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CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH

C.P. No. 173/2004 in
O.A. No. 171/2002

New Delhi this the 15th day of September, 2004

Hon'ble Shri V.K. Majotra, Vice Chairman (A)
Hon'ble Shri Shanker Raju, Member (J)

1. Pawan Kumar, Lab Attendant
R/o H. No. 542, Village Babana,
Delhi-39.
2. Rejesh Kumar, Lab Attendant
R/o H.No. R-577, Swatantra Nagar,
Narela, Delhi-39.
3. Sushil Kumar, Lab Attendant
R/o H.No. 698/Z, Gali No.16,
Adarsh Mohalla, Maujpur, Delhi-53.
4. Rohtash, Lab Attendant,
R/o H.No. 1912, Lakshmibai Nagar,
New Delhi-23.
5. Sangeeta Kumar, Lab Attendant
R/o H.No. 149-B, Gali No.8,
East Sagarpur, New Delhi.
6. Vivekanand, Lab Attendant,
R/o H.No. F-65, Naya Gao,
Ushmanpur, Shahdara, Delhi-53.
7. ChandKiran, Lab Attendant,
R/o H.No. F-65, Naya Gaon, Ushmanpur,
Shadara, Delhi-53.
8. Jagdish Kumar, Lab Attendant,
R/o H.No. 192, Village Pahladpur Bangar,
Delhi-42.
9. Manoj Kumar Bhardwaj, Lab Attendant,
Deptt. Of Lab. Medicine, Emergency Laboratory
GTB Hospital, Delhi-95.
10. Devinder Mallah, Lab Attendant,
Deptt. Of Lab. Medicine, Emergency Laboratory
GTB Hospital, Delhi-95.
11. Om Prakash, Lab Attendant,
GTB Hospital Campus, Delhi-95.
12. Ram Raj, Lab Attendant,
Blood Bank,
GTB Hospital, Delhi-95.

(By Advocate: Shri Hori Lal)

-Applicants

Versus

Dr. D.K. Srivastava,
Medical Superintendent,
G.T.B. Hospital, Delhi-95.

-Respondent

(By Advocate: Shri Vijay Pandita)

ORDER (Oral)

Hon'ble Shri V.K. Majotra, Vice Chairman (A)

Learned counsel heard.

2. While learned counsel of applicants has drawn our attention to Annexure R-4 dated 14.9.2002 to state that there were 18 vacancies of the posts of Lab Assistant, Group-IV and that the Medical Superintendent of GTB Hospital, Government of NCT of Delhi had written to Additional Secretary-cum-PHC, Govt. of NCT of Delhi, to convene a DPC meeting to fill up those vacancies. Thus, he maintained that there are vacancies of the posts of Lab Assistant.

3. On the other hand learned counsel of respondents states that there are no such posts available with the respondents and, therefore, the question of convening the DPC for filling up such imaginary posts does not arise. Order dated 17.12.2003 in MA-199/2003 in CP-338/2002 in OA-171/2002, this Tribunal has recorded as follows:-

"Learned counsel for respondents has also written to the authorities requesting to take steps to convene the DPC for the post of Lab. Assistant at the earliest and as the next date in Court was fixed as 11.3.2003. Then there is a letter which shows that there are 325 posts under the direct recruitment quota and 108 posts of promotion quota and against that 111 persons were already working under the promotion quota, so there was no post vacant in the promotion quota. In view of the non-availability of post in promotion quota Government was unable to give any promotion to the post of Lab. Assistant".

4. The letter being relied upon by the learned counsel of applicants is prior to Tribunal's aforesaid orders. The applicants did not assail these orders and as such they are final that on the date when these orders were passed, respondents did not have with them any relevant vacancies available. No cause of Contempt Petition can be recognized till the applicant establishes that vacancies exist and respondents have not taken any appropriate action to fill them up by promotion. CP is dismissed as such. Notices to the respondents are discharged.

S. Raju
(Shanker Raju)
Member (J)

V.K. Majotra
(V.K. Majotra)
Vice Chairman (A) 15.9.04