
(2021) 11 CAT CK 0011
In the Central Administrative Tribunal
Case No : Original Application No. 180, 00473 Of 2021

K Arya

APPELLANT

Vs

Union Of India & Others

RESPONDENT

Date of Decision : 08-11-2021

Acts Referred:

Citation : (2021) 11 CAT CK 0011

Hon'ble Judges : P. Madhavan, Member J; K.V. Eapen, Member (A)

Bench : Division Bench

Advocate : Shafik M Abdulkhadir, N. Anilkumar

Final Decision : Disposed Of

Judgement

K V Eapen, Member J

1. The applicant in this O.A is aggrieved by the delay on part of the respondents to appoint her to the post of Inspector of Posts even though according to her she has qualified in the examination and is the next candidate in the list as per the marks to be appointed. The applicant is a Postal Assistant in the Kerala Circle. The Department of Posts had notified a Limited Departmental Competitive Examination (LDCE) for promotion to the cadre of Inspector of Posts in the departmental quota of 66.66% for the years 2016-2017, 2017-2018, 2018 (01.04.2018 to 31.12.2018) on 19/20.10.2019 as per a Notification dated 09.09.2019 produced at Annexure A-1. The posts of Inspector were later identified as suitable for Persons with Disabilities (PWD). However, it was specifically stated at Annexure A-3 circular dated 18.10.2019 that although the PWD candidates were eligible to appear in the LDCE for Inspector of Posts, it should be noted that, at present, reservation was not available to the PWD candidate for promotion to higher level posts. In February, 2020 a Postal Assistant who was a person with disability and who had appeared at the same Departmental Examination approached this Tribunal in O.A.No.180/97/2020 and sought a stay of filling up of the posts as no reservation or relaxation was given

in the qualifying standards at par with SC/ST candidates. A Single Bench of this Tribunal passed an order on the day of admission that as the selection was already over, one vacancy may be kept vacant till the disposal of the O.A. The final revised result of the LDCE was then published by the respondents on 13.11.2020, a copy of which is produced at Annexure A-6. Immediately thereafter, out of the total eight vacancies in the cadre of Inspector of Posts, seven were identified to be filled up by the candidates who had qualified. They have joined in November 2020 itself. Thereafter, the results and marks were published as per letter dated 06.05.2021 of the 4th respondent, a copy of which has been produced at Annexure A-7. It is the submission of the applicant that, as she is having 903 marks which is the highest marks in the Kerala Circle, it makes her entitled for appointment in the remaining 8th vacancy. She then submitted a representation to the 4th respondent on 12.04.2021 requesting for her appointment as Inspector. Since the interim stay of this Tribunal in O.A.No.180/97/2020 was in force at that time, the applicant impleaded herself as a respondent in that O.A and also filed an M.A for modification of the stay order. This Tribunal then modified the stay order in O.A.No.180/97/2020 on 05.07.2021 to the extent that the appointment made to the post would be subject to the outcome of the O.A. This order was communicated to the respondents by the applicant along with another representation dated 06.07.2021 which has been produced at Annexure A-10 in this OA. However, no orders on these representations have been passed nor any promotion orders have been issued.

2. It is the submission of the applicant that she is the only person who is yet to be promoted and appointed in the vacancy of the post and she stands to lose her salary in the post, seniority and all other attendant benefits, due to the inaction of the respondents in not promoting her inspite of the modification in the interim stay order. The applicant submits that she is prejudiced by the said inaction. Meanwhile the applicant in O.A.No.180/97/2020 moved another M.A seeking to withdraw the O.A, without prejudice to raising the contentions along with additional grounds at a later stage, as he submitted that he had mainly relied on the judgment of the Hon'ble Supreme Court in the case of Siddaraju v. The State of Karnataka & Ors. (Civil Appeal No.1567/2017). During the pendency of that O.A the Union of India had filed a M.A for clarification before the Hon'ble Supreme Court. The Hon'ble Supreme Court directed that no clarification was required in the judgment vide its order dated 28.09.2021 in M.A.No.2171/2020 in C.A.No.1567/2017.

3. The MA filed in O.A.No.180/97/2020 was heard on 08.10.2021 and this Tribunal ordered that the O.A may be dismissed as withdrawn, with liberty to the applicant to file a fresh O.A., if necessary. It is thus submitted by the learned counsel for the applicant in the present O.A, Mr.Shafik.M.Abdulkhadir that there is now no bar for the respondents for appointing the applicant in the unreserved vacancy which is available. Meanwhile, learned counsel for the respondents in the O.A Mr.N.Anilkumar, SCGSC has filed a Memo with copy of a letter from the Chief Postmaster General addressed to him stating that in view of the

modification of the interim order on 05.07.2021, the matter has been taken up with the Directorate in Delhi for declaring the results of the unreserved vacancy for the year 2018, which was withheld and that the process is in the final stage. The letter sought an extension of one month's time from the Tribunal for this action to take place and also for this O.A to be closed in the light of the fact that it is on the same ground as prayed in M.A.No.180/314/2021, impleaded by the same applicant in O.A.No.180/97/2020.

4. In view of the above developments and the fact that the O.A.No.180/97/2020 has been dismissed as withdrawn, we are of the opinion that there appears to be no hurdle for the respondents to consider the promotion of the applicant against the vacant post of Inspector of Posts which apparently still exists after the conduct of the LDCE for promotion to the said post. The respondents are directed to take necessary steps also as indicated by them in the letter dated 21.09.2021 produced by the Senior Central Government Standing Counsel and pass necessary orders relating to the promotion of the applicant, if she is otherwise eligible and meets all the required conditions. This may be done within a period of one month from the date of receipt of a copy of this Order.

5. The O.A is accordingly disposed of with the above directions with liberty granted to the applicant to approach this Tribunal again if felt so necessary. No orders as to costs.