

Dd 1-2 11.09.2025

**CPAN/886/2023
KHOKAN KUMAR MALLIK
VS
PROF. (DR.) SONALI MUKHERJEE
in
WP.CT/204/2013
KHOKAN KUMAR MALLIK
VS
UNION OF INDIA & ORS.
IA NO: CAN/2/2021
WITH
RVW/29/2023
KHOKAN KUMAR MALLIK
VS
UNION OF INDIA AND ORS.
IA NO: CAN/1/2023, CAN/2/2023**

Mr. Firdous Samim,
Ms. Gopa Biswas,
Mr. Mainak Ghosal,
Mr. Hasanur Zaman Molla,
Ms. Ankita Ghosh, Advocates
... .. For the Petitioner

Mr. Samrat Chowdhury,
Mr. Biswajit Chowdhury,
Ms. Anusmita Das, Advocates
... .. For the ESIC/Review applicant

1. IA NO: CAN/1/2023 is an application for condonation of delay.
2. For the ends of justice, the averments made in the application for condonation of delay are accepted as sufficient and delay in making and filing the memorandum of review is condoned.
3. IA NO: CAN/1/2023 is allowed.
4. By consent of the parties, the review application is taken up for final hearing.

5. Review applicant seeks review of the order dated July 18, 2022 passed in WP.CT. 204 of 2013 with CAN 2 of 2021.
6. Learned advocate appearing for the review applicant draws the attention of the Court to a portion of the impugned order. He submits that, the impugned order proceeds on the basis that there was a need for appointment of the audiometer technician, and that, decision was taken to appoint candidates from the select list. He submits that, as on the date of the impugned order, the panel for such technician expired. Therefore, question of taking a decision to appoint the candidates from the select list does not arise.
7. Opposite parties are represented.
8. We find from the records that, the review applicant initiated a selection process for the purpose of filling up one post of such technician. The writ petitioner participated in such selection list. The writ petitioner was not appointed despite being placed in the selection list. Writ petitioner, thereafter, approached the tribunal by way of OA 817 of 2011.
9. In response to a query of the Court as to whether, the panel was valid on the date when the Original Application being OA 817 of 2011 before the tribunal was filed, the learned advocate for the review applicant, in his usual fairness, submits that, the panel was alive.
10. Writ petitioner was unsuccessful in his Original Application which was dismissed by the learned Tribunal. Being aggrieved, the writ petitioner filed the writ petition being WP.CT. 204 of 2013

in which the order dated July 18, 2022, review of which is sought for in this memorandum of review, was passed.

11. As rightly pointed out on behalf of the review applicant, one of the considerations of the Court passing the order dated July 18, 2022 was that there was a need for appointment and that, the decision was taken to appoint.
12. Since the review applicant itself initiated the selection process, therefore, obviously, there was a need for appointment. Again, on the parity of the same reasoning, by virtue of the selection process being initiated, there was a decision taken for the purpose of appointing candidates out of the select list.
13. The order dated July 18, 2022 directs the review applicant to grant appointment to the writ petitioner and to extend notional benefit from the date when the last candidate in the selection list was appointed.
14. In such circumstances, we find no merit in the present review application.
15. RVW/29/2023 along with connected application are **dismissed** without any order as to costs.
16. In view of review being disposed of today, list CPAN/886/2023 in the monthly list of November, 2025.

(Debangsu Basak, J.)

(Shampa Dutt (Paul), J.)