaged/employed in the aforesaid Institution, the applicant also applied for the post of Jr. Laboratory Technician on 06.02.2015 itself. According to Mr. Chanda, as on 06.02.2015, the age of the applicant was well within the upper age limit prescribed in the advertisement. As per advertisement, the upper age limit prescribed is 35 years till the closing date of advertisement. The last date of submission of application form is one month after publishing of the advertisement. It is categorically stated that the applicant is well within the prescribed age limit of 35 years.

4. Mr. Chanda further submits that soon after the notice dated 29th Feb, 2016, applicant submitted representation on 01.03.2016 as well as on 04.03.2016, narrating

his grievances in details. In the said representations the applicant specially stated that pursuant to the advertisement dated 19.01.2015, the applicant submitted his application for the post of Jr. Laboratory Technician on 06.02.2015 itself. On 06.02.2015 the age of the applicant was well within the upper age limit prescribed in the advertisement. The closing date for applying for the said post was on 06.03.2015. However, 06th and 08th March of 2015 were holiday and the last date for submission of the application form was closed on 09th march, 2015. Moreover, the applicant was well in the upper age limit prescribed in the advertisement. If it is counted from the date of closing of the application form then the applicant becomes over aged by 11 days. Accordingly, the learned counsel prayed for granting benefit of age relaxation and concession as due and admissible and allow him to participate in the written examination for the post of Jr. Laboratory Technician due to be held on 19th March, 2016. Moreover, applicant is also legally entitled to age relaxation to the extent of period of service rendered on casual/contractual basis, after his selection as Jr. Laboratory Assistant. But the respondent authority vide impugned order dated 05.04.2016 rejected his claim for relaxing the upper age limit, by stating that as per the

advertisement the age limit as on closing date of application is 30 years only, however, relaxation of upper age limit for SC/ST reserved category is 5 years and therefore, the applicant has already crossed the upper age limit by 11 days.

5. In the written statement submitted by the respondents on 27.02.2017, they have pointed out that they are following the Govt. of India's Rule notified by the DoPT under which the extent of age relaxation to SC & ST category by direct recruitment is 5 years. Accordingly, on the closing date of receipt of application from the candidate, the applicant was over age by 11 (eleven) days. As such, they are not in a position to do anything about it for further relaxation permissible beyond 5 years. Moreover, the said Circular No. DMHS/PHC/AR/2012-13/328 dated 24.04.2012 issued by the Administration of Personnel and Administrative Reforms, Secretariat of Daman is not applicable in the instant case, rather the same is applicable only for the employees of U.T. Administration of Daman & Diu.

6. The respondents also have highlighted the reliefs as prayed for by the applicant is not maintainable in the eye of law at this belated stage as the written test for the post of Jr. Laboratory Technician has already been completed on

19.03.2016 and the posts have already been filled up on 22.04.2016 whereas the applicant has filed the instant O.A. on 17.08.2016.

7. Keeping in view of the above, we do not find any merit in the O.A. and liable to be dismissed. Accordingly, O.A. stands dismissed.

8. No order as to costs.

(N. NEHSIAL)
MEMBER (A)

(MANJULA DAS)
MEMBER (J)

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