(18)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

O.A. NO. 692 OF 2001
and
O.A. NO. 758 OF 2001

New Delhi, dated this the 11 April, 2002

HON'BLE MR. S.R.ADIGE, VICE CHAIRMAN (A)
HON'BLE MR. SHANKAR RAJU, MEMBER (A)

OA-692/2001

1. Pradeep kumar,
S/O. Shri Munshi Ram,
R/O. Q.No.622, Sector -2,
R.K.Puram, New Delhi -22.

2. Chander Mohan Sharma,
S/O. Shri M.P.Sharma,
R/O. Q.No.134, E.S.I.Colony,
Basaidarapur, Ring Road ,New Delhi-15

3. Vashwanand Dwivedi,
S/O. Shri. Keshwanand Dwivedi,
R/O. Q.No.154, E.S.I. Colony,
Basaidarapur, Ring Road -15

4. Dinesh Chand Pandey,
S/O. Shri Jai Dutt Pandey,
R/O. Q.No.282, E.S.I. Colony,
Basaidarapur, Ring Road, New Delhi-15

5. Pradeep Joshi,
S/O.Shri. M.N.Joshi,
R/O.82, Type-II, E.S.I. Colony,
Basaidarapur, Ring Road, New Delhi-15

6. Geeta Devi,
W/O. Joginder,
R/O. Village, S.P.O. H.No.55,
Tikri Kalam, Delhi -41.

7. Narender Singh Bisht,
S/O. Shri Avtar Singh Bisht,
R/O. RZ-5-14a, Mahavir Enclave,
Nanada Block, Palam, New Delhi-45

8. Nitin Massey,
S/O. Shri. James Massey,
R/O. Q.No.380, E.S.I. Colony,
Basaidarapur, Ring Road, New Delhi-15. ...APPPLICANT

(By Advocate: Sh.K.P.Sunder Rao)

versus

1. Employees State Insurance Corporation
through its
Directorate (Medical)
E.S.I.C. Hospital,
Basaidarapur, Ring Road,
New Delhi-110015.

2. Deputy Director,
E.S.I.C. Hospital,
Basaidarapur, Ring Road,
New Delhi-110015.

3. Institute of Public Health & Hygiene,
RZ-A-44, Mahipalpur
New Delhi-110037. ... RESPONDENTS
(By Advocate: Sh.G.R.Nayyar)

OA-758/2001

1. Raghubir Singh
S/o Sh. Dhup Singh
H.No.149,
vill.Mohammad Pur
New R.K.Puram,
New Delhi.

2. Miss Urmila
D/o Sh. Gulab Singh Chouhan
Qr.No.332, E.S.I. Colony,
Basai Dara Pur, Ring Road,
New Delhi.

3. Mrs. Basanti
W/o Sh.Devender Singh Rawat
Qr.No.247,E.S.I.Colony,
Basai Dara Pur, Ring Road,
New Delhi.

4. Miss Hema Devi
D/o Shri Jasod Singh Chouhan
Qr.No.371-72, ESI Colony,
Basai Dara Pur, Ring Road,
New Delhi.

5. Mrs.Rita
D/o Sh. Bachan Singh
Qr.No.416, ESI Hospital Colony
Basaidara Pur, New Delhi

6. Mrs. Anita Panwar
D/o Sh.Madan Singh
Qr.No.388, ESI Colony
Basaidara Pur, Ring Road
New Delhi.

7. Sh. Ranjit Singh Bisht
S/o Sh. Darshan Singh Bisht
Qr.No.152, ESI Colony,
Basai Dara Pur, Ring Road,
New Delhi.

8. Sh.Desh Bandhu Negi
S/o Sh. B.S.Negi
Qr.No.169, ESI Colony
Basai Dara Pur, Ring Road
New Delhi.

(20)

9. Amrish Kumar
S/o Sh.Ashok Kumar
R/o 9/705, Gali Kishan Dutt
Subhash Road, Gandhi Nagar,
Delhi-31.

10. Ms.Jyoti Bist,
R/o 1183,Dr.Mukherji Nagar,
Delhi-9 ... APPLICANTS
(By Advocate:Sh.K.P. Sunder Rao)

Versus

1. Employees State Insurance Corporation
through its
Directorate (Medical)
E.S.I.C. Hospital,
Basaidarapur, Ring Road,
New Delhi-110015.

2. Deputy Director,
E.S.I.C. Hospital,
Basaidarapur, Ring Road,
New Delhi-110015.

3. Institute of Public Health & Hygiene,
RZ-A-44, Mahipalpur
New Delhi-110037. ... RESPONDENTS
(By Advocate: Sh.G.R.Nayyar with
Ms.Anuradha Priyadarshini)

ORDER

S.R. ADIGE, V.C.(A)

As both these OAs involve common questions of law and fact, they are being disposed of by this common order. For this purpose the pleadings in OA No.692/2001 Pradeep Kumar and Ors. v.s. ESIC and Ors. shall be referred to.

2. Applicants impugn respondents order dated 12.3.2001 (Ann.A) and seek a declaration that the diploma issued by Respondent No.3 Institute of Public Health and Hygiene RZ-A-44, Mohipal Pur, New Delhi is valid for employment in the organisation of respondent Nos 1 and 2.

3. Heard both sides.

4. Respondents No and 2 issued advertisement dated 27.5.2000 (Ann. H) inviting applications for filling up vacancies of Lab. Assistants, in which the Educational Qualifications prescribed were Matriculation or equivalent qualification from a recognised board with Diploma in Medical Laboratory Technology from a recognised educational institution.

5. Applicants names were forwarded by the employment exchange upon which interview letters were issued to them. Interview date were also announced but applicants complain that when they went to attend the interview, they were refused to be interviewed on the ground that the Diploma in Lab. Technology awarded to them by the Institute of Public Health andd Hygiene, Mahipal Pur, New Delhi was not recognised either by All India Council for Technical Education or by the Board of Technical Education Delhi. Respondent No.2 also displsyed on the Notice Board, the impugned order dated 12.3.2001 that candidates holding diploma awarded by the IPHH Hospital Pur New Delhi would not be interviewed as their diplomas were not recognised.

6. Aggrieved by the aforesaid order dated 12.3.2001 applicants had filed these two OAs. By interim order dated 19.3.2001 respondents had been directed to interview applicants provisionally subject to final orders passed in the OA.

7. The question for adjudication is whether the diplomas in Lab Technology awarded by IPHH MahipalPur, New Delhi is a diploma from a recognised educational Institution.

8. In this connection Respondents Nos 1 and 2 have invited our attention to the AICTE Act, 1987, Sec-10(1)(4) of the Act empowers the Council to set up a National Board of Accreditation to periodically conduct evaluation of Technical Institutions and make recommendations regarding recognition or derecognition of institutions. Shri Nayyer appearing for respondents Nos. 1 and 2, has pointed out that the AICTE is the only body authorised to recognise or derecognise institution and AICTE has not approved IPHH Mahipalpur, New Delhi for conducting of diploma programme in Medical Techonology as is clear from letter of AICTE dated 17.5.2001 (copy taken on record), which encloses a list of Institution approved by AICTE for conducting the aforesaid diploma programme. That list does not contains the name of IPHH Mahipalpur,New Delhi.

9. This is further confirmed by letter dated 12.3.2001 from Respondent No.1 to Gen. Secretary, ESIC (Med.) Employees Union (Ann.B) which refers to GNCT of Delhi, Department of Training and Tec.Education letter dated 10.10.2000 which states that diploma awarded by IPHH Delhi in Medical Lab. Technology is neither recognized by AICTE nor by Board of Technical Education, Delhi.

10. Applicants have relied upon certificates dated 17.3.1999 issued by Govt. of J&K (Ann.C); dated 5.5.2000 issued by Govt. of Sikkim; dated October, 1994 issued by Govt.of Nagaland; Ministry of Finance (Ann.D); to argue

that the diploma in Lab. Technology issued by IPHH Mahipalpur, New Delhi is a recognised course. Reliance is also placed on a brochure on Courses in Architecture - Planning Engineering and Medical-Para Medical(Ann E) issued by Govt. of NCT of Delhi which refers to a one year Diploma Course in Medical Lab. Techonology by IPHH, 95, Krishna Nagar, Street No.5, PO. Safdarjung Enclave, New Delhi, which applicants counsel contends is the same as IPHH Mahipalpur, New Delhi. Reliance is also placed on letter datedd 22.5.1996 (Ann.7) from AICTE to Secretary IPHH, Mahipalpur approving that Institute for conducting Continuing Education Programmes in Lab. Technician Course etc. as also reply dated 7.12.86 given to a Lok Sabha Question (Ann.5) in which it was stated that it had been brought to the notice of the Govt.that the States of Nagaland / Mizoram/ Manipur/ Sikkim had recognised/approved/recommended its diplomas.

11. Merely because on the basis of the aforesaid diplomas awarded by IPHH Mahipalpur, New Delhi, applicants were registered in the local Employment Exchange and their names were forwarded, is no guarantee that the diplomas are duly recognised by the authority competent to recognise them. Respondents 1 and 2 go by the recognition awarded by AICTE and Board of Technical Education, Delhi and in the absence of materials shown by applicants to establish that IPHH Mahipalpur, New Delhi is approved by AICTE or by Board of Technical Education, Delhi to award diplomas in MLT it cannot be said that applicants have an enforceable legal right to compel respondents 1 and 2 to consider them for appointment on the strength of the diplomas in MLT awarded by IPHH Mahipalpur, New Delhi.

12. During hearing it was averred by applicants counsel that some persons had earlier been appointed by respondents 1 and 2 on the strength of the diplomas awarded by IPHH Mahipalpur, New Delhi. Shri Nayyer, counsel for the respondents stated that their appointments were made out of error and when it was detected that diplomas in MLT awarded by IPHH , New Delhi was not recognised by AICTE or by Board of Technical Education, Delhi, no further appointments were made on the strength of the diplomas. Even if appointments of some persons was made on the strength of unrecognised diplomas, that does not give applicants an enforceable legal right to compel respondents to repeat the error.

13. In the light of the foregoing applicants have not been able to establish an enforceable legal right to compel respondents to consider them for appointment as Lab.Technician on the strength of the diplomas in MLT awarded to them by IPHH Mahipalpur, New Delhi.

14. Both OAs are therefore dismissed. No costs.

S. Raju

(SHANKER RAJU)
MEMBER(J)

(S.R. ADIGE)
VICE CHAIRMAN(A)

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