

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2707/2001

New Delhi, this the 12th day of August, 2002

Hon'ble Shri Kuldip Singh, Member(J)
 Hon'ble Shri M.P. Singh, Member(A)

1. Mrs. T.K. Anamma
 2. Mrs. Kamla Bhatia
 3. Mrs. Asha Kumar
 4. Mrs. Rekha S. Massey
 5. Mrs. Sunita Bakshi
- All are working as Nursing Sisters
 in Kalawati Saran Children Hospital .. Applicants

(By Shri Yogesh Sharma, Advocate)

versus

Union of India, through

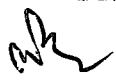
1. The Secretary
 Ministry of Health
 Nirman Bhawan, New Delhi
2. Director General of Health Services
 Nirman Bhawan, New Delhi
3. Medical Superintendent-cum-Principal
 Kalawati Saran Children Hospital
 New Delhi
4. Mrs. Ranjana Malhotra) Working as
5. Mrs. A. Benjamin) Nursing Sisters
6. Mrs. Kanta Verma) in KSC
7. Mrs. Rossamma Raju) Hospital .. Respondents

(Shri V.S.R. Krishna, Advocate for R-1 to R-3
 (By Shri Puneet Aggarwal, Advocate for R-4)

ORDER(oral)

Shri M.P. Singh, Member(A)

Applicants, five in number, have challenged the seniority list dated 7/10.9.2001 in so far as it has reflected their seniority below R-4 to R-7 and they have sought a direction to the respondents to refix their seniority above R-4 to R-7 in the said seniority list. They have also sought further directions to the respondents to count the period from the date of their initial appointment as Staff Nurse for the purpose of seniority.



2. It is the case of the applicants that they were initially appointed as Staff Nurses in the year 1981-82 but were regularised w.e.f. 25.6.83 by order dated 8.8.83, whereas R-4 to R-7 were appointed in 1982-83 i.e. after applicants' appointment. Respondents have not published any seniority list of Nursing Staff since 1983 but applicants along with R-4 to R-7 have been promoted as Nursing Sisters from 29.4.93. According to the applicants, in the provisional seniority list issued on 29.12.98 they were shown below R-4 to R-7. They made representations but the same rejected by OM dated 6.4.99.


3. On the other hand, it is the case of respondents that the applicants were appointed as Staff Nurses in the year 1981-82 on ad hoc basis against short term leave vacancies and later on their services are regularised on the basis of selections/interviews conducted on 21.6.83. They were appointed on regular basis on 25.6.83 and they count their seniority from that date. In the seniority list of 1998, dates of appointment of the applicants were mentioned from their initial appointment on ad hoc basis but such fortuitous service does not count for seniority. Only a provisional seniority list of Nursing Personnel was circulated vide OM dated 7/10.9.2001. Based on the representations received from the cadre, final seniority list is under consideration and finalisation. In view of this position, the OA is devoid of merit and be dismissed.


MB

4. We have heard the learned counsel for the rival contesting parties and considered the pleadings.

5. It is settled legal position that where the initial appointment is only ad hoc and not according to rules and is made as a stop gap arrangement, the period of officiation in such post cannot be taken into account for reckoning seniority. In other words, appointment to a post must be according to rules and not by way of ad hoc or stop gap arrangement made due to administrative exigencies. In the instant case, applicants have not produced any order before us to establish that their initial ad hoc appointments were made by the competent authority in accordance with the Recruitment Rules for the post against clear/regular vacancies. In the absence of the same, we are unable to grant the relief sought for by them. That apart, when the representations made by the applicant against the seniority list of 1998 were rightly rejected by the respondents on 6.4.99, they cannot be allowed to challenge the provisional seniority list dated 7/10.9.2001. Respondents have themselves stated that the this provisional seniority list is under finalisation.

6. In this view of the matter, we find the present OA not only hit by limitation but also is devoid of merit. In the result, the OA is dismissed. No costs.


(M.P. Singh)
Member(A)


(Kuldip Singh)
Member(J)

/gtv/