

(2018) 11 CAT CK 0051

In the Central Administrative Tribunal

Case No : Original Application No. 1656 Of 2015, Miscellaneous Application No. 4405 Of 2018

Dilip Kumar

APPELLANT

Vs

Chief Secretary And Ors

RESPONDENT

Date of Decision : 26-11-2018

Acts Referred:

Citation : (2018) 11 CAT CK 0051

Hon'ble Judges : L. Narasimha Reddy, J; Pradeep Kumar, Member (A)

Bench : Division Bench

Advocate : B.N.P. Pathak, Shashank

Final Decision : Disposed Off

Judgement

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Narasimha Reddy, J

1. The Government of NCT of Delhi issued notification dated 04.02.2009 inviting applications to fill the post of Deputy Commissioner for Persons with Disabilities (for short, DCPD). The qualifications stipulated for the post were that an applicant must have educational background in social work, sociology or social anthropology with seven years' experience in rehabilitation work. The applicant submitted his application, and his case is said to have been sponsored by an NGO, in proof of his experience. The selection committee selected one Mrs. S. Roy Chowdhury, as DCPD. That was challenged by the applicant by filing OA No.1734/2009. The OA was allowed by order dated 10.12.2010, and the appointment of Mrs. Roy Chowdhury was set aside. Direction was issued to the respondents to fill up the post within three months.

2. A fresh notification was issued on 19.04.2011. The applicant challenged the same by filing OA No.2203/2011, pleading that the post should have been filled by considering the cases of the persons who applied in response to the notification dated 04.02.2009. That was not accepted, and the OA was

dismissed. Aggrieved by that, the applicant filed WP(C) No.2169/2012 before the Delhi High Court. The writ petition was disposed of on 25.04.2012 directing the respondents to issue a fresh notification for the post of DCPD, and that the selection shall be made in accordance with the recruitment rules that were in force as on 10.12.2010. In compliance of the same, a notification dated 04.04.2015 was issued, and the applicant also responded. He was not selected, and one Mr. M. M. Vidyarthi, who is the one of the respondents herein, was selected and appointed. This OA is filed with a prayer to quash the notification dated 04.04.2015, and to direct the respondents to appoint the applicant as DCPD.

3. The applicant contends that once the selection made in pursuance of the notification issued in the year 2009 was set aside, the respondents were under an obligation to consider his case, and instead, notifications were issued one after the other. It is also stated that the rules were amended to his detriment, and thereby he was disqualified. Other contentions are also urged.

4. The respondents filed a counter-affidavit opposing the OA. It is stated that though the selection and appointment made in pursuance of the notification dated 04.02.2009 was set aside, the Tribunal directed the appointments to be made thereafter, and when a notification was issued on 19.04.2011, the challenge made to it by the applicant was unsuccessful. They further pleaded that the notification dated 04.04.2015 was issued in compliance of the directions issued by the High Court, and that no illegality has crept into the proceedings.

5. The applicant argued in person, and arguments on behalf of the respondents were advanced by Shri B. N. P. Pathak, learned counsel.

6. Three notifications had to be issued in the course of selection of a candidate for the post of DCPD. The first notification dated 04.02.2009, and the selection of the candidate made in pursuance thereof was set aside by the Tribunal in OA No.1743/2009 filed by the applicant. The second notification was issued on 19.04.2011. That was unsuccessfully challenged by the applicant himself in OA No.2203/2011. WP(C) No.2169/2012 was filed by the applicant thereupon before the Delhi High Court, and it was disposed of with the following directions:

"8. For the reasons stated above, we direct the respondents to issue a fresh notification for appointment to the post of Deputy Commissioner for Persons with Disabilities, within two months from today. The rules which were applicable to fill up the said post, at the time order dated 10.12.2010 was passed by the Tribunal, would be applied by the respondents while issuing notification inviting applications/ nominations for making appointment in terms of this order. The post shall be filled up by the respondents within six months from today. The petitioner if found eligible in terms of the rules which existed on 10.02.2012, shall also be considered for the said post."

It is in compliance of this direction, that the notification dated 04.04.2015 was issued. Therefore, the very challenge to the notification by the applicant, on

whatever grounds, becomes untenable.

6. The second limb of the prayer of the applicant is equally untenable. On the one hand, the validity of the notification dated 04.04.2015 is challenged, and on the other, a direction is sought for his appointment. Once the High Court repelled the contention of the applicant that his case ought to have been considered without inviting fresh applications, he cannot repeat that very contention at this stage. A perusal of the counter-affidavit filed in this OA discloses that in the 3rd round of selection, one Mr. Ramaswamy was found fit and selected, and since the genuineness of his certificates could not be established, the next candidate, i.e., Mr. M. M. Vidyarthi, was appointed. It is not the case of the applicant that he is in any way superior to that candidate.

7. The plea of the applicant that the procedure for selection was changed, is equally incorrect. The High Court categorically directed that though the recruitment rules for the post were changed, the selection must be made on the basis of the unamended rules.

8. Viewed from any angle, we do not find any basis to grant relief to the applicant. The OA is accordingly dismissed. There shall be no order as to costs.

9. Pending MAs also stand disposed of.