

\$~13

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

+ **W.P.(C) 9422/2017 & CMs 38342-44/2017**

DR. NITESH KUMAR TRIPATHI

..... Petitioner

Through: Mr. Sudipto Sircar and Ms. Tulika
Chikker, Advocates

versus

UNION PUBLIC SERVICE COMMISSION AND ANR.

.....Respondents

Through: Mr. Naresh Kaushik and Mr. Amit
Kashyap, Advocates for respondent No.1-UPSC
Mr. Vivek Goyal, CGSC with Mr. Harsh
Pandit, Advocate for respondent No.2

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

%

27.10.2017

Petitioner claims to be a differently-abled candidate, who is said to have cleared the Written Examination for Combined Medical Service Examination-2017 (*hereinafter referred to as CMSE-2017*) and the prayer made in this petition is that he should be permitted to appear before the Interview/Personality Test conducted by UPSC. Petitioner further claims that on 23rd September, 2017, he had filled up a '*Detailed Application Form*' and duly uploaded it with relevant documents. Petitioner claims that he had clicked the button "Submit" at the bottom of the last page of the Form and on pressing it, the message on the website page was "Thank You" and so, petitioner believed that the '*Detailed Application Form*' has been duly uploaded and received. Petitioner's counsel asserts that the

'Detailed Application Form' was in PDF format and the printout of the same cannot be obtained by a candidate until it is duly uploaded, and the proof of proper uploading of the *'Detailed Application Form'* is the printout of the *'Detailed Application Form'* (*Annexure P-7*).

According to petitioner, respondent has released the Schedule for Interview/Personality Test on 28th September, 2017 and the E-summons Letter could be downloaded from 4th October, 2017 as stipulated in the Schedule for Personality Test Examination (*Annexure P-8*). Petitioner further claims that he had tried to download the Schedule for Personality Test on 4th October, 2017, but he could not do so and had got the message stating that he is not eligible for downloading E-summons Letter. A screenshot of E-summons Letter is annexed as *Annexure P-10* to this petition.

It is the case of petitioner that on coming to know on 28th September, 2017 that his Roll Number is not there in the Schedule for Personality Test, he had written an Email of 30th September, 2017 (*Annexure P-9*) to UPSC at their Email ID provided for giving feedback, asking UPSC to rectify its mistake and give a chance to petitioner to appear in the Interview scheduled on 30th October, 2017 as he had cleared the written examination. Thereafter, petitioner claims to have sent reminders vide Emails of 4th, 7th, 9th, 10th, 14th & 15th October, 2017 (*Annexure P-11 colly.*). Petitioner claims that there was no response from the side of respondents and hence this petition.

Upon notice, learned counsel for respondents No.1 submits that in view of Section 14 of the Administrative Tribunals Act, 1985, the jurisdiction to deal with the matters concerning recruitment is of the

Central Administrative Tribunal. To submit so, reliance is placed by learned counsel for respondents upon decisions of this Court in W.P.(C) No. 498/2006, *Praveen Sharma v. U.P.S.C.*, rendered on 20th June, 2007 and W.P.(C) No. 7589/2016, *Ankit Singhai and Anr. V. Union Public Service Commission and Anr.*, decided on 18th September, 2017.

To overcome the jurisdictional objection, learned counsel for petitioner submits that the decision in *Praveen Kumar (supra)* is of no avail because in the said case, the Rule regarding eligibility was under challenge whereas in the instant case, only permission is being sought to enable petitioner to appear for the interview slated on 30th October 2017. Regarding the decision in *Ankit Singhai (supra)*, learned counsel for petitioner asserts that the said decision has no precedential value as in the said case, the jurisdictional aspect was not disputed.

Upon hearing and on perusal of material on record and the decisions cited, I find that in view of Constitution Bench decision in *L. Chandrakumar v. Union of India* (1997) 3 SCC 261 relied upon in various decisions of this Court from time to time, the initial jurisdiction would be of the Central Administrative Tribunal as the matter in hand essentially pertains to matters concerning recruitment. In view of the aforesaid, this petition be transmitted to the Central Administrative Tribunal through a Special Messenger so that it can be heard on 30th October, 2017. To allay the apprehension of petitioner that this petition may become infructuous, learned counsel for respondent No.1 submits that in case petitioner succeeds, then a special interview for examination in question can be held for him.

It is expected that considering the nature of this petition, the Central Administrative Tribunal shall make all endeavours to dispose of this petition expeditiously.

Copy of this order be given *dasti* under the signatures of the Court Master to both the sides.

(SUNIL GAUR)
JUDGE

OCTOBER 27, 2017

s