



CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

O.A. NO.2171/2001

This the 9th day of September, 2002.

HON'BLE SHRI JUSTICE V.S.AGGARWAL, CHAIRMAN

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

1. Madan Lal S/O Matru Lal,  
R/O 7/384 Trilok Puri,  
Delhi-110091.
2. Harprakash S/O Mangal Sain,  
R/O A/I/220, Madangir,  
Dr. ambedkar Nagar, Sector-IV,  
New Delhi-110062.
3. Shyam Sunder S/O Ram Lal,  
R/O F-257, Lado Sarai,  
Delhi-110030.

... Applicants

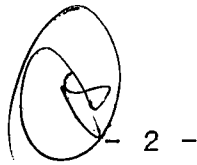
( By Shri R.N.Singh, Advocate )

-versus-

1. Institute of Pathology,  
Safdarjung Hospital,  
New Delhi-110029  
through Director.
2. Indian Council of Medical Research (ICMR),  
Ansari Nagar,  
New Delhi-110029  
through Director General..
3. Union of India through  
Ministry of Health & Family Welfare,  
Nirman Bhawan, New Delhi  
through Secretary.
4. Dr. S. Jayaraman,  
Assistant Director,  
Institute of Pathology,  
Safdarjung Hospital,  
New Delhi-110029.
5. Shri Dinesh Kumar S/O Satya Narayan,  
R/O 25/4 Ahir Mohalla,  
Najafgarh Road,  
Nangloai, Delhi-110041.
6. Shri Bijendra Kumar S/O Jas Ram Singh,  
R/O 147, Gali No.13,  
Balbir Nagar Extn.,  
Nala Par, Shahdara,  
Delhi-110032.

... Respondents

( By Shri Shri V.K.Rao with Shri Piyush Sharma, Adv. )



O R D E R (ORAL)

Hon'ble Shri Justice V.S. Aggarwal, Chairman :

By virtue of the present application, applicants seek declaration of the order passed by this Tribunal in O.A. No.1907/2000 dated 15.5.2001 to have been obtained by mis-representation and concealment of facts and a further direction to respondents 1 to 3 to fill up the posts of Laboratory Assistants strictly in accordance with the recruitment rules. A further declaration is sought that respondents 5 and 6 cannot be recruited as Laboratory Assistants without due process of law.

2. During the course of submissions, our attention has been drawn towards the recruitment rules for technical post of Laboratory Assistant which clearly prescribe that 25% of the posts are to be filled up by direct recruitment from amongst candidates sponsored by employment exchange and 75% of the posts have to be filled up by promotion of Laboratory Attendants with three years' experience in that grade.

3. Admittedly, applicants' case falls within the second category, namely, 75% of the posts to be filled up by promotion of Laboratory Attendants. So far as respondents 5 and 6 who were the applicants in O.A. No.1907/2000 are concerned, they at best could be considered in the 25% quota of direct recruitment. Keeping in view this fact, it is obvious that rights of applicants, so far as 75% quota of promotion is concerned, are in no way affected. The learned counsel for official respondents (1 to 3) also fairly conceded


*JS Aggarwal*

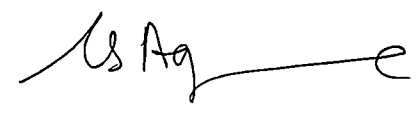


that they shall make appointments strictly in accordance with the recruitment rules keeping in view this particular fact, vis-a-vis 75% of the posts that are to be filled up by promotion of Laboratory Attendants.

4. During the course of submissions, the learned counsel for applicants pointed out that so far as 25% posts to be filled up by direct recruitment are concerned, applicants still have a right to apply directly if and when the posts are advertised. It is in this backdrop that he presses for rectification/setting aside of the order passed in O.A. No.1907/2000 alleging that the certificate given by respondent No.4 was without jurisdiction and authority of law. At this stage, though respondent No.4 has been proceeded ex parte and respondents 5 and 6 have not cared to appear in Court at the time when the matter was taken up for consideration, it would be appropriate that such an application bringing out the correct factual position is brought to the notice of the Bench which passed the order in O.A. No.1907/2000. No further opinion consequently in this regard is being expressed. Regarding the rights of applicants, they would be at liberty to take all legal and factual pleas available in law by filing an appropriate M.A. before that Bench.

5. The O.A. is dismissed.

  
( V. K. Majotra )  
Member (A)

  
( V. S. Aggarwal )  
Chairman

/as/