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

+ **W.P.(C) 2726/2025 & CM APPLs. 12912/2025, 12914/2025, 17114/2025**

MR BHARAT ANAND

.....Petitioner

Through: Mr. Viraj Datar, Sr. Adv. with Mr. Vivek Sharma, Ms. Saumya Mehrotra and Mr. Srikant Singh, Advocates.

versus

GAIL (INDIA) LIMITED & ANR.

.....Respondents

Through: Mr. Vinay K. Garg, Sr. Advocate with Mr. Ankur Chhibber, Mr. Nikunj Arora and Mr. K.S. Rekhi, Advocates for R-1 with Mr. Bhuwan Yadav, Mr. Venkatesan. Mr. Shoumendu Mukherji, SPC with Ms. Megha Sharma, Mr. Aniruddha Ghosh and Mr. Anshuman Mohanty, Advocates for R-2.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% **16.05.2025**

1. This writ petition under Article 226 of the Constitution concerns the petitioner's application to the respondent No. 1 – GAIL (India) Ltd. ["GAIL"] for the post of Senior Engineer (GAILTEL TC/TM), E-2 Grade, pursuant to an advertisement issued in September 2022.
2. The said advertisement was a part of a Special Recruitment Drive, intended exclusively for reserved category candidates, i.e., Scheduled



Castes (SC), Scheduled Tribes (ST), Other Backward Classes – Non-Creamy Layer (OBC-NCL), and Persons with Benchmark Disabilities (PwBD). Clause 11.8 of the Terms and Conditions of the Special Recruitment Drive provides for relaxation and/or reservation for all the reserved categories, as per applicable directives of the Government of India.

3. The petitioner applied against one post reserved for PwBD candidates under disability categories (d) and (e). Category (d) includes persons with Specified Learning Disability [“SLD”] and Mental Illness [“MI”], while Category (e) includes multiple disabilities, including disabilities falling under Category (c) (certain sub-categories of orthopaedic disability) and (d).

4. The petitioner is a PwBD candidate, with a 77% disability in the MI category. A disability certificate dated 09.01.2019 issued by All India Institute of Medical Sciences has been annexed to the writ petition.

5. It may be noted that there is no dispute regarding the petitioner’s educational or work experience for the post. However, the petitioner’s grievance is that he has not been selected, solely because he did not secure the minimum required marks in an interview, which was part of the selection process. Factually, this position is undisputed.

6. Clause 8.13 of GAIL’s Recruitment Policy and Procedure concerning Recruitment for the post of Senior Engineer (GAILTEL) sets out the procedure for preparation of the panel of selected candidates. It prescribes a 15% weightage to performance in the interview, subject to a minimum score of 60% for Unreserved/OBC-NCL candidates and 55% for ST, SC, and PwBD candidates. In accordance with the advertisement



and GAIL's recruitment policy, the selection process required candidates to participate in a group discussion and interview for selection.

7. Mr. Viraj Datar, learned Senior Counsel for the petitioner, contents that imposition of such a benchmark on a PwBD candidate in the MI category, is arbitrary and unreasonable, as mental illness may impair the very functions which enable strong performance in an interview. He draws my attention to the definition of "*Mental Illness*" in Clause 3 of the Schedule to the Rights of Persons with Disabilities Act, 2016 ["RPwD Act"], which provides as follows:

"“mental illness” means a substantial disorder of thinking, mood, perception, orientation or memory that grossly impairs judgment, behaviour, capacity to recognise reality or ability to meet the ordinary demands of life, but does not include retardation which is a condition of arrested or incomplete development of mind of a person, specially characterised by subnormality of intelligence.”

8. The petitioner has also placed on record an Office Memorandum ["OM"] dated 18.02.2002 issued by the Ministry of Social Justice and Empowerment, which lays down the criteria for evaluation and assessment of Mental Illness and the procedure for certification. The OM contains a detailed evaluation and assessment scale, covering parameters such as "Interpersonal Activities (Social Relationships)" including "*initiating and maintaining interactions with others in contextual and socially appropriate manner*", and Communication and Understanding, including "*communication and conversation with others by producing and comprehending spoken/written/non-verbal messages*".

9. Mr. Datar submits that a person who qualifies as a PwBD in the MI category necessarily has a disability of 40% or more, based on the parameters mentioned above, and that this factor ought to be duly



considered when framing the selection criteria for this reserved category.

10. Mr. Datar and, Mr. Vinay Kumar Garg, learned Senior Counsel for GAIL, have also placed on record certain other office memorandums, as well as judgments of the Supreme Court and this Court, which address recruitment in the PwBD category, with the objective of giving effect to the reservations mandated by Sections 33 and 34 of the RPwD Act.

11. Fortunately, however, it is not necessary in the present case to address these issues in further detail, in view of a suggestion made by Mr. Garg on instructions. He states that the post of Senior Engineer (GAILTEL TC/TM), which was reserved in the PwBD category (D&E), has not been filled, and GAIL proposes to re-advertise the post in accordance with law. As regards the petitioner's grievance that the minimum interview benchmark is not commensurate with the needs of PwBD candidates in the MI category, Mr. Garg submits that prior to the re-advertisement, GAIL will consider whether any policy changes or relaxations are necessary for such candidates and include them in the revised advertisement.

12. This appears to me to be a reasonable suggestion, and is also acceptable to Mr. Datar. I am hopeful that this exercise, undertaken with due consideration of the OMs placed on record in this case, along with several recent judgments on the RPwD Act, would obviate the grievances expressed by the petitioner.

13. As the exercise requires entails reconsideration of the policy itself, Mr. Garg submits that this process will take approximately six months. While I appreciate that policy reconsideration requires time, six months appears somewhat prolonged. GAIL is accordingly directed to take



necessary steps and issue a fresh advertisement preferably within four months from today, and in any case within the outer limit of six months, as suggested by Mr. Garg.

14. The rights and remedies of the petitioner, should he remain aggrieved by the forthcoming advertisement, are reserved.

15. I also take this opportunity to place on record my appreciation for the efforts of Mr. Datar, Mr. Garg, and the assisting counsel, in arriving at an acceptable resolution of this case.

16. The writ petition, alongwith pending applications, is disposed of in these terms.

PRATEEK JALAN, J

MAY 16, 2025

“Bhupi/SD”/