

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

O.A. No. 424/98

New Delhi this the 23 Day of September, 1998

Hon'ble Mr. Justice K.M. Agarwal, Chairman  
Hon'ble Mr. R.K. Ahooja, Member (A)

1. Smt. Kamla Devi,
  2. Smt. Neelam Batra,
  3. Shri Bal Ram Rai,
  4. Smt. Kamala Devi-II,
  5. Shri Ram Singh,
  6. Shri Durga Prasad,
  7. Shri Kishan Pal,
  8. Shri Uma Shanker,
  9. Shri Babu Ram
- ... Applicants

All Laboratory Attendants, Hospital  
Laboratory Services, GTB Hospital,  
Shahdra, Delhi-110 095.

(By Advocate: Shri P.I. Oommen)

-Versus-

1. Government of National Capital  
Territory of Delhi,  
Through Principal Secretary (Health),  
5 Shyam Nath Marg, Delhi-110 054.
  2. The Medical Superintendent,  
Guru Teg Bahadur Hospital,  
Shahdra, Delhi-110 095.
  3. The Office Superintendent,  
(Shri R.S. Bhandari),  
G.T.B. Hospital,  
Shahdra, Delhi-110 095.
- ... Respondents

(By Advocate: Shri S.K. Gupta proxy of Shri B.S. Gupta)

ORDER

Hon'ble Shri R.K. Ahooja, Member (A)

With the consent of the counsel on both sides,  
this O.A. is disposed of at the admission stage itself.

2. The applicants, Nursing Orderlies, were  
promoted to the next higher grade of Lab. Attendants, by  
order dated 13.3.1997, copy of which is at Annexure A.


Their grievance is that they are sought to be reverted back by the impugned order, Annexure A-1 dated 18.2.1998 without giving them any notice or show cause.

3. The respondents have filed a reply. They submit that the promotion of the applicants was made due to a mis-interpretation of the instructions and guidelines regarding reservation for O.B.C. The said instructions provide for reservation for Other Backward Classes (O.B.C), at the time of the initial appointment into service but so far as promotion is concerned, there is no reservation for this category. A copy of the OM dated 22.10.1993 issued by the Ministry of Personnel has also been annexed to the reply as R-1. The respondents also state that it became necessary to conduct a Review DPC to set right the mistake of promoting OBC employees on the basis of reservation. There was a persistent demand for the review DPC from the staff Union and therefore the matter was within the knowledge of the applicants and they cannot claim to be taken by surprise.

4. The learned counsel for the applicants has argued that there are a large number of posts of Lab. Assistants lying vacant in the Hospital and even if a Review DPC was necessary, the applicants could have been continued as Lab. Assistants if all the posts were to be filled up. According to him this is what the Union was agitating for and not that the applicants should be reverted.

5. Be that as it may, the fact remains that the initial promotion of the applicants was contrary to Rules as they had no right to preferential treatment in the matter of promotion. The only question is whether the respondents could have taken the action without giving them an opportunity to show cause. In the facts and circumstances of the case, we do not consider that the non-issue of a show cause notice or a non provision of such an opportunity constitutes a denial of natural justice. Since the promotion was patently against the rules for reservation for promotion, it cannot be said that the applicants have suffered a legal grievance on account of their reversion or that they have been wrongly deprived of something to which they were entitled. The Supreme Court has also held in Ahmedabad Municipal Corporation Vs. Nawab Khan Gulab Khan & Ors. AIR 1997 SC P.152 that the duty to grant hearing or notice would not arise in undoing an obvious wrong or illegality of recent origin. The orders of promotion were obviously wrong and illegal. Therefore, no injustice has been caused to the applicants by denial of the opportunity to show cause.

6. In the result, the O.A. being devoid of merit is summarily dismissed. There is no order as to costs.

  
(K.M. Agarwal)  
Chairman

  
(R.K. Ahooja)  
Member(A)

\*Mittal\*