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

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Date of decision: 07.01.2022

+ **W.P.(C) 280/2022& CM Nos.809-10/2022**

RADHARANI PANDA Petitioner

Through : Mr Gyanant Singh, Adv.

versus

UNION OF INDIA & ANR. Respondents

Through : Mr Kaushal Gautam, Adv. for R-2/AIIMS.

CORAM:

HON'BLE MR JUSTICE RAJIV SHAKDHER

HON'BLE MR JUSTICE TALWANT SINGH

[Court hearing convened *via* video-conferencing on account of COVID-19]

RAJIV SHAKDHER, J. (ORAL):-

1. Issue notice.

1.1. Mr Kaushal Gautam accepts service on behalf of the contesting respondent i.e., respondent no.2-All India Institute of Medical Sciences, New Delhi (AIIMS).

2. Accordingly, with the consent of the learned counsel for the parties, the writ petition is taken up for hearing and final disposal, at this stage itself, based on the record presently available with the court.

3. This writ petition is directed against the order dated 03.12.2021, passed by the Central Administrative Tribunal (in short 'the Tribunal') in O.A.No.2748/2021.

3.1. A perusal of the record shows that the petitioner had approached the Tribunal to seek a direction of the kind that would compel respondent



no.2/AIIMS to exercise its power of age relaxation, as conferred upon it under Recruitment Rules, 2015.

3.2. The case set up by the petitioner before the Tribunal was that, insofar as the Nursing Officer Recruitment Common Eligibility Test [in short “NORCET”] 2020 was concerned, respondent no.2/AIIMS had exercised the power of age relaxation vested in it not only vis-à-vis Central Government employees but also qua employees of AIIMS, New Delhi and other autonomous and statutory corporations.

3.3. The petitioner claimed that to her detriment and those similarly circumstanced, the power of age relaxation was not exercised by respondent no.2/AIIMS, insofar as NORCET 2021 was concerned.

3.4. The record also shows that the relevant recruitment notice issued by respondent no.2/AIIMS on 16.10.2021 for the post of Nursing Officer (Group ‘B’), invited applications not only for the posts available with it [i.e., AIIMS, New Delhi] but also for 17 other AIIMS institutes and 4 Central Government hospitals.

3.5. Pertinently, by the time, the action[i.e., O.A. No.2748/2021] instituted in the Tribunal came up for hearing, as noticed in the impugned order, the petitioner had received her admit card and taken the exam, which was held pursuant to 16.10.2021 recruitment notice.

3.6. To be noted, apart from the petitioner, there were five other applicants who had joined the petitioner in moving the Tribunal by way of the aforementioned O.A.

3.7. The Tribunal, thus, without examining the merits of the case, dismissed the O.A., via the impugned order, on the ground that the petitioner along with the other applicants, had already appeared in the subject



examination.

4. Mr Gyanant Singh, who appears on behalf of the petitioner, informs us that once the 16.10.2021 recruitment notice was issued, the petitioner had made a representation to respondent no.2/AIIMS via its Director on 22.10.2021, and since, the petitioner had received the admit card, she chose to take the subject examination.

4.1. Mr Singh also says that the petitioner's representation dated 22.10.2021 has still not been disposed of by respondent no.2/AIIMS.

4.2. On being queried, Mr Singh concedes that, although, there is an assertion in paragraph 4.3 of the O.A. that a representation was made concerning age relaxation vis-a-vis the relevant recruitment notice, the details such as the date, etcetera is not mentioned.

4.3. Mr Singh also concedes that a copy of the above-mentioned representation was not filed with the O.A. However, Mr Singh has drawn our attention to page 127 of the case file, wherein a copy of the said representation is appended.

4.4. We have also queried Mr Gautam as to how the petitioner was issued an admit card and allowed to take the subject examination if, even according to the petitioner, she was over age.

4.5. Mr Gautam says that since some of the concerned institutes had exercised the power of age relaxation, the petitioner was allowed to take the subject exam.

4.6. On the other hand, Mr Singh says that, even though the petitioner has obtained a rank, which is, high up in the merit list, she has not been granted access to the portal created by respondent no.2/AIIMS, which would enable her to submit her choice of the institute/hospital from among those



institutes/hospitals which have permitted age relaxation.

5. Be that as it may, what clearly emerges from the record, at this juncture, is the following:

(i) Firstly, that insofar as NORCET 2020 was concerned, respondent no.2/AIIMS had permitted age relaxation, *inter alia, qua* its employees as well as those who were engaged in other autonomous bodies and statutory corporations.

(ii) Secondly, the age relaxation power has not been exercised by respondent no.2/AIIMS [i.e. AIIMS, New Delhi], insofar as NORCET 2021 is concerned.

(iii) Thirdly, it is claimed by the petitioner that a representation was made to respondent no.2/AIIMS *via* its Director *qua* the issue in hand, which has not been disposed of as yet.

(iv) Lastly, that certain institutes have exercised the power of age relaxation conferred under the Recruitment Rules, 2015, and, therefore, some of the candidates who are over age but otherwise meet the stipulated eligibility criteria could be considered for appointment to the subject post.

6. Thus, having regard to the aforesaid, we are of the view that the Tribunal needs to examine the matter on merits after calling upon respondent no.2/AIIMS, to file its return with regard to the various aspects referred to in the O.A., including the aspect concerning the pendency of the representation made by the petitioner.

6.1. Besides this, the Tribunal also needs to examine as to whether the petitioner would be entitled for being considered for appointment to the subject post available with the concerned institutes, which have exercised the power of age relaxation in line with the provisions of the Recruitment



Rules, 2015.

7. Accordingly, the impugned order is set aside.

7.1. The matter is remanded to the Tribunal for a fresh consideration.

7.2. The petitioner will be at liberty to move a fresh application for interlocutory relief. If such an application is moved, the Tribunal will consider the same, having regard to the assertion of Mr Singh made before us that pending the decision in the O.A., the final relief that the petitioner seeks is not rendered nugatory.

8. To hasten the proceedings, parties and/or their respective counsel will appear before the concerned bench of the Tribunal on 10.01.2022.

9. The writ petition is disposed of in the aforesaid terms. Consequently, pending applications shall also stand closed.

10. The Registry is directed to communicate the order passed by us to the Registrar of the Tribunal.

11. All concerned will act on the digitally signed copy of the judgment passed today.

RAJIV SHAKDHER, J

TALWANT SINGH, J

JANUARY 7, 2022

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Click here to check corrigendum, if any