

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A. No.1051 of 2015

This the 17th day of December, 2018

**Hon'ble Ms. Nita Chowdhury, Member (A)
Hon'ble Mr. S.N. Terdal, Member (J)**

Smt. Sonia Sharma, Age – 33 years 10 months
W/o Shri Navin Kumar, Group C
R/o J-4/72, 2nd Floor,
Khirki Extension, Malviya Nagar,
New Delhi-110017.

....Applicant

(By Advocate : Dr. Puran Chand)

VERSUS

1. Union of India,
Through Secretary,
Department of Revenue,
Ministry of Finance, North Block,
New Delhi-110001.
2. The Chairman,
Central Board of Excise and Customs (CBEC),
Department of Revenue,
Ministry of Finance, Govt. of India,
North Block, New Delhi-110001.
3. The Chairman,
Staff Selection Commission (SSC),
Block-12, C.G.O. Complex,
Lodhi Road, New Delhi-110003.
4. The Commissioner,
Office of Commissioner of Central Excise and
Service Tax,
Department of Revenue,
Ministry of Finance, Govt. of India,
Morello Compound, M.G. Road,
Shillong-793001.

.....Respondents

(By Advocate : Shri S.N. Verma)

ORDER (Oral)**Ms. Nita Chowdhury, Member (A):**

Heard learned counsel for the parties.

2. By filing this OA, the applicant is seeking the following reliefs:-

- “a) Call for the records of the case;
- b) Quash and set-aside the Order No.F.No.A-12034/21/2014-Ad.III-B dated 22.09.2014 of the respondent No. 2, whereby the representation filed by the petitioner dated 13.02.2014;
- c) Set-aside the Order No. C.No.II(31)1/ET-II/2012/20561-64 dated 04.02.2014 of the respondent No.4, whereby the applicant’s appointment as Tax Assistant have been cancelled and the applicant’s dossiers to her appointment as Tax Assistant have been transferred/returned to SSC.
- d) Any other relief deemed fit and proper in the facts and circumstances of the case, may also be granted by this Hon’ble Tribunal, in addition to the heavy cost against the respondent and in favour of the applicant.”

3. The relevant facts of the case are that the applicant was selected through SSC for the post of Tax Assistant on the basis of CGLE, 2011 and she was called for Medical Examination by respondents vide letters dated 10.8.2012 and 13.9.2012 and when the applicant did not appear, the respondents issued her another letter on 3.10.2012 mentioning therein that failing to attend the said test may result in cancellation of her appointment to the said post. The applicant responded to the same and requested to permit her

to undergo Medical fitness examination at Delhi which was not granted to her.

4. Again the respondents wrote a letter dated 20.11.2012 to the applicant for appearing in medical fitness examination in which it was again reiterated to the applicant that failure to attend the Medical Examination on the date shall mean that she was not willing to accept the offer and the dossier would be returned to the Staff Selection Commission. Thereafter applicant requested for re-fixation of the date for medical examination and the department agreed to her request by another letter dated 24.1.2013 (Annexure R-6)

5. Thereafter applicant attended the medical test and was found medically fit for appointment and immediately on receipt of police verification report, an offer of appointment was issued to the applicant on 27.6.2013 and as per the terms & conditions No.(iv) and (xi) of the offer of appointment, she must be willing to serve within the Shillong Zone.

6. The applicant requested for extension of joining time on initial appointment for six months, however, she was granted three months' extension of joining time from the date of issue of original offer of appointment till 27.9.2013 vide letter dated 19.7.2013. Thereafter applicant again vide her letter dated 4.9.2013, requested for extension of joining time till first fortnight of January 2014 and in response to the same, the

respondents again extended her joining time for one more month till 27.10.2013 vide letter dated 18.9.2013 with a direction to report for duty on or before 27.10.2013, failing which the offer of appointment would be treated as lapsed/cancelled

7. Thereafter again vide her letter dated 13.10.2013, applicant sought further extension of joining time up to first week of January 2014. However, her request was turned down vide letter dated 7.11.2013 intimating her that earlier decision stands. The applicant further intimated that she had been diagnosed with jaundice and was under medication vide her letter dated 23.1.2014 and shows her willingness to join, if her candidature still exists.

8. The respondents vide letter dated 4.2.2014 cancelled her appointment and accordingly her dossier was returned to the Staff Selection Commission stating therein that 'the candidate has been granted extension of joining time on initial appointment till 27.10.2013. As she failed to report for duty, the offer of appointment is, therefore, cancelled.

9. Thereafter applicant submitted her representation dated 25.2.2014 to the Chairman of the Parliamentary Committee for the Welfare of SCs and STs which was forwarded to the respondents and the same was considered by the respondents

and they passed the order dated 19/22 September 2014, which is impugned by the applicant in this OA.

10. Counsel for the applicant submitted that the respondents have failed to consider that the applicant has given birth to a male child on 16.8.2012 and the child was suffering from various ailments and applicant specifically requested that there was no other person for looking after the new born baby except the applicant and the respondents did not consider her request of either transfer from Shillong to New Delhi or for extension of joining time. Applicant also shown her intention to join the said post in the first week of January 2014 and the respondents further failed to appreciate the fact that applicant was suffering from jaundice

10.1 Counsel for the applicant further submitted that by placing reliance on DOP&T OM dated 9.8.1995, the relevant provisions of the said OM reads as under:-

“The Staff Side of the Departmental Council (JCM) of DOP&T have demanded that direct recruits may be allowed a maximum of three months for joining instead of nine months provided for in the OM under reference so as to avoid delay in preparation and issue of select/seniority list. The matter has been examined in consultation with the UPSC and it has been decided to reduce from nine months to six months the maximum time upto which an offer of appointment can be kept to open. In other words an offer of appointment should clearly specify the period (which shall not normally exceed one or more months) after which the offer would lapse automatically if the candidate did not join within the specified period. If however within the specified period, a request is received from the candidate for extension of time, it may be considered by the

Ministries/Deptts. But extension beyond three months should not be granted liberally and it may be granted only as an exception where facts and circumstances so warrant and in any case only upto a maximum of six months from the date of issue of the original offer of appointment. An offer of appointment would lapse automatically after the expiry of six months from the date of issue of the original offer of appointment”.

The offer of appointment issued to the applicant was cancelled whereas the fact that applicant was granted extension only four months time as in first spell extension was for three months and another one for a month and as such respondents did not grant six months time to the applicant.

11. Counsel for the respondents submitted that impugned order is in accordance with the rules on the subject. Counsel further submitted that the applicant did not join the post despite granted her extension of time, therefore, the respondents rightly by placing reliance on DOP&T OM dated 8.9.1995 cancelled the offer of appointment which was given to her on 27.6.2013 and the said offer of appointment was actually cancelled only vide letter dated 4.2.2014, i.e., after expiry of more than six months.

11.1 Counsel for the respondents submitted that the child was born on 16.8.2012. Had the applicant been a Government Employee, she would have been allowed a maternity leave of 6 months only, which expires on 15.2.2013

and the extension was allowed up to 27.10.2013 when the said baby was 14 months old.

12. For proper appreciation of the issue, it is relevant to note the impugned order dated 19/22 September 2014, which was passed by the respondents on the representation of the applicant, which was forwarded to them by Committee Officer, Lok Sabha Secretariat vide letter dated 21.4.2014, the contents of which reads as under:-

“2. The matter has been examined in the Board and it is stated that :

- i) You had been called for Medical Examination vide O/o the Commissioner of Central Excise & Service Tax, Shillong letters dated 10.08.2012, 13.09.2012 & 03.10.2012. In response to letter dated 03.10.2012, you intimated that you had delivered a baby and requested for permission to undergo Medical Fitness test from any Government Hospital at New Delhi which was not granted.
- ii) Vide O/o Commissioner of Central Excise & Service Tax letter dated 20.11.2012, a call letter for Medical Examination has been issued to you. In response to letter dated 20.12.2012, you intimated that you would be in a position to visit Shillong for Medical Examination in the month of February, 2013 and also requested for re-fixation of fresh date in February, 2013. Accordingly, date for Medical Examination had been re-fixed on 11.2.2013 vide O/o the Commissioner of Central Excise & Service Tax, Shillong letter dated 24.01.2013. You attended the Medical Examination and was found medically fit for appointment.
- iii) An offer of appointment was issued on 27.6.2013 on receipt of Police Verification report. The offer of appointment clearly states that you should join within 15 days from the date of issue of the letter,

failing which the offer would be treated as lapsed. You requested for extension of joining time on initial appointment for 6 (six) months. You had been granted 4 (four) months in two spells of 3 (three) months and 1 (one) month vide O/o the Commissioner of Central Excise & Service Tax, Shillong letters dated 19.07.2013 & 18.09.2013 respectively and directed to report for duty on or before 27.10.2013 failing which the offer of appointment would be treated as lapsed/cancelled.

- iv) You re-submitted an application dated 13.10.2013 for further extension of joining time upto 1st week of January, 2014. Your request was not granted vide O/o the Commissioner of Central Excise & Service Tax, Shillong letter dated 07.11.2013, You intimated that you had been diagnosed with jaundice and was under mild medication vide your letter dated 23.01.2014.

2. it is mentioned that DOP&T's O.M. dated 09.08.1995 states that if a candidate did not join within the specified period, a request is received from the candidate for extension of time, it may be considered by the Ministries/Departments but extension beyond three months should not be granted liberally and it may be granted only as an exception where facts and circumstances so warrant and in any case upto maximum of 6 (six) months from the date of issue of the original offer of appointment. An offer of appointment would lapse automatically after the expiry of six months from the date of issue of the original offer of appointment.

4. Your offer of appointment was based on results of CGLE, 2011. You delayed the process of medical examination and the offer of appointment could be issued only on 27.06.2013. In spite of the delays, you chose to postpone your joining in spite of being granted extension in 2 spells. When further extension of time was referred, you still failed to join duty. The offer of appointment was issued to you on 27.06.2013 and you had been granted 4 months' extension upto 27.10.2013 in 2 (two) different spells. Your request dated 13.10.2013 for further extension of joining time had not been granted by the O/o the Commissioner of Central Excise & Service Tax, Shillong vide their letter dated 07.11.2013. Your representation dated 25.02.2014

forwarded by Ms. Sunita Sharma, Committee Officer, Lok Sabha Secretariat's letter dated 21.04.2014 was received in the Board on 24.04.2014 when 10 months elapsed after issue of offer of appointment. Your offer of appointment was cancelled by the Commissioner of Central Excise & Service Tax, Shillong vide their O.M. No.C-II (31) 1/ET-II/2012/20561-64 dated 04.02.2014 and your dossier returned to the Staff Selection Commission.

5. In view of the above facts, it has been decided that the extension of time beyond 6 (six) months of the offer of appointment cannot be granted as per the DOP&T's existing policy in the matter. Hence, your request cannot be acceded to.

13. From the aforesaid relevant facts and the impugned order, it is evidently clear that applicant did not join before the expiry of six months from the date of issue of offer of appointment. Rather she kept on sending representation even after expiry of six months for extension of time, but she has not reported for duty before expiry of six months even if only four months time was extended, she ought to have reported to the respondents for joining before six months. Mere repeated communications for extension of time shows lackadaisical approach of the applicant to join the post despite the fact that originally the applicant was called for medical examination vide letter dated 10.8.2012 and the respondents were kind enough to accede to the request of the applicant for re-fixation of medical examination vide letter dated 24.1.2013 and ultimately after finding medically fit and after receipt of police verification report, the applicant was given offer of

appointment on 27.6.2013 and on her requests two spells of extension of time were granted to her. However, when the applicant still sought extension of time till January 2014, the respondents have rejected the request and the applicant was in clear terms directed to join duty on or before 27.10.2013. As such this Court observes that extension of time for six months cannot be claimed as a matter of right as it is specifically prescribed in the said OM that extension beyond three months should not be granted liberally and it may be granted only as an exception where facts and circumstances so warrant and in any case only upto a maximum of six months from the date of issue of the original offer of an appointment.

14. So far as the contention of the applicant's counsel that applicant child was suffering from various ailments, the same is not supported by any documentary evidence and further contention that there was no other person for looking after the new born baby except the applicant is not a ground to claim as a matter of right extension of time for six months or more than six months as it is relevant that applicant had given birth to a child on 16.8.2012 and the extension was granted to her upto 27.10.2013 and therefore, this Court finds that the respondents have rightly cancelled the offer of appointment of the applicant vide order dated 4.2.2014.

15. In the result and for the foregoing reasons, the instant OA being bereft of merit is liable to be dismissed and the same is accordingly dismissed. There shall be no order as to costs.

(S.N. Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

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