

\$~48.

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

+ W.P.(C) 5948/2019 & C.M. No. 25741/2019

BHAVYA NAIN Petitioner

Through: Mr. Arvind K. Nigam, Sr. Adv., Mr. Samrat Nigam, Mr. Kanwal Nain, Mr. Rohit Dadwal, Mr. Mehtaab Singh Sandhu and Mr. Pratishth Kaushal, Advocates.

versus

HIGH COURT OF DELHI Respondent

Through: Mr. Viraj R. Datar and Mr. Nitish Chaudhary, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

29.05.2019

%

Issue notice. Mr. Datar accepts notice on behalf of the respondent.

We have heard Mr. Nigam, learned senior counsel for the petitioner and Mr. Datar on behalf of the respondent.

Our attention has been drawn to the disability certificate issued by the All India Institute of Medical Sciences in respect of the petitioner which certifies the mental disability of the petitioner as 45%. The mental illness diagnosed in respect of the petitioner is stated to be BPAD. However, it is noted that the petitioner is currently in remission. The certificate also recommends that the above condition is likely to improve. Reassessment of the disability is recommended after five years. The certificate is valid till 12.12.2023. The petitioner was declared successful in the final result of the examination held by the respondent for recruitment to the Delhi Judicial

Services. Though the petitioner's name is included in the final result of candidates in order of merit, his candidature has been rejected on the ground that his disability was not found to be permanent as per the disability certificate.

Prima facie, we do not consider the said reason to be correct. Since there is nothing in the certificate to indicate that the petitioner's disability is not of a permanent nature, merely because the petitioner is in remission, it does not follow that the disability would completely disappear at any given point of time.

Our attention is drawn to Section 2(r) of the Rights of Persons with Disabilities Act, 2016, which defines persons with bench mark disability as also to Section 34 and Rules 18 and 19 of the Rules framed under the said act, namely, the Right of Persons with Disabilities Act, 2016.

Since we, prima facie, find merit in the case, we direct the respondent to keep the vacancy against which the petitioner was initially selected reserved till further orders.

In view of the urgency let the respondent file their counter-affidavit within 10 days with advance copy to the petitioner. Rejoinder be filed within 10 days thereafter. The counter-affidavit and the rejoinder be exchanged between counsels but the same be filed immediately upon opening of the Registry after summer vacations.

List for hearing on 15.07.2019.

VIPIN SANGHI, J

RAJNISH BHATNAGAR, J

MAY 29, 2019

N.Khanna