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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of decision: 13.01.2022

+ W.P.(C)No.852/2022 & CM No.2406/2022

DR. KOUSIK DAS MAHAPATRA Petitioner
Through : Mr U. Srivastava and Mr Saurabh,
Advts.

versus

GOVT. OF NCT DELHI & ORS. Respondents
Through : Mr Nitesh Kumar Singh, Mrs Tania
Ahlawat, Ms Palak Rohmetra, Advts.
for Mrs Avnish Ahlawat, Standing
Counsel for R-1 to 3.
Mr Naresh Kaushik, Adv. For R-
4/UPSC.

CORAM:
HON'BLE MR JUSTICE RAJIV SHAKDHER
HON'BLE MR JUSTICE TALWANT SINGH

ORDER

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13.01.2022**[Court hearing convened *via* video-conferencing on account of COVID-19]****RAJIV SHAKDHER, J. (ORAL):-**

1. This writ petition is directed against an interlocutory order dated 10.01.2022, passed by the Central Administrative Tribunal (in short 'the Tribunal') in O.A. No.34/2022.
2. Issue notice.



2.1. Mr Nitesh Kumar Singh accepts service on behalf of respondent nos.1 to 3, in effect, Government of NCT of Delhi (GNCTD), while Mr Naresh Kaushik accepts service on behalf of respondent no.4 i.e., Union Public Service Commission (UPSC).

3. With the consent of the learned counsel for the parties, in view of the directions that we propose to pass, the writ petition is taken up for hearing and final disposal, at this stage itself.

3.1. Mr U. Srivastava, who appears on behalf of the petitioner, says that, although, notice has been issued by the Tribunal, the grievance of the petitioner, presently, is that no interim direction has been issued in the matter.

3.2. According to Mr Srivastava, the last date for filing the applications *qua* the subject examination expires today i.e., 13.01.2022.

3.3. To be noted, respondent no.4/UPSC has issued an advertisement no.19/21 inviting applications for the post of Assistant Professor (Ayurveda, Maulik Siddhanta evum Samhita).

3.4. The petitioner, who is engaged as a contractual employee with GNCTD, seeks age relaxation, in terms of the office memorandum dated 11.06.2019 for being considered for appointment against the aforementioned advertisement.

3.5. According to the petitioner, the issue articulated in the present writ petition, which, inter alia, concerns age relaxation is covered by the judgment dated 12.09.2017, passed by the Division Bench of this court in W.P.(C)No.8052/2017, titled ***Union Territory of Daman & Diu & Anr. v. Roopali Ravindra Mathur & Anr.***; appended on page 94 of the case file and W.P.(C)No.852/2022



marked as Annexure P-3.

4. We are of the view that if interim direction is not issued in the matter, pending adjudication of the petitioner's cause, the O.A. preferred by him will be rendered infructuous. The petitioner has set up a, *prima facie*, case. The balance of convenience also appears to be in favour of the petitioner.

4.1. As noticed above, failure to protect the petitioners cause would render the O.A. nugatory. The Tribunal should have, in our opinion, kept these aspects in mind. The Tribunal by simply issuing notice in the cause has, in effect, declined interim relief to the petitioner.

5. Given the aforesaid circumstances, the writ petition is disposed of with the following directions.

5.1 Respondent no.4/UPSC is directed to entertain the petitioner's application, which he proposes to make pursuant to the subject advertisement.

5.2. The petitioner will furnish the application, *via* e-mail to Mr Naresh Kaushik, who appears on behalf of respondent no.4/UPSC.

5.3. Upon receipt of the application, the same will be processed, *albeit*, without prejudice to the rights and contentions of the respondents.

5.4. The petitioner will, thereafter, be allowed to participate in the subject examination/selection process, subject to the final outcome in the O.A. [i.e., O.A. No. 34/2022], which is pending adjudication, as noticed above, before the Tribunal.

6. It is made clear that the directions issued by us will not impact the merits of the case. The petitioner will not claim any equity merely because he has been allowed to participate in the examination/ selection process, if



he were to fail in the O.A.

7. The parties will act based on the digitally signed copy of the order passed today.

8. Consequently, pending application shall also stand closed.

RAJIV SHAKDHER, J

TALWANT SINGH, J

JANUARY 13, 2022

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