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

+ LPA 298/2019

BANK OF BARODA ..... Appellant

Through: Ms.Praveena Gautam with Mr.Jittesh P.Gupta & Mr.Pawan Shukla, Advocates.

versus

SUSMITA SAHA ..... Respondent

Through: None.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE I.S.MEHTA

O R D E R

% 03.05.2019

CM APPL.20924/2019 (exemption)

1. Allowed, subject to all just exceptions.

LPA 298/2019 & CM APPL.20923/2019 (stay)

2. This appeal is directed against a judgment dated 29th March 2019 passed by the learned Single Judge in the WP (C) 2143 of 2018 whereby an order dated 24th October 2017 passed by the Chief Commissioner of Persons with Disabilities ('CCPD'), Delhi were sought to be challenged by the Appellant.

3. Pursuant to the advertisement issued by the Appellant for 2014-15 (13th Batch) a candidate seeking admission to the 1 year postgraduate diploma in Banking and Finance the Respondent applied online under the physically

handicapped category. She accepted the offer of admission for the diploma course upon success of completion of which and after fulfilment of other eligibility criteria she would be offered appointment in bank service as Probationary Officer in the JMG/S-1 cadre.

4. The Respondent failed to complete the deploma course within the stipulated time i.e. October 2015. She ought to have completed her backlog papers by January 2016. However, she completed the course only in September 2016. The case of the Appellant was that since she did not complete her course within the stipulated time she was not eligible for appointment as Probationary Officer.

5. Acting on a complaint under Section 75 (1) of the Right to Persons with Disabilities Act, 2016, the CCPD vide order dated 24th October 2017 directed the Appellant Bank to provide her employment. The grievance of the Appellant before the learned Single Judge was that the order of the CCPD would amount to relaxing the norms and would deprive other deserving candidates in the same category.

6. The learned Single Judge has noticed that the Respondent was a female candidate with 50% locomotor disability who had cleared the online test held on 14th August 2014 as well as Group Discussion and Interview held on 9th September 2014 from among 6 lacs candidates. The Respondent had to take an educational loan of Rs.4,33,642/- from the Appellant Bank in the expectation that on completion of the diploma course she would be employed in the Bank. The loan was to be paid to the school. Out of the 20

subjects, she cleared most of them within the stipulated time. The Appellant Bank had permitted her to take the exam beyond the stipulated time at earlier instances as well. She was permitted to take the test in terms of 2 subjects, which was a backlog, on September 9, 2016 and in that note the Appellant Bank informed her that "this will be the final chance for you to clear the subject and course as per university rules."

7. It was also noticed by the learned Single Judge that the Respondent fell seriously ill between 15th and 25th December with acute lower respiratory tract infection with respiratory distress and had requested for postponement of her exam which was scheduled for January 2016 which was, however, declined. The learned Single Judge also took note of the fact that as result of the stand of the Appellant the Respondent was not just without a job despite passing the diploma course but was also asked to return a substantial part of the loan amount with interest.

8. The learned Single Judge also took note of the fact that the Appellant was academically meritorious scoring marks almost on par with the cut off marks for general candidates.

9. The plea urged by the learned counsel for the Appellant beofr e this Court that this would result in diluting the norms and woud set an incorrect precedent fails to take into account the fact that despite the qualifying in the diploma exam without there being any dilution in the standards, the Respondent was denied the offer of appointment only because she cleared the exam late. It is indeed difficult for persons with disability to overcome

the hardships and to compete on par with the rest. When a person with disability perseveres with courage and determination to do that, he/ she should receive encouragement.

10. In the present case, by permitting the Respondent to attempt the backlog paper beyond the stipulated time, which she completed successfully in September 2016, the Appellant did acknowledge her determination and perseverance. Logically, it was unfair to not permit her to be appointed thereafter when she in fact cleared the diploma exam. In these peculiar facts and circumstances of this case the Court does not find any reason to interefere with the impugned order of the learned Single Judge.

11. The appeal is accordingly dismissed. Pending applications are also dismissed.

S. MURALIDHAR, J.

I.S. MEHTA, J.

MAY 03, 2019
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