

HIGH COURT FOR THE STATE OF TELANGANA

THE HON'BLE THE CHIEF JUSTICE SRI RAGHVENDRA SINGH CHAUHAN

AND

THE HON'BLE SRI JUSTICE A. ABHISHEK REDDY

WRIT PETITION NO.1514 OF 2020

27.01.2020

Between:

Neha Veeravalli

...Petitioner

And

The Union Public Service Commission and others

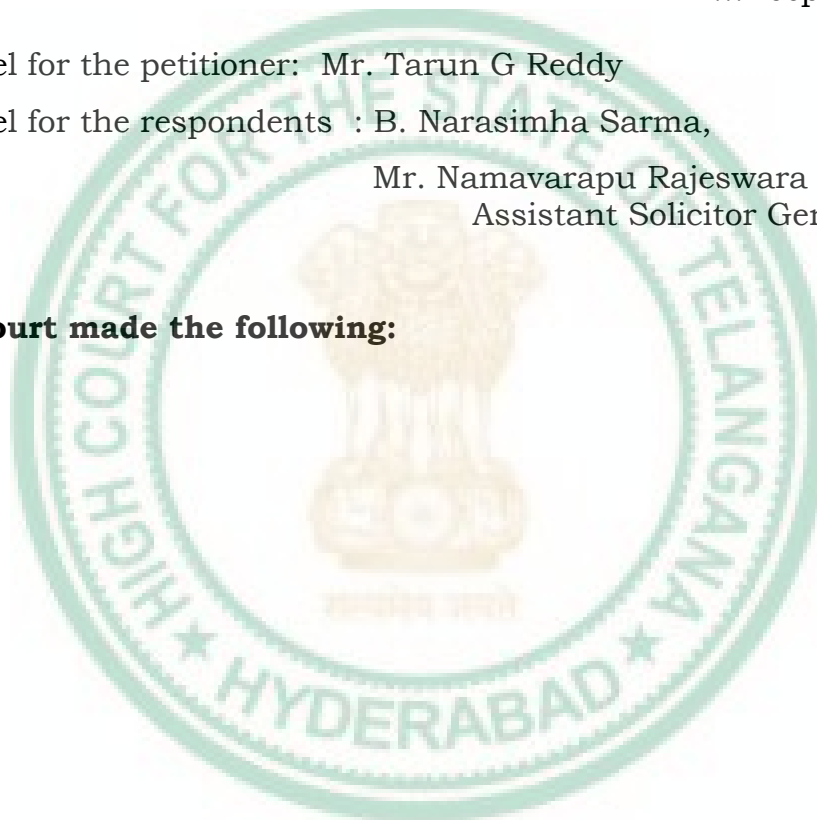
...Respondents

Counsel for the petitioner: Mr. Tarun G Reddy

Counsel for the respondents : B. Narasimha Sarma,

Mr. Namavarapu Rajeswara Rao
Assistant Solicitor General

The Court made the following:



ORDER: (Per the Hon'ble the Chief Justice Sri Raghvendra Singh Chauhan)

The petitioner has challenged the legality of the order dated 24.12.2019 passed by the learned Central Administrative Tribunal, Hyderabad Bench, Hyderabad, whereby the learned Tribunal has dismissed the O.A.No.295 of 2018 filed by the petitioner-applicant.

Briefly, the facts of the case are that the petitioner-applicant had undertaken the Civil Services Examinations, 2014. She had qualified the prelims and also the main examination, and was called for the personality test. Having passed the personality test, she was ranked at 1221. Thus, the petitioner-applicant was hopeful of being appointed in any of the public services. However, when she was subjected to a medical examination, the medical doctors found that her hearing capacity is so low that she is unfit for any public service. Dissatisfied with the finding of the medical doctors, the petitioner-applicant submitted an appeal. Consequently, the Appellate Medical Board, Safdurjung Hospital, was constituted. In their report, dated 17.07.2015, even the said Board found that the petitioner-applicant is not fit for public employment due to her inability to hear properly.

Since the petitioner-applicant was aggrieved by the finding of the Appellate Medical Board, dated 17.07.2015, she filed an O.A, namely O.A.No.1060 of 2015, before the learned Tribunal. By order dated 06.04.2016, the learned Tribunal disposed of the O.A, while permitting the respondents to reconduct medical examination by the Appellate Medical Board. Consequently, the petitioner-applicant was subjected to re-examination by the Appellate Medical Board. Even then, the Appellate Medical Board,

by its letter dated 22.04.2016, had declared the petitioner-applicant to be unfit for public employment.

Basing itself on the finding of the Appellate Medical Board dated 22.04.2016, the Union of India passed an order dated 28.06.2016, declaring that the petitioner-applicant is unfit for Civil Services Examinations, 2014. Since the petitioner-applicant was aggrieved by the said order, she filed the present O.A before the learned Tribunal. However, by order dated 24.12.2019, the learned Tribunal has dismissed the O.A. Hence, the present petition before this Court.

Mr. Taurin G Reddy, the learned counsel for the petitioner, submits that the learned Tribunal should have noticed the fact that the petitioner-applicant was subjected to three different medical examinations. According to the first medical examination, she was declared to be "100% deaf". However, according to the second medical examination, it was discovered that her hearing "is within the banana curve". Yet, by the third medical examination, it was discovered that "she has the hearing ability of 40 Decibel". However, as the requirement of the Guidelines is that the person should have a minimum hearing capacity of 30 Decibel, she was short of 10 Decibel. Hence, even according to the Appellate Medical Board, she was declared to be unfit for public employment. According to the learned counsel, the learned Tribunal ought to have seen the contradictions contained within the three reports of the Appellate Medical Board.

Secondly, the Minimum Speech Test Battery (MSTB) has not been followed by the Medical Board.

Finally, there is a distinction between “a hearing aid” which is an instrumental one outside the ear, and “a cochlear implant” which is a device implanted surgically inside the ear. According to the Guidelines, the perceptive deafness in both ears in which some improvement is possible by “a hearing aid” has to be 30 Decibel in speech frequencies of 1000-4000 Hz. However, cochlear implant is not a hearing aid. Therefore, the learned Tribunal should have seen the distinction and should have set aside the impugned order.

On the other hand, Mr. Namavarapu Rajeswar Rao, the learned Assistant Solicitor General, submits that the first medical report does not indicate whether the test for hearing was done with or without the cochlear implant or not? Therefore, it had merely given a finding that “the deafness was 100%”. More importantly, according to the medical examination conducted on 22.04.2016 by the AIIMS Doctors, it was discovered that her hearing ability was only 40 Decibel. Since the Guidelines require that the person should have a minimum hearing capacity of 30 Decibel, the petitioner-applicant falls short of 10 Decibel. Therefore, the learned Tribunal was justified in concluding that since the petitioner-applicant does not have the minimum requirement of hearing, she has rightly been declared to be unfit for public employment.

Lastly, the Guidelines do not make a distinction between “a hearing aid” and “a cochlear implant”. For, the words used are “hearing aid”. Therefore, the learned Tribunal is not required to make that clear distinction, as it is not required by law itself. Hence, the learned counsel has supported the impugned order.

Heard the learned counsel for the parties, perused the impugned order, and considered the record.

A bare perusal of the first medical report does not reveal whether at the time of the medical report, the petitioner-applicant had cochlear implant or not? However, the second and the third medical reports clearly indicate that the petitioner-applicant is able to hear only upto 40 Decibel with cochlear implant and not beyond. Since the requirement of the Guidelines is that the person should be able to hear upto 30 Decibel, the petitioner-applicant is short of 10 Decibel. Therefore, both the Medical Boards were justified in concluding that the petitioner-applicant is unfit for public employment.

Furthermore, there is no evidence to prove that the MSTB has not been followed by the Members of the Medical Board. Therefore, the contention raised by the learned counsel for the petitioner is clearly unacceptable.

A bare perusal of the Guidelines clearly reveals that it used the words “hearing aid” without distinguishing between a “hearing aid used outside of the ear” and the one which is implanted inside the ear. Therefore, such a distinction could not have been made by the learned Tribunal. What is imperative is that the person must have a hearing capacity of 30 Decibel. Since the petitioner-applicant lacks the hearing capacity as required by the Guidelines, the learned Tribunal was justified in dismissing the O.A.

For the reasons stated above, this Court does not find any illegality or perversity in the impugned order. Therefore, the present writ petition is devoid of any merit; it is, hereby, dismissed. There shall be no order as to costs.

The miscellaneous petitions pending, if any, shall stand closed.

RAGHVENDRA SINGH CHAUHAN, CJ

A. ABHISHEK REDDY, J

27th January, 2020
JSU



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