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Central Administrative Tribunal, Principal Bench

Original Application No.1673 of 1995

with

Original Application No.1778 of 1994

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New Delhi, this the 2nd day of August, 1999

Hon'ble Mr.Justice D.N.Baruah, Vice Chairman  
Hon'ble Mr.N.Sahu, Member (Admnv)

O.A.1673/95

Mrs.Kamlesh Sethi  
W/o Shri Yogesh Sethi,  
Assistant Dietician,  
Guru Teg Bahadur Hospital,  
Shahdara,Delhi.

R/o 203-D,Pocket J&K  
Dilshad Garden,  
Delhi-110095

- Applicant

(By Advocate - Shri Arun Bhardwaj)

Versus

1.Govt. of NCT of Delhi.  
through its Secretary,  
Ministry of Health,  
5,Shamnath Marg,  
Delhi.

2.Principal Hospital Co-ordinator,  
O/o P.H.C. cum Joint Secretary (Medical)  
1,J.L.Nehru Marg,  
New Delhi.

3.The Medical Superintendent  
Guru Teg Bahadur Hospital,  
Shahdara,Delhi.

4.Deputy Medical Superintendent(Admn)  
Guru Teg Bahadur Hospital,  
Shahdara,Delhi. - Respondents

(By Advocate - Shri Amresh Mathur)

O.A.1778/94

Mrs.Neelam Jain  
W/o Shri S.K.Jain,  
R/o 13-E,Pocket-K,  
Sheik Sarai Phase-II  
New Delhi.  
Assistant Dietician,  
L.N.J.P.N. Hospital,  
New Delhi

- Applicant

(By Advocate: Shri Arun Bhardwaj)

Versus

1.Govt. of National Capital Territory  
of Delhi,

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Through its Secretary,  
Ministry of Health,  
5,Sham Nath Marg,  
Delhi.

b

2. Principal Hospital Co-ordinator,  
O/o PHC-cum/Jt.Secretary(M)  
1,J.L.Nehru Marg,  
New Delhi. - Respondents

(By Advocate - Shri Amresh Mathur)

O R D E R (Oral)

By Baruah, J. -

Both the applications involve common question of law and similar facts. Therefore, we dispose of both the OAs by a common order.

2. The admitted facts are : an advertisement no.F.4(77)/83/MC/TRC dated 7.4.94 was issued by the Principal Hospital Co-ordinator, O/o P.H.C. cum Joint Secretary(Medical), 1, J.L.Nehru Marg, New Delhi, respondent no.2 for the post of Dietician. In response to this advertisement, both the applicants applied for the said post. However, after some time, the advertisement was cancelled. These posts were again advertised on 12.10.94. Again both the applicants applied for the post alongwith others. The applicants were, in due course, called for interview. After the interview, according to the applicant, a select list was prepared. The applicants have also come to know that they had been selected for the post of Dietician, however, no appointment was made in accordance with the selections. The applicant in OA-1673/95 submitted two representations dated 3.2.95 (Annexure A-IV) and dated 8.3.95. These representations were disposed of. Accordingly, after

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the expiry of six months, the applicant in O.A.1673/95 approached this Tribunal. Similarly, Mrs. Neelam Jain also filed the O.A.1778/94.

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3. The respondents have entered appearance and filed counter affidavit in both the cases. We have both the parties.

4. Shri Arun Bhardwaj, learned counsel for the applicants submits that the applicants applied for the post of Dietician pursuant to the first advertisement and also to the next advertisement. Both the applicants have come to know that they were selected in the interview held pursuant to the second advertisement dated 12.10.94 but no appointment was made. The rules have been made under Article 309 of the Constitution for the post of Dietician. This was amended by a notification dated 30.10.98 which was published in the Delhi Gazette. After the amendment, the applicants were however appointed on the recommendations of the DPC by order dated 17.4.99. The contention of Shri Bhardwaj is that the first advertisement was issued as far back in April, 1994 which was cancelled and it was again issued in October, 1994 and the applicants applied for the post of Dietician. After interview, as per the information of the applicants, they were selected, however, no appointment was made. Representations filed by the applicants were also disposed of. Shri Bhardwaj, however, submits that when an advertisement was issued

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and interview was held, the respondents were duty bound to publish the results and appoint the persons selected. This was not done.

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5. On the other hand, the respondents in their counter state that second advertisement was also cancelled pursuant to the order passed by the Hon'ble Minister, Incharge of the Health. It was again challenged by Shri Bhardwaj that there was no reason whatsoever for cancellation. Shri Amresh Mathur admits that the advertisement and subsequent selections were cancelled on the order of the Minister, Incharge of the Health Department without any reasons. At the time of admission and thereafter, this Tribunal passed three successive orders for production of record. We are surprised that the learned counsel for respondents could not prorduce the same. Shri Mathur admits that no reason was given for cancellation of the advertisements. Such cancellation cannot be accepted.

6. Accordingly we set aside the cancellation of the advertisements and direct the respondents to publish the select list prepared, if any, after the interview was held. If the applicants were selected in the process, they may claim the benefit of the same with consequential reliefs. This must be done as early as possible at any rate within a period of two months from the date of receipt of this order. No costs. A copy of the order be placed in OA-1778/94.

9/4/94

(N. Sahu)  
Member(Admnv)

(D.N.Baruah)  
Vice Chairman

*R.K. Vishwakarma*  
(Private Secretary)  
Central Administrative Tribunal  
Faridkot House, New Delhi