

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. No.1041/2002

NEW DELHI, THIS THE 22<sup>nd</sup> DAY OF MARCH, 2003.

HON'BLE MR.JUSTICE V.S.AGGARWAL, CHAIRMAN  
HON'BLE MR.A.P.NAGRATH, MEMBER (A)

Mohd. Lukman  
S/o Shri Ata Ilahi  
R/o 407 Income Tax Colony  
Pitam Pura, Delhi-34.

....Applicant

(BY SHRI P.CHAKRAVORTY, ADVOCATE)

v.

1. Lt.Governor  
N.C.T.of Delhi through its  
Secretary (Medical)  
New Secretariat  
Govt.of NCT of Delhi, I.P.Estate  
New Delhi-110002.
2. Medical Superintendent  
Lok Nayak Jaya Prakash Narain Hospital  
Jawahar Lal Nehru Marg  
New Delhi-110002.
3. Addl. Secretary, PHC-Cum  
Technical Recruitment Cell  
Govt.of NCT of Delhi  
Jawahar Lal Nehru Marg  
New Delhi-110002. .... Respondents

(Shri Ahwani Bhardwaj, proxy for Shri Rajan Sharma,  
Advocate)

ORDER

Justice V.S.AGGARWAL: -

The technical staff of the hospital had proceeded on strike from 20.7.1998. There was a serious administrative problem. The applicant was appointed as Nursing Orderly on contract basis. The respondents had sought to recruit Nursing Orderlies as well as other member of technical staff on purely temporary basis. An advertisement was issued in the newspapers. The applicant had applied for the post of Nursing Orderly.

He was interviewed and <sup>last</sup> ~~an~~ appointment

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letter was issued to him on 14.3.2000. After some time, <sup>14/3/2000</sup>  
<sup>20N</sup> his services were dispensed with vide the Memorandum of 1.4.2000 along with others.

2. The applicant and another filed OA No.785/2000 challenging the said order. On this 7.5.2001, this Tribunal held:-

" 5. My attention has been drawn by the learned counsel for the respondents also to the recruitment rules framed by the respondents in respect of the post of NO. The same provides for direct recruitment to the post. However, no provision has been made therein laying down the detailed procedure for making direct recruitments. The learned counsel appearing for the respondents has not been able to produce for my perusal executive instructions, if any, setting up the procedure for direct recruitment. It is likely that the respondents have not issued any such instructions. However, instructions issued by them on 18.10.1999 setting up for four different boards to interview the applicants could in a way be regarded as executive/administrative instructions meant to supplement the provisions made in the relevant recruitment rules. Thus, though the respondents may not appear to have made any significant irregularity by following the aforesaid procedure in making selections for the post of NO, they are advised, however to consider supplementing the relevant recruitment rules by issuing well considered executive instructions to take care of the procedure for direct recruitment in its entirety."

Accordingly, the application had been dismissed. The applicant and another had chosen to prefer a Civil Writ Petition No.5839/2001 which was decided on 23.11.2001. The Delhi High Court dismissed the petition as withdrawn but liberty was granted to the petitioners to challenge the relevant rules relating to appointment to the post of Nursing Orderlies.

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3. Armed with the order, the applicant has filed the present application contending that in the recruitment rules, it has been mentioned that the post of Nursing Orderly was a non-selection post and the method of recruitment was by direct recruitment or by promotion, deputation and transfer. The percentage of posts for direct recruitment and promotion has not been mentioned in the recruitment rules and nor it has been mentioned that the recruitment will be based on written examination or interview or both. The competence of the Medical Superintendent to constitute an interview board also is not mentioned. Therefore, the termination of the services of the applicant is illegal and the rules so framed are also vague and suffer from the vice of excessive delegation of powers. A plea is also raised that 4 separate medical boards had been constituted keeping in view that there were a large number of candidates. The same is illegal because they were not in a position to judge the comparative merit of the candidates.

4. In the reply filed, the application has been contested. It is not in dispute that the applicant was appointed on contract basis to the post of Nursing Orderly for a period of 89 days. So far as the recruitment rules are concerned, the same are said to have been produced before this Tribunal when the earlier Original Application had been argued. The recruitment rules for the post of Nursing Orderly <sup>are</sup> pertaining to non-selection posts. They are filled 100% by direct recruitment. Selection is made simply on basis of the interview only. The power to constitute the board has not been conferred on any particular individual. The applicant had been interviewed only to be appointed to the post of Nursing Orderly on earlier occasion on temporary basis. Subsequently when the applicant had been interviewed, he had not been



selected.

5. A resume of the facts given above clearly indicates that the short question that is the subject matter of controversy which the applicant can agitate is as to if the recruitment rules for the post of Nursing Orderly are valid or not.

6. A copy of the recruitment rules that is on the record indicates that it is a group 'D' post. The educational qualification prescribed is Middle pass with some service experience in the job. The method of recruitment is by direct recruitment only.

7. Whenever the method of recruitment prescribed is by direct recruitment, a board can always be constituted to render help and to assist the appointing authority in effecting the recruitment rules. In the present case, no mala fide or any other motive has been so assigned which may prompt us to conclude that the method of selection so made was invalid.

8. It has been contended that the number of candidates was too large and, therefore, four boards for holding the interviews had been constituted.

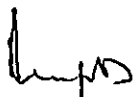
9. When the expert body constitutes four boards and there are no mala fides discernible from the record, we find no reason in the facts of the present case to conclude that comparative merit of the candidates could not be adjudged. This Tribunal may not find it possible to discern the same because once the expert body so constitutes the boards in that event, unless there are any extraneous factors to conclude otherwise, the contention so much thought of must fail.

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10. Another argument advanced was that no guide-lines have been provided for the said boards.

11. Whenever, recruitment is to be effected by an interview only, it would be difficult to pin-point the specific guide-lines. The merit of the candidates had to be adjudged by the board and, therefore, strict guide-lines in this regard indeed cannot be so prescribed.

12. What is important is that the applicant had taken part in the interview but was not successful. In that event, it is too late in the day in the absence of any other factor brought to our notice to contend that the recruitment rules as such must be declared to be invalid. All other facts have already been considered in the earlier application filed by the applicant and another and, therefore, the present application being without merit must fail and is accordingly dismissed. No costs.



(A.P.NAGRATH)  
MEMBER (A)



(V.S.AGGARWAL)  
CHAIRMAN

/sns/