



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

**O.A. No. 3057/2021
MA No. 952/2023**

Order Reserved on: 20.03.2023
Order Pronounced on: 04.07.2023

**Hon'ble Mr. Tarun Shridhar, Member (A)
Hon'ble Mrs. Pratima K. Gupta, Member (J)**

Atul Ranjan,
S/o Dr. Nawal Kishore Singh,
Aged about __ years,
R/o Road No.17, Rajeev Nagar,
PO Keshri Nagar, PS Rajeev Nagar,
Distt. Patna Bihar - Applicant

(By Advocates: Mr. Neeraj Shekhar with Mr. Ashutosh Shekhar, Mr. Ashutosh Thakur, Dr. Sumit Kumar and Mr. Keshav Baheti and Mr. Chandra Pratap)

VERSUS

1. Union of India through
Its Secretary,
Department of Personnel & Training,
Ministry of Personnel, Public Grievances &
Pension,
North Block, New Delhi-110 001
2. All India Institute of Medical Science,
Through its Director,
Ansari Nagar, New Delhi-110023
3. Central Standing Medical Board,
Through its Chairman,
VMMC & Safdarjung Hospital,
New Delhi-110023



4. Union Public Service Commission,
Through its Chairman,
Dholpur House,
Shahjahan Road, New Delhi-110069
 5. Department of Empowerment of
Persons with Disabilities,
Through its Secretary,
Ministry of Social Justice & Empowerment,
5th Floor, Paryavaran Bhawan,
CGO Complex, Lodhi Road
New Delhi-110003
 6. Ali Yavar Jung,
National Institute of Speech and
Hearing Disability (Divyangjan),
Regional Centre,
NIEPID Building, Plot No.44-A,
Block-C, Sector-40,
NOIDA, UP-201301
 7. Vishwajeet Chaudhary,
Presently being under training at
Lal Bahadur Shastri National
Academy of Administration
Through its Director,
Charlville, Mussoorie,
Uttarakhand 248179
- Respondents

(By Advocates: Mr. RV Sinha and Mr. AS Singh)

ORDER

Hon'ble Mr. Tarun Shridhar, Member (A):

The applicant appeared in the Civil Services Examination 2020. He is said to have been successful in the said examination for appointment in one of the civil services under the category of



Persons with Disability. Within the said category, he claims that he falls in the sub category of Multiple Disabilities and accordingly he should have been given appointment to a post reserved in the appropriate civil services for Person with Disability (sub category Multiple Disabilities). However, his claim for consideration of appointment against the category of multiple disabilities has been denied. Aggrieved by the same, he has approached this Tribunal by way of the present O.A., seeking the following reliefs:-

- (a) Quash and set aside the impugned Medical Examination Report dated 12.08.2021 & 30.11.2021 issued by the Medical Board of AIIMS as being illegal, arbitrary and against the principles of natural justice.
- (b) Direct the respondents to constitute a fresh Medical Board at any Hospital other than AIIMS to evaluate the extent of Speech and Language Disability of the applicant.
- (c) Direct the respondents to consider the certificates issued to petitioner by Lok Narain Jai Prakash Hospital, Patna and National Institute of Speech and Hearing Disability under the Ministry of Social Justice & Empowerment, GOI.
- (d) Direct the Respondents to prepare a fresh Merit List of candidates qualified under multiple disability.
- (e) Accord all consequential benefits.



(f) Award cost of the proceedings.

2. Learned counsel for the applicant explains that what is under challenge is the report of the medical board constituted to examine the cases of persons with benchmark disability in All India Institute of Medical Sciences as also the report of the appellate board which has held that the applicant falls in the category of Locomotor Disability and not Multiple Disability. The grounds on which he has challenged the said medical reports are that the speech impairment which the applicant suffers has neither been considered by the said medical board nor by the appellate board. Thus, the said medical examinations and reports are contrary to the provisions of the Rights of the Persons with Disabilities Act, 2016. He submits that the applicant had produced a certificate from the Lok Nayak Jai Prakash Hospital. The said certificate is in the prescribed format and declares him to be suffering with 90% Locomotor Disability due to the absence of upper limb which is deemed



to be a permanent physical impairment and it certifies the associated 40% speech and language impairment.

3. Learned counsel submits that against this background, it can be interpreted that the assessment made by the medical board of the AIIMS as also the appellate board is probably faulty.

4. To establish his contention, learned counsel submits that perhaps the appellate board could have rectified this fault but one of the medical experts who happened to be a part of the medical board was also a member of the appellate board, hence necessary correction was not made. Therefore, the proceedings of the appellate board stand vitiated as their fairness and objectivity comes under doubt, he goes on to submit. He argues that the Rights of Persons with Disabilities Act is a welfare legislation and has to be interpreted as such instead of being interpreted



within the narrow confines of the word of law and some technical definitions.

5. In the spirit of the legislation and the commitment of the welfare state towards people with benchmark disability, learned counsel seeks a direction for the medical board to re-examine the medical condition of the applicant to determine his claim, preferably in any institution other than AIIMS so that the entire exercise is carried out in a fair and objective manner.

6. Learned counsel also draws our attention to the guidelines notified by the Government of India for assessing the specific disability in a person in accordance with the Rights of Persons with Disability Act, 2016. He draws attention to para 20.3 titled Speech and Language Disability and para 20.4, submitting that the said paras give a ready reckoner for determining the percentage disability of language. He further submits that in accordance with the guidelines, the Speech Intelligibility Test is to be necessarily conducted in



either of the following two institutions: (a) AYJNISHD, 2003 and (b) SRMC, Chennai. By not subjecting the applicant to medical examination to determine his disability with respect to speech and language in either of these institutions, the respondents have acted in contravention to the Statutory Rules governing the subject. He also draws attention to the documents he has placed as (Annexure A-14) which is a Medical Report submitted by (a) AYJNISHD, 2003 and (b) SRMC, Chennai, which clearly indicates the speech intelligibility scale of the applicant and in accordance with such report, he is eligible to be given appointment against the vacancy reserved under the relevant category.

7. Learned counsel draws strength from an order passed by this Bench of the Tribunal on 28.10.2020 in O.A. No. 3688/2019, specifically to the findings in paras 14 and 15 of the said order, which give reference to the relevant Rules determining the subject. He argues that in the instant case, which was considering an identical



issue, the Tribunal had held that the procedure established for Appellate Medical Board was not followed and accordingly directed for a fresh medical examination of the applicant, and this is precisely what the applicant in the present OA is seeking. He also quotes from a judgment of the Hon'ble High Court of Delhi passed on 03.12.2021 in Writ Petition 11809/2021 wherein on finding that the statutory provisions of Rules were not adhered to, the Court had directed the petitioner to be examined by a Medical Appellate Board in any of the hospitals referred to in the regulations except Safdarjung Hospital and All India Institute of Medical Sciences.

8. Sh. R. V. Sinha, learned counsel representing respondent no. 4, i.e., the Union Public Service Commission, at the outset, submits that the Rules and the instructions being relied upon by the applicant as argued by the learned counsel would not be directly relevant or applicable in the instant matter. The issue being agitated by the applicant is allocation of service pursuant to his success in the



Civil Services Examination. He submits that the said issue is to be examined strictly in accordance with the provisions of Civil Services Examination (CSE) 2020- Medical Examination of Candidates- REG-Rules, notified on 14.07.2021, a copy of which is placed as (Annexure A-11).

9. Learned counsel specifically draws attention to para 20 of the said Rules read with paras 15 to 19 submitting that the provisions laid down with respect to persons with benchmark disabilities have to be statutorily followed while determining the medical fitness of the candidates for allocation of services pursuant to the Civil Services Examination. In the instant case, the respondents have strictly adhered to both the word and the spirit of law and these Rules. He draws attention to the specific averments made in the counter reply filed on behalf of the UPSC specifically to para 3 of the said counter reply wherein the extract of the relevant CSE 2020- Rules has been quoted which determine the eligibility of persons with disability. The said Para reads as under:-



“That the Rule 22 of the Rules of the CSE 2020 published in the Gazette of India Extra-ordinary Part I- Section 1 quotes:

“22. The eligibility for availing reservation against the vacancies reserved for the Persons with Benchmark Disabilities shall be the same as prescribed in “The Rights of Persons with Disabilities Act, 2016 (RPwD Act, 2016)”:

The candidates of Multiple Disabilities will be eligible for reservation under category (e)-Multiple Disabilities only of Section 34(1) of RPwD Act, 2016 and shall not be eligible for reservation under any other categories of disabilities i.e. (a) to (d) of Section 34(1) of RPwD Act, 2016 on account of having 40% and above impairment in any of these categories of PwBD.

Provided further that the Persons with Benchmark Disability shall also be required to meet special eligibility criteria in terms of Functional Classification and Physical Requirements (abilities/disabilities) (FC&PR) consistent with requirements of the identified service/post as may be prescribed by its cadre controlling authority. A list of Services identified suitable for Persons with Benchmark Disability along with the Functional Classifications and Physical Requirements is at Appendix-IV.”

He also points towards para 4 of his counter reply which has reproduced an extract from Section 34(1) of the Rights of Persons with Disability Act,



2016. It would be appropriate to reproduce the said Section verbatim for better appreciation of the issue involved:-

“34. Reservation- (1) Every appropriate Government shall appoint in every Government establishment, not less than four per cent of the total number of vacancies in the cadre strength in each group of posts meant to be filled with persons with benchmark disabilities of which, one per cent each shall be reserved for persons with benchmark disabilities under clauses (a), (b) and (c) and one per cent for persons with benchmark disabilities under clauses (d) and (e), namely:-

(a) Blindness and low vision;

(b) Deaf and hard of hearing.

(c) Locomotor disability including cerebral palsy, leprosy cured, dwarfism, acid attack victims and muscular dystrophy;

(d) Autism, intellectual disability, specific learning disability and mental illness;

(e) Multiple disabilities from amongst person under clauses (a) to (d) including deaf-blindness in the posts identified for each disabilities:”

10. He submits that the applicant is relying upon a certificate issued by AYJNISHD with respect to



the speech intelligibility impairment to establish that he suffers from multiple disability, hence is deserving of reservation under such category. Sh. Sinha, learned counsel argues that the provisions of Section 34(1) are unambiguous and language intelligibility disability is not one of the disabilities which qualifies for determining the multiple disability of status of the person. He further reiterates that the notification for Civil Services Examination, 2020 dated 12.02.2020 which is placed as Annexure A-1 of the Miscellaneous Application also lays down the conditions and provisions/regulations relating to medical examination of the candidates and it would be obvious that the respondents have strictly adhered to the provisions contained therein. He further argues that as far as the Appellate Medical Board is concerned, no doubt it is to be headed by Senior persons but it also qualifies this condition “as far as possible/practicable”. In the instant matter, it is the Professor/HOD, who has chaired the Appellate Medical Board. Neither there is nor could there be



any occasion to allege any bias on the part of the Appellate Medical Board.

11. Sh. Sinha concludes his arguments by drawing attention to para 4 of the Medical Board Report placed at (Annexure A-3) submitting that before arriving at a final conclusion, the second Medical Board also obtained an expert opinion from Lok Nayak Jai Prakash Narain Hospital, Patna, with respect to the speech related disability claimed by the applicant. The contents of Para 4 of this report are

“4. As per the Rights of Persons with Disabilities Act, 2016, the Schedule Section, Specified Disability includes 1. Physical Disability, A. Locomotor Disability, B. Visual Impairment C. Hearing Impairment, D. Speech and Language Disability. 2. Intellectual Disability 3. Mental Behaviour 4. Disability caused to to (a) Chronic Neurological conditions (b) Blood Disorder 5. Multiple Disabilities (more than one of the above specified disabilities) including deaf blindness which means a condition in which a person may be combination of hearing and visual impairments causing severe communication, developmental, and educational problems.

Expert opinion from ENT department was obtained since his Disability Certificate issued on 9 April 2019 from the Lok Nayak



Jai Prakash narayan Hospital, Patna, Bihar mentions bilateral vocal cord palsy. According to opinion of ENT Experts at AIIMS, New Delhi, Mr. Atul Ranjan has hoarseness dues left Vocal Cord palsy. However, he has no disability related to speech; and has no hearing.

Therefore, although **Mr. Atul Ranjan** is having hoarseness due to unilateral vocal cord palsy, besides his both upper limbs involvement as detailed above, he does not fit into the category of person with multiple disability.

In conclusion, Mr. Atul Ranjan is a candidate with **Locomotor Disability** and not Multiple Disability. He has a permanent disability due to involvement of his both arms, Spine. The percentage of his disability is **90% (ninety percent).**”

12. Mr. Gyanendra Singh, learned counsel for Union of India strongly rebuts the contentions put forth by learned counsel for the applicant that the medical experts who examined the applicant by virtue of the various medical examinations including the examination by the Medical Appellate Board were the same. He points out to the names of the medical experts in the different medical examinations to substantiate that each examination was conducted in a fair and objective



manner by a different set of doctors. He traces us through the sequential order and submits that the initial examination was conducted in Safdarjung Hospital, a copy of whose report is placed as Annexure R-3 of the counter reply.

13. He submits that it is categorically recorded therein that the applicant suffers from locomotor disability. No other disability has been recorded. He submits that even the final opinion given vide a confidential communication dated 25.10.2021 is by the Professor and Head of the Department of Physical Medicine and Rehabilitation, AIIMS, further countersigned by the Medical Superintendent which mentions the category of the candidate as Locomotor Disability and in brackets mentions that it is not a Multiple Disability category. The said report reads as under:-

“The Medical Superintendent
AIIMS, New Delhi

Subject: Medical Examination of PwBD-V (MD) candidates called for Personality Test by UPSC based on the CSE-2020-reg



Sir,

This is with reference to the documents forwarded to me on the subject as above regarding candidates, namely Sh Atul Ranjan (Roll No. I547265) and Ms Preeti Beniwal (Roll No. 08 |4844).

In this regard, this is to submit that Sh. Atul Ranjan and Ms. Preeti Beniwal were examined at AIIMS, New Delhi by a Medical Board constituted for the Medical Examination of candidates with disability appearing for selection through Civil Services Examination (CSE) 2020. Dr Asem Rangita Chanu, Associate Professor, PMR was a Member/Chairperson of the Medical Board.

It was observed that the documents related to Sh Atul Ranjan state absence of right upper limb and bilateral vocal cord palsy as the diagnosis/causes of disability. Expert opinion from ENT department was sought. The ENT opinion expressed was, ***Patient does not come under speech disability criteria.** The Medical Board there fore certified that Sh Atul Ranjan suffers from Locomotor Disability (and not Multiple Disabilities).

It was observed that the documents related to Ms Preeti Beniwal state, "case of fracture bilateral pubic rami with urinary bladder involvement as per report from PGIMS, Rohtak," On examination at AIMS, it is noted that Ms Preeti Beniwal has **left superior and inferior pubic rami fracture.** Expert opinion



from the Urology department was sought which stated. "Polytrauma, post-traumatic bladder & urethral injury, status post bladder neck reconstruction and urethroplasty with urinary incontinence (? Intrinsic sphincter deficiency). Subsequently, the Medical Board certified that Ms Preeti Beniwall suffers from Locomotor Disability and not Multiple Disabilities.

In conclusion, the Medical Board at AIIMS, New Delhi found both these candidates to belong to Locomotor Disability category (and not Multiple Disability category).

Yours sincerely

Sd/
(Sanjay Wadhwa)"

14. He reiterates that each and every medical report comes out with this finding only that while the applicant suffers from Locomotor Disability to the extent of 90%, it cannot be categorised as Multiple Disability.

15. Learned counsel further submits that the case of the applicant is to be considered and determined strictly in accordance with the Civil Services Examination (CSE) - 2020 Medical Examination of Candidates Regarding Rules dated



14.07.2021, a copy of which is placed as Annexure A-11 of the OA.

16. He goes on to argue that the subsequent medical examinations etc. have all been conducted strictly within the ambit of the rules to which the applicant has voluntarily subjected himself by way of furnishing an application and agreeing to be a part of the laid down process. Merely because the expert medical board has not considered him in a category to which he claims to belong, cannot now be a ground before him to challenge the validity of such an action which has been done in accordance with the rules to which he has subjected himself.

17. He further quotes the case of one Ms. Preeti Beniwal, a candidate who according to him is identically placed and whose candidature has also been rejected on similar grounds. The communication dated 25.10.2021 quoted above deals with her case too.

18. Learned counsel further submits that the argument of learned counsel for the applicant that



Dr. Sanjay Wadhwa was common in the Medical Board as also the Appellate Medical Board is not factually correct as the Medical Board comprised of three expert doctors and Dr. Sanjay Wadhwa has only countersigned the report being the Head of the Department. However, he was not part of the team of the doctors who comprised the Appellate Medical Board and hence examined the applicant.

19. Learned counsel closes his arguments drawing support from the judgment of the Hon'ble Supreme Court in Civil Appeal No. 1577/2019 titled **C. Girija Vs. Union of India** in which the Hon'ble Apex Court had held that once a candidate has participated in a selection process whose objectivity and fairness is not under challenge, he cannot agitate the same in case he/she has not been successful in the same.

20. He further buttresses his case from **Vedanta Kumar Talukdar vs. Union of India** in Civil Appeal No. 8343/2011 in which the Hon'ble Supreme Court had observed that recruitment



must be conducted strictly in accordance with the public notification and any deviation from such a notification and the conditions set forth therein is detrimental to the integrity of the examination process.

21. Learned counsel for the applicant contests the arguments put forth by learned counsel for the respondents and draws attention to the documents placed as Annexure A-2 signed by Dr. Sanjay Wadhwa, the Head of the Department. He submits that the percentage of disability in terms of the vocal impairment has not been mentioned while a mention of the same is essential. He submits that even the Tribunal had held in OA No 2828/2021 that unless the percentage of disability is recorded, the medical report shall not be acceptable.

22. Learned counsel for the applicant places an entire set of the rules notified by the Department of Empowerment of Persons with Disability, Ministry of Social Justice on the issue of certification of



various specified disabilities. The said document is a voluminous one.

23. Learned counsel submits that these rules mention Hearing Impairment as one of the disabilities. Thereafter, he draws attention to page 91 and 92 of the instructions which again mention Hearing Impairment and Speech and Language Disability as one of the disabilities which would qualify to be a part of the Multiple Disability category.

24. The applicant has also placed on record a Medical Board opinion for fixation of extent of disability by All India Institute of Medical Sciences, Patna on 12.03.2022. Learned counsel argues that this opinion of the Medical Board is material to the adjudication of the issue at hand as the Board has unambiguously held that the applicant suffers multiple disability and the final disability percentage comes to 90 per cent.

25. Mr. R.V. Sinha, learned counsel for UPSC, however, submits that he would like to reiterate



that this document would have no relevance in the instant matter because the medical condition and the disability of the applicant is to be determined strictly in accordance with the Civil Services Examination and Civil Services Examination Medical Rules.

26. As he has argued on a previous occasion and established by way of quoting relevant provisions of the Rule, the applicant does not meet the eligibility criteria as set forth in the said rules. He further draws attention to the relief clause of the O.A. and submits that in view of the prayer as set forth in paragraph 8 the document sought to be placed on record would have no relevance as to what the applicant seeks is reliance upon the certificate of Loknayak Jai Prakash Narayan Hospital and not AIIMS.

27. We have given an exhaustive and patient hearing to the learned counsel for the parties. We have also gone through the voluminous documents on record.



28. It is not in dispute that the applicant suffers from disability which has been certified by All India Institute of Medical Sciences, New Delhi, as locomotor disability in the parameters of both arms, muscular weakness spine to the extent of 90%. This certificate has been issued on the proforma of medical examination report of Civil Services Examination, 2020 on 12.08.2021. Thereafter, the Medical Board, too, has examined the applicant and re-affirmed the medical report of 12.08.2021. There is also a medical report dated 10.08.2021 with respect to the same examination which pre-dates the above referred to two reports from Safdarjung Hospital which apart from locomotor disability, makes a mention of 40% speech and language disability (Vocal Cord Palsy).

29. The disability of the applicant is not in dispute. Therefore, he does become entitled for consideration of various benefits in terms of the provisions of Right of Person with Disabilities Act, 2016 (RPWD Act). In the instant matter the issue is the benefit of reservation to the applicant in the



Civil Services on account of his success in the Civil Services Examination, 2020. Therefore, the provisions of the RPWD Act have to be read along with the rules and instructions governing Civil Services Examination and the reservation of posts.

30. Let us break into two parts the reliefs the applicant seeks. The first relief that he seeks from us is quashing the medical examination report issued by the Medical Board of AIIMS. We are not inclined to interfere in the same. Neither do we have the professional competence to question the assessment and wisdom of medical experts nor do we find any illegality or arbitrariness in the same as alleged by the applicant. Secondly, the applicant seeks re-evaluation by a fresh medical board at any hospital other than AIIMS, to evaluate the extent of speech and language disability. We hold the view that allowing this prayer would amount to acquiescing with the applicant in questioning the integrity and professionalism of the medical experts of the AIIMS. Moreover, as far as speech and language disability is concerned, a reference to



the same has been made by the medical expert of Safdarjung Hospital. Thirdly, the applicant seeks a direction to consider the certificate of Loknayak Jaiprakash Hospital, Patna and the National Institute of Speech and Hearing Disability. We find some merit in this contention, but at the same time, we also find that while contesting this OA, adequate justification has come forth from the respondents, especially the argument that the applicant's case has to be strictly in terms of the provisions of CSE 2020 and Medical Examination of Candidates Rules/Notice as notified vide communication dated 14.07.2021. We would not be comfortable with the situation where candidates are allowed to choose the agency/organization as per their preference for their medical examination. Moreover, vide the confidential communication dated 25.10.2021, the Professor and Head of the Department of Physical Medicine and Rehabilitation, AIIMS, New Delhi, has given a categorical conclusion that the applicant along with another candidate Ms. Preeti Beniwal belongs



to locomotor disability category and not multiple disability category. This communication has also discussed that the document with respect to the applicant states absence of vocal cord palsy and an expert opinion from ENT Department, has clearly stated that “Patient does not come under speech disability criteria”. Even if we were to consider the speech disability criteria, we are to be guided by the provisions of Section 34(1) of the RPWD Act and the said Section unambiguously defines multiple disabilities. The said section has already been reproduced in Para 10 of this judgment, and no violation of the provisions of this section has been demonstrated.

31. While we can appreciate that the applicant may be nursing a genuine grievance that despite success in CSE, he is being deprived of the benefit of reservation under the multiple disability category, we are acutely aware of the limits of our power. As stated earlier, we have meticulously gone through the pleadings and documents on record, besides extensive hearing to the learned



counselors. We do not find any cause to raise even an iota of doubt upon the medical reports of AIIMS and the categorical opinion given by the Head of Department. We cannot even consider pointing any finger of arbitrariness or subjectivity towards the medical experts. Further, we cannot and should not also draw an exception in the case of the applicant as his case is to be squarely governed by the relevant rules and instructions governing the CSE and the associated medical examination of the candidate.

32. In the light of the facts and circumstances elaborately discussed and detailed above, and after careful consideration, we are of the opinion that the OA does not call for any interference and is accordingly dismissed. Accordingly, MA No. 952/2023 also stands disposed of. No costs.

(Pratima K. Gupta)
Member (J)

(Tarun Shridhar)
Member (A)

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