

Central Administrative Tribunal, Principal Bench

Original Application No.1913 of 2001

New Delhi, this the 9th day of August, 2001

Hon'ble Mr. Justice Ashok Agarwal, Chairman  
Hon'ble Mr. S. A. T. Rizvi, Member(A)

Mrs. Susamma Thankachen  
D.D.A. Janta Flat No.424,  
Group - 1, Pocket 'C'  
Hastal, Uttam Nagar,  
New Delhi-59

- Applicant

(By Advocate: Shri S.M.Arif with Shri S.Y.Khan)

Versus

Government of National Capital Territory of Delhi  
Through:

1. The Secretary,  
Health and Family Welfare Deptt.  
Delhi Secretariat  
"Delhi Sachivalaya", 9th Floor  
Near Indira Gandhi Stadium, ITO Complex,  
New Delhi
2. Medical Superintendent  
Lok Nayak Hospital  
Delhi Gate, New Delhi
3. Director - Administration  
Lok Nayak Hospital  
Delhi Gate, New Delhi
4. Secretary  
Delhi Subordinate Services Selection Board(DSSSB)  
3rd Floor, UTCS Building  
Behind Karkardooma Court Complex,  
Vishwas Nagar, Shahdara,  
Delhi-32

- Respondents

O R D E R(ORAL)

By Justice Ashok Agarwal, Chairman

Applicant had applied for the post of Technical Assistant Group III in the Health and Family Welfare Department, Govt. of NCT Delhi in response to an advertisement published by the Delhi Subordinate Services Selection Board. She appeared for the requisite interview and was duly selected. She was also offered a letter of appointment in the Lok Nayak Hospital, New Delhi. Applicant

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has submitted her letter of acceptance. However, aforesaid selection has been cancelled on the ground that she does not possess the requisite qualification and experience. Applicant had earlier instituted OA No.830/2000 impugning the very same rejection of her claim for appointment. The same, by an order passed on 14.9.2000, has been dismissed as withdrawn. Aforesaid withdrawal as submitted by Shri Arif appearing in support of the application, was on account of the stand taken by the respondents in their counter that the issue has been referred to the Additional Secretary (Health) for clarification. A further order of 9.12.2000 at Annexure A-9 has thereafter been passed rejecting the representation of the applicant <sup>again</sup> on the grounds that she does not possess the requisite qualification and experience. The aforesaid order is impugned by the applicant in the present OA.

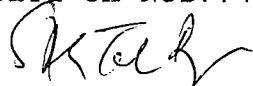
2. Applicant, it is clear, is impugning the decision of the respondents holding her ineligible for appointment to the post of Technical Assistant Group III on the ground that she does not possess the requisite qualification and experience. Very same decision had been impugned by the applicant in her earlier OA No.830/2000. The same, however, was dismissed as withdrawn on 14.9.2000. No liberty had been sought for or granted at that stage. Aforesaid dismissal <sup>or withdrawal of the OA on whatever reason or ground</sup> ~~of the OA, may be the same, has been occasioned on the ground of withdrawal.~~ In our view, will operate as res judicata. It is immaterial what grounds prompted the applicant to withdraw her OA. Aforesaid order passed in her earlier OA has the effect of dismissal of her challenge to the decision of the respondents holding her

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ineligible for appointment. Applicant, in the circumstances, will not be entitled to re-agitate ~~these~~ very same issues in the present OA as the said claim is clearly barred by the principles analogous to res judicata/A

3. Applicant has placed reliance on a decision of this Tribunal in OA Nos.742 and 747 of 2000 dated 25.10.2000 which had been filed by candidates who are lesser qualified than the applicants. By the order, respondents were directed to consider their claim. ~~Similar claim~~ Based on the order, their services have even been confirmed. In the circumstances, while dismissing the present OA as being barred by principles analogous to res judicata, we give liberty to the applicants to once again approach the relevant authorities for claiming the present relief on humanitarian grounds as also on grounds <sup>of parity</sup> which ~~have found favour in respect of~~ <sup>with</sup> the applicants in the aforesaid OA Nos.742 and 747 of 2000.



( S.A.T. Rizvi )  
Member(A)

  
( Ashok Agarwal )  
Chairman