

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH  
KOLKATA

OA No.350/00155/2016

Dated of order: 16.02.2016

**PRESENT:**

THE HON'BLE MR. JUSTICE V.C.GUPTA, JUDICIAL MEMBER

THE HON'BLE MS. JAYA DAS GUPTA, ADMINISTRATIVE MEMBER

DR. RAKESH JHALANI

V/S

NIRTAR

For the Applicant : Mr.A.K.Banerjee, Counsel

For the Respondents: Mr.P.Sanyal, Counsel

**ORDER**

**JUSTICE V.C.GUPTA, JM:**

Heard the learned counsel for both sides.

2. An advertisement was published by the Ministry of Health and Family Welfare, Govt. Of India, Chandigarh for the post of Director in the Swami Vivekanand National Institute of Rehabilitation Training and Research, PO. Bairo (SVNIRTAR), Cuttack, Odisha which was an autonomous body under the administrative control of the Ministry of Social Justice and Empowerment, Department of Empowerment of Persons with Disabilities, Govt. Of India. In the said advertisement it was provided that the post will be filled up on deputation basis for a period of three years or on contract for a period of three years. The applicant is working as an Assistant Professor cum Assistant Director (Services) in National Institute for Orthopedically

*(Signature)*

Handicapped (NIOH), Kolkata which is under the Ministry of Social Justice and Empowerment, Government of India. The applicant made an application to Shri Awanish Kumar Awasthi, Joint Secretary (DEPwD) with a request to consider age relaxation as per the Government Rules for the post of Director, SVNIRTAR and consideration of his case for the said post. The application does not reveal under what category he applied inasmuch as whether he wants to go on deputation or on contract basis.

It has been contended that while completing the process of recruitment/selection, no opportunity was given to the applicant nor any letter to appear before the selection board was issued. The request of the applicant in so far as age relaxation is concerned, has not been accepted by the concerned Ministry.

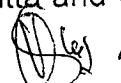
It has been brought to our notice by the learned counsel for the respondents that in the meantime selection is over and one Dr. Sakti Prasad Das has been selected for the post. The entire process of recruitment is over.

3. The learned counsel for the respondents at the first instance raised a preliminary issue of jurisdiction on the ground that the post which ought to have been filled up in the institute is situated at Odisha. The entire process of selection has to be carried out in Odisha. Hence, this Tribunal has no jurisdiction to entertain this OA. Secondly it was stated that the entire process of selection is over by now. The applicant has not fulfilled the essential requisite qualification mentioned in the advertisement itself. Even the Ministry has not accorded the age relaxation. As



such, his application was not forwarded to the concerned institute for the post in question. So it cannot be said that the person is actually one of the incumbents for the post of Director in question.

4. IN so far as jurisdiction of this Tribunal to entertain this OA is concerned, the learned counsel for the application drawing our attention to Section 20 of the Code of Civil Procedure submitted that as the applicant resides within the jurisdiction of this Tribunal a part of the cause of action accrues, and, therefore, this Bench of the Tribunal has the jurisdiction to entertain this OA and decide the matter on merit. Section 20 deals with regard to the place of filing of a suit wherein it has been provided that suit can be filed within the jurisdiction of the Court where (a) the defendant, or each of the defendants where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain; or (b) any of the defendants, where there are more than one, at the time of the commencement of the suit actually and voluntarily resides, or carries on business, or personally works for gain, provided that in such case either the leave of the Court is given, or the defendants who do not reside, or carry on business, or personally work for gain, as aforesaid, acquiesce in such institution; or (c) the cause of action, wholly or in part, arises. Placing reliance the clause (c) of Section 20, cited supra, the learned counsel for the applicant submits that as a part of the cause of action arises within the jurisdiction of this Tribunal, because the applicant is posted at Calcutta and wherefrom he has



submitted the application, this Tribunal has the jurisdiction to entertain this OA. In so far as part cause of action is concerned, the applicant applied by sending a letter to the Ministry for forwarding his application to the concerned institute after considering the age relaxation in his case. Admittedly, the Government of India did not extend the benefit of age relaxation and <sup>also not</sup> forward the application to consider the candidature of the applicant <sup>to</sup> by the concerned institute. So the part of cause of action accrues only when the application was not considered for relaxation of age of the applicant at Delhi. As his application has not been forwarded to the concerned Institute, his candidature cannot be considered for selection. The selection process is over by now and person has been selected.

5. In view of the above, the direction as sought by the applicant cannot be granted to either of the parties to consider the candidature of the applicant for the aforesaid post. Hence, this OA lacks merit and is accordingly dismissed at this admission stage itself. No costs.

(Jaya Das Gupta)  
Admn. Member

(Justice V.C.Gupta)  
Judicial Member

Knm