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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 6572/2016**

AKHILESH BHAMBRI

..... Petitioner

Through: Mr Vivek B. Saharya, Advocate
alongwith petitioner in person.

versus

UOI AND ANR

..... Respondents

Through: Ms Shiva Lakshi, CGSC with Mr
Sriram Krishna, Advocates for
respondents.
Mr Bhuvnesh Satija, Advocate for R-
3/CSIR and NGPRI.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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28.11.2017

CM No.35947/2017

1. Allowed, subject to all just exceptions.

W.P.(C) 6572/2016 & CM Nos.26957/2016 & 35946/2017

2. The petitioner was born with congenital partial absence of fingers in both hands. Notwithstanding the physical challenge, the petitioner completed his education and was awarded the Bachelors of Education Degree in Electrical Branch from Punjab Engineering College, University of Technology, Chandigarh. It is stated that the petitioner was admitted to the college after the doctor had given him a fitness certificate for undertaking the said course.

3. The petitioner's grievance is that his applications for various jobs in

Government Departments and Public Sector Undertakings, under the quota reserved for persons with disabilities, requiring a candidate to be qualified in the field of Electrical Engineering – the criteria which the petitioner fulfils - have not been considered in view of the Notification dated 29.07.2013 issued by the Ministry of Social Justice and Empowerment. The said notification lists the categories of disabilities as the eligibility criteria for certain posts available to persons with disabilities. In case of the jobs in question the category of disabilities is specified as OL.HH (i.e., One Leg Hearing Impaired). Thus, although the petitioner is fully capable of performing the job and would not face any serious difficulty in performing the duties required of him, he has not been considered.

4. The learned counsel for the petitioner submitted that while amputation of both arms seriously affects the functional ability of a person, but a person with weak muscles, problem in some fingers etc. may perform the function required of an incumbent on the post and he ought to be considered fit for the job which is open for persons with only one functional limb.

5. Clearly, the petitioner would be capable of discharging the functions as required of a Electrical Engineer even though he suffers from disability in both limbs but the petitioner has not been considered on account of the Notification dated 29.07.2013.

6. Learned counsel for respondent nos.1 & 2 states that the categories as specified in the Annexures to the Notification dated 29.07.2013 are not exhaustive. She has drawn the attention of Note 2 to the said Notification, which reads as under:-

“Note 2: The list of posts being notified is not an exhaustive list. The Ministries, Departments, Public Sector Undertakings and the autonomous bodies may further supplement the list.”

7. In addition, she further submits that the petitioner's representation is being considered by the Review Committee and an appropriate notification would be issued as and when the Committee completes its deliberations. She states that the request of the petitioner that separate categories be made for persons having both arms and hands, albeit, with some impairment is being considered.

8. In view of the above clarification, this Court is of the view that it would be apposite to grant liberty to the petitioner to approach the concerned Ministries, Department, Public Sector Undertakings and autonomous bodies as and when the said bodies advertise for vacancies and point out that the list annexed as Annexure C to the Notification dated 29.07.2013 is not exhaustive. Needless to mention that if any such representation is made, it would be given due consideration by the concerned department.

9. Insofar as the advertisement issued by respondent no.3 is concerned, learned counsel for respondent no.3 states that the petitioner does not qualify for being appointed to the post advertised as his marks are below the threshold requirement of 55%. In view of the above, the question of issuing any directions to respondent no.3 for considering the petitioner's case for employment as a person with disability does not arise.

10. In view of the above, no further orders are required to be passed at this stage. The petition and the pending applications are disposed of. Needless to state that in the event the petitioner is aggrieved by any specific

advertisement inviting applications from persons with disabilities and in case the petitioner's representation is not accepted, the petitioner would be at liberty to apply.

VIBHU BAKHRU, J

NOVEMBER 28, 2017
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