



CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. NO.675/2000

New Delhi this the 3rd day of ~~December~~<sup>January</sup>, 2000

HON'BLE MR.V.K. MAJOTRA, MEMBER(A)  
HON'BLE MR SHANKER RAJU, MEMBER (J)

Shri Jagdish Prasad Sharma  
R/o RZ-24B, Gali No. 13,  
Kailash Puri Extn.  
Palam Colony, New Delhi-45.

-Applicant

(By Advocate: Shri Anil Singhal)

Versus

1. Govt. of NCT of Delhi  
Through its Secretary  
Ministry of Health  
5, Sham Nath Marg,  
New Delhi-54.
2. Medical Superintendent  
DDU Hospital  
Hari Nagar, New Delhi.
3. Divender Singh  
Working in Ortho OPD No. 111  
C/o Medical Superintendent  
DDU Hospital, Hari Nagar,  
New Delhi.

-Respondents

(By Advocate: Mrs. Sumedha Sharma)

ORDER (Oral)

Mr. V.K. Majotra, Member (A)

The applicant was appointed as a regular Mate in the Office of Respondent No.2 on 31.3.90. In the seniority list of Mates at Annexure A-5, he is placed at Sr. No. 1. It is averred that as per Recruitment Rules for various Group-D posts in the Medical Institutions under Delhi Administration, Delhi notified on 19.2.87 (Annexure A-7) the post of Cook, in the scale of Rs. 775-1025 (Revised), <sup>1b</sup> has to be filled by promotion from Bearer/Mates/Khidmatgar/Masalchi in the scale of Rs. 750-940 having three years service in

*[Handwritten signature]*

the grade. There was one vacant post of Cook with Respondent No.2. Instead of considering eligible candidates as per their seniority for promotion to the post of Cook, the respondents circulated the post vide Circular dated 12.4.99 (Annexure A-2) inviting applications by 26.4.99 from Bearer, Mate, Khidmatgar and Masalchi. This post was reserved for OBC category. Later on, the respondents vide Memo dated 3.6.99 (Annexure A-2(a)) converted the post of Cook from OBC category to General category and the applications were invited again till 18.6.99. The respondents also held a meeting of the Departmental Promotion Committee on 27.8.99 and recommended the name of Shri Davinder Singh, Mate for the post of Cook w.e.f. 18.9.99 (Annexure A-3). The applicant has taken exception to the procedure adopted by the respondents for filling up the vacant post of Cook, first, by inviting applications as if the post was to be filled by direct recruitment and later also holding a DPC by converting the post of Cook from OBC category to General category and selecting Shri Davinder Singh who was at Sr. No. 7 in the seniority list. The applicant had also made an application on 6.11.99 for promotion to the post of Cook which was rejected by the respondents on 21.1.2000 vide Annexure-A-1.

2. The respondents in their counter have stated that the request of the applicant could not be considered as the DPC had taken the final decision for filling up the post on 27.8.99. The applicant had not made the application within the stipulated period i.e.

*Wb*

upto 18.6.99. According to the respondents, candidates can be considered for promotion only if they make an application for the post and since the applicant had not made any application before the stipulated period, he was not considered for promotion.

3. We have heard the learned counsel of both sides and gone through the record available in the file.

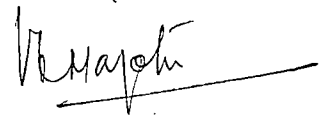
4. As per the Recruitment Rules placed at Annexure A-7, we find that the post of Cook has to be filled by promotion from the category of Bearer/Mates/Khidmatgar/Masalchi who have three years service for the grade. No educational qualification and experience has been prescribed for filling up the post of Cook by promotion. The procedure adopted by the respondents by inviting applications as if the post was to be filled by direct recruitment is not as per the prescribed rules. Anyone fulfilling the condition of three years service in the feeder grade has to be considered for promotion to the post of Cook by holding a DPC meeting on the basis of seniority-cum-fitness as the post is non-selection one. Rejection of the application of the applicant without considering his candidature is absolutely wrong and illegal.

5. Having regard to the reasons given above and the Recruitment Rules pertaining to the post of Cook, we find that the vacant post had to be filled by promotion by organising DPC meeting and considering all

(4)

eligible candidates from the feeder category. As the respondents have not adopted the correct procedure as per the rule for filling up the vacant post of Cook, Annexure A-1 dated 21.1.2000 rejecting the application dated 6.11.99 of the applicant <sup>and</sup> Annexure A-3 dated 18.8.99 selecting Shri Davinder Singh, Respondent No.4 for the post of Cook are quashed and set aside being against the rules and illegal. The respondents are directed to hold a fresh DPC considering the name of the applicant among <sup>the</sup> other eligible persons for promotion to the post of Cook within a period of three months from the date of communication of this order. No costs.

S. Rajm  
(Shanker Raju)  
Member (J)

  
(V.K. Majotra)  
Member (A)

cc.