

**CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI**

ORIGINAL APPLICATION No.388 of 2022

Date of Order : 23.02.2023

**CORAM : JUSTICE M.G.SEWLIKAR, MEMBER (J)
DR. BHAGWAN SAHAI, MEMBER (A)**

Miss Puja Manorama Dilip Khedkar,
Age 31 years,
R/o A/8, Chanakya Housing Society,
Near Deep Bunglow, Pune-16,
working as Asst. Director, Sports Authority of India,
Poojakhedkar@whasappmail.com

- Applicant

(By Advocate Mr. Vaibhav Y Kulkarni)

Versus

1. The Union of India, Through the Secretary,
Aayakar Bhavan, Maharshi Karve Road,
New Marine Lines, Mumbai 400 020.
2. The Secretary,
Ministry of Social Justice and the Empowerment
Department of Empowerment of the Person
with Disabilities (Divyanga Jan)
Room No. 202, 2nd floor C Wing,
Shastri Bhawan, New Delhi, Delhi 110001.
3. The Secretary
Ministry of Personnel
Public Grievance and the Pension
Department of Personnel and Training
North Block, New Delhi,
5th Floor Sardar Patel Bhavan,
New Delhi, Delhi NCT 110001.

4. Union of Public Service Commission,
The Commissioner,
having its office at :
Dhoulpur House, Shahajan Road,
New Delhi 110003.

- Respondents

(By Mr. R.R.Shetty, Mr. A.P. Khosla & Mr. V.B. Joshi Advocates)

ORDER

Per : Justice M.G.Sewlikar, Member (J)

The applicant by this application is seeking direction to provide reservation for the persons with disability as provided in Section 34(d) of The Rights of Persons with Disabilities Act, 2016 and for quashment and setting aside the communication dated 03rd March, 2021, bearing No. 13018/7/2020-ASI-I issued by the Govt. Of India, Ministry of Personnel and Training, to the Secretary, Union Public Service Commission.

2. Facts in brief are that the applicant appeared for Civil Services Examination, 2021, the advertisement of which was issued on 4th March, 2021. According to her, she is suffering from mental illness and blindness which are covered by Section 34(d) of The Rights of Persons with Disabilities Act, 2016. The applicant noticed that no reservation was provided for the persons having disability as provided in Section 34(d) of The Rights of Persons with Disabilities Act, 2016. She has therefore

filed this application seeking the aforesaid relief.

3. Before coming to this Tribunal, the applicant had knocked the doors of Hon'ble High Court by filing W.P. No. 905/2021. The Hon'ble High Court permitted the applicant to appear for the examination which was conducted on 6th October, 2021. Accordingly, she appeared for the examination, cleared the examination as well as interview. Hence her name has been recommended to the Department of Personnel and Training (DOPT). Thereafter DoPT referred her for medical examination to AIIMS, New Delhi.

4. The learned counsel for the applicant submits that the applicant is suffering from blindness and also from mental illness. He submits that the reservation as provided in Section 34(d) of The Rights of Persons with Disabilities Act, 2016 ought to have been provided.

5. The learned counsel for the Respondent No. 1 Shri R.R.Shetty raised a preliminary objection to the effect that the applicant was asked to remain present for medical examination which was scheduled on 22nd April, 2022, at AIMS, New Delhi. However, the applicant informed that

she had contracted COVID-19 and requested for postponement of Personality Test (PT). Her PT was postponed to 26th May, 2022, and her Medical Examination was re-scheduled on 27th May, 2022, at Safdhrjung Hospital, New Delhi.

6. Learned counsel further submits that the applicant's Medical Examination was re-scheduled on 01st July, 2022, at AIIMS in view of Regulation-2(3) to Appendix-III 'Regulations Relating to the Medical Examination of Candidates' (for short Regulations). However, the applicant did not appear for the Medical Examination scheduled on 01st July, 2022 at AIIMS and the same was re-scheduled on 26th August, 2022 at AIIMS, New Delhi. The applicant was Medically Examined by AIIMS from 26th August, 2022 to 02nd September, 2022 and was asked to undergo MRI - Brain by a subject specialist (Neuro-Ophthalmologist) in order to know the cause for loss of vision in both eyes but the applicant failed to report for the same. Despite making multiple attempts by the Duty Officer in AIIMS to contact the applicant, no response was received from her. Therefore the percentage of visual disability could not be assessed. Learned counsel for the applicant invited attention of this Court to the communication dated 25th November, 2022 addressed to the Additional Secretary, DoPT, in which she has stated that she was suffering from

Claustrophobia, hence the Centre advised the MRI again.

7. We do not find any substance in the contention of the learned counsel for the applicant. In the said communication dated 25th November, 2022 she did not mention the name of the centre to which she had approached for MRI. It can not be gathered whether the said centre was one of the centres recognised by the AIIMS, New Delhi. Once she refuses to co-operate for the medical examination, the consequences as mentioned in the provisions in Regulation 4(3) of the Regulations follow.

Regulation 4 (3) reads thus :

“Every candidate is required to participate and cooperate with the procedure of Medical Examination as advised by the Medical Board. If advised by the Medical Board, a candidate has to be present before any other Medical Panel on a given time and date. Not appearing for the Medical Examination or leaving the Medical Examination incomplete would render a candidate liable for cancellation of candidature. The candidate should leave the Medical Examination only after obtaining a relieving letter in the prescribed format (Annexure-I) to be issued by the Chairman, CSMB or an authorised representative and is required to keep this in possession as a proof of completing the Medical Examination.”

8. By this provision, if any candidate refuses to participate and co-operate with the procedure of medical examination as advised by the

Medical Board, such a candidate can not be considered for the recruitment and his candidature is liable for cancellation. Since the applicant did not appear for the medical examination, her candidature is liable to be cancelled.

9. In this view of the matter, we do not find any substance in the application. The application is therefore dismissed. It is made clear that we have not made any observation on the contentions of the applicant about making provision for the persons having disability as enumerated in Section 34(d) & (e) of The Rights of Persons with Disability Act, 2016. It will be dealt with, in appropriate petition.

10. In the circumstances of the case, there shall be no order as to costs.

(Bhagwan Sahai)
Member (A)

(Justice M.G.Sewlikar)
Member (J)

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JD
03/03/23