

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.67/1998

New Delhi, this 13th day of April, 1999

Hon'ble Shri T.N. Bhat, Member (J)
Hon'ble Shri S.P. Biswas, Member (A)

Krishan Kumar
A-3/24, Sector No.7
Rohini, Delhi-85 .. Applicant

(By Shri N.S. Dalal, Advocate)

versus

Govt. of NCT of Delhi, through

1. Medical Secretary
5, Shamnath Marg, Delhi
2. Joint Secretary (Medical)
1, JLN Marg, New Delhi
3. Sub-Regional Employment Officer
S-IV, R.K. Puram, New Delhi .. Respondents

(By Shri Rajinder Pandita, Advocate)

ORDER

Hon'ble Shri S.P. Biswas

The applicant seeks issuance of direction to the respondents No.1 and 2 to consider his candidature against one of ~~of~~ the posts of Pharmacists under the respondents, for which applicant's name was sponsored by Respondent No.3 (Employment Exchange) in the year 1993. He has also sought for relief in terms of not rejecting his candidature on the ground of overage.

2. Briefly stated, the uncontroverted facts of the case are that the applicant, a Diploma holder in Pharmacy Course from the Haryana State Board of Technical Education and a registered Pharmacist of the Delhi Pharmacy Council, got his name registered with the Employment Exchange, R.K. Puram for the post of Pharmacist and his name was duly sponsored

by R-3 in response to the requisition placed on it by the 1st respondent for filling up a large number of vacancies for the post of Pharmacist in the year 1993. Thereafter, the applicant made series of efforts through personal visits and representations to the respondents in 1994 to 1996 to know the result of his candidature but without any success. However, he came to know in 1996 that his candidature was rejected due to his overage. He did not receive any response to any of his representations. Therefore, he has filed this application on 6.1.98, seeking the aforementioned reliefs. (14)

3. Though the respondents have raised preliminary objection on the point of limitation, they have not come with any convincing reply with regard to applicant's selection except stating that due to administrative reasons these posts could not be filled up in 1993 and the list sponsored by R-3 was returned to it on 12.2.96 for sending fresh nominations on account of increase in number of vacancies. Answering respondents, however, have admitted that there were 71 posts of Pharmacist available in the year 1993 against which R-3 nominated names of 1023 candidates including the applicant as per R-3's communication dated 17.6.93. They further contended that the name of applicant could not be considered in 1996 because of applicant having become overaged on the date of notification dated 12.2.96.

4. We, therefore, called for the relevant departmental file dealing with the process of recruitment for the posts of Pharmacist. On going thorough the said file, we find that lists of candidates sponsored by R-3 in 1993 were returned to it on 12.2.96 alongwith a fresh requisition for filling up of 77 posts. This was followed by another requisition for filling up of 130 posts. After several reminders to it, R-3 vide letter dated 12.3.97 returned the lists of 1027 candidates, including those of 1993, with the request to consider also the candidates who have become overage during the period when the second list was sent in 1996. The letter dated 12.3.97 also mentions that in the interest of principle of natural justice and fairplay and to avoid any embarrassing position at a later stage, names of all such candidates which were earlier sent to the employer should be considered in view of notification of vacancies. After March, 1997, the matter rested at that stage for sometime.

5. Even though the answering respondents resisted the application on grounds of limitation, it cannot be denied that the applicant has been making repeated representations, and meeting the respondents only as a result when he came to know that his candidature has been rejected because of overage. It is well settled in law that when the respondents are at fault, it cannot take the plea of limitation (see **S.R. Shanrao Vs. UOI & Ors.** (1997) 1 SLJ 14).

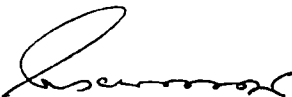
7. As already stated, applicant seeks issuance of directions only to the extent of considering his candidature for the post of Pharmacist and not to reject his candidature because of overage particularly when his name was sponsored by R-3 in 1993, when admittedly a large ^{number} of vacancies were available with the respondents. Therefore, having considered all the relevant facts and circumstances as discussed above, we feel that ends of justice would be met if the OA is disposed of with appropriate directions keeping in mind facts and circumstances of the case. (16)

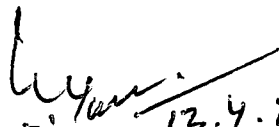
8. In the result, the OA is allowed with the following directions:

(i) Name of applicant shall be considered by the respondents for the post of Pharmacist, if necessary, by giving age-relaxation;

(ii) Any decision taken on the above point, shall be communicated to the applicant within a reasonable time; and

(iii) There shall be no order as to costs.


(S.P. Biswas)
Member (A)


13.4.99
(T.N. Bhat)
Member (J)

/gtv/