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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 873/2017& CM Nos.3970-71/2017

UNION OF INDIA & ANR

..... Petitioners

Through: Mr. Arun Bhardwaj, CGSC with Mr.
Mimansak Bhardwaj & Mr. Nikhil
Bhardwaj, Advocates

versus

SANJENBAM SADANANDA SINGH

..... Respondent

Through

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

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03.02.2017

Sanjenbam Sadananda Singh, the respondent herein, belongs to the State of Manipur and is an OBC candidate. Sanjenbam Sadananda Singh appeared for and qualified the Civil Services Examination-2014 and was selected to undergo the medical examination. Vide results of the Central Standing Medical Board dated 6.3.2015, Sanjenbam Sadananda Singh was found medically unfit. He was thus found unfit for selection to the IPS.

Sanjenbam Sadananda Singh, on 4.6.2015, preferred an appeal for re-medical examination. The said appeal remained pending and no reply or communication was received. In these circumstances, on 28.6.2015, Sanjenbam Sadananda Singh, made another appeal for re-examination. The

online appeal was duly recorded and accepted by the computer system of the UOI/UPSC.

On 9.7.2015, Sanjenbam Sadananda Singh was notified that his re-medical examination would be held at RML Hospital on 16.7.2015. However, vide notice dated 15.7.2015, candidates mentioned in Schedule-IV, which included the name of Sanjenbam Sadananda Singh, were informed that they have not been scheduled for appellate medical examination because of delay in preferring an appeal. The days on which the appeal was preferred was also mentioned. It is an accepted and admitted position that Sanjenbam Sadananda Singh was included in the list of candidates whose appellate medical examination was not scheduled.

Sanjenbam Sadananda Singh, in these circumstances, did not appear before the Appellate Medical Board on 16.7.2015, for the reason that he had been notified on 15.7.2015 that the Appellate Medical Examination in his case would not be scheduled/held because of delay in preferring an appeal.

The contention of the petitioners is that the notice dated 15.7.2015 related to the second appeal preferred by Sanjenbam Sadananda Singh, which had been uploaded and registered at 28.6.2015 and this had not affected or withdrawn the schedule for appearance before the Appellate

Medical Examination Board for 16.7.2015.

Having heard learned counsel for the petitioners, we are in agreement with the finding of the Tribunal that the communication, vide notice dated 15.7.2015, had caused the cause of action. In fact, the communication should have stated that Sanjenbam Sadananda Singh should have informed that his medical board examination is held on 16.7.2017 and, therefore, his second appeal was not maintainable and could not have been entertained. In any case, this care and caution should have been taken by the petitioners as the candidate got confused on receiving the notice dated 15.7.2014. In para 5 of the notice dated 15.7.2014, it is stated as under:-

“5.The candidates mentioned in Annexure-IV have not been scheduled for Appellate Medical Examination because of delay in preferring appeal. The days mentioned in which the appeal was preferred are also mentioned.”

As the petitioner and others were responsible for the said confusion and did not take adequate precaution while signing the communication vide notice dated 15.7.2015, they are not entitled to rely upon Clause 3.1.5 of the Regulations relating to physical examination of candidates, which, *inter alia*, states that if a candidate does not appear before the Appellate Medical

Board on the date fixed, that would amount to forfeiture of opportunity. This law would not apply in the present case for the reasons stated and noticed above. We clarify that this case has peculiar facts and, therefore, the decision of the Tribunal and of this Court has to be read in the light of the said facts.

The writ petition is dismissed. CM Nos.3970-71/2017 are also dismissed. The Appellate Medical Board Examination will be fixed within a period of one month from the date a copy of this order is received and compliance be made.

Dasti.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

FEBRUARY 03, 2017

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