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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.782/2000

New Delhi, this 14th day of December, 2001

Hon'ble Shri M.P. Singh, Member(A)
Hon'ble Shri Shanker Raju, Member(J)

Fromod Kumar
Village Papravat, PO Najafgarh,
Delhi .. Applicant

(By Shri Chand Kiran, with Dr.K.S.Chauhan and
Dr.K.P.S.Dalal, Advocates)

versus

Govt. of NCT of Delhi, through

1. Chief Secretary
5, Shamnath Marg, Delhi-54
2. Secretary(Health)
5, Shamnath Marg, Delhi-54
3. Medical Superintendent
Aruna Asaf Ali Govt. Hospital
Rajpur Road, Delhi
4. Head of Office
Aruna Asaf Ali Govt. Hospital
Raipur Road, Delhi
5. Deputy Medical Superintendent
Aruna Asaf Ali Govt. Hospital
Rajpur Road, Delhi .. Respondents

(Shri H.P. Chakravorty, Advocate)

ORDER

Shri M.P. Singh, Member(A)

By filing this OA, the applicant has claimed the following reliefs:

- (i) Direct the respondents not to appoint more persons (namely more than six posts) than the post advertised by them;
 - (ii) Quash the selection and direct the respondents to notify the vacancies in the Employment Exchange as per the statutory provisions; and
 - (iii) Direct the respondents to appoint him in the post advertised by them.
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2. Brief facts of the case are that respondent No.3 advertised two posts of Peon and 4 posts of Nursing Orderly (one OBC, two general and one ST category) in the pay scale of Rs.2550-3200. Applicant applied for one of the posts of Nursing Orderly. He was called for interview held on 13.1.2000. According to the applicant, he was informed that he has been selected. However, he was later surprised to know that his name was not found in the list of twentyfive selected candidates. It is stated by him that his name has been deleted from the list. Respondents have issued order for medical examination on 18.4.2000 to the candidates for appointment to the post. The contention of the applicant is that only six posts were advertised by the respondents whereas they have selected about 25 candidates against 6 advertised posts. The other ground taken by the applicant is that the vacancies have not been notified to the Employment Exchange which was the mandatory requirement under Employment Exchange (Compulsory Notification of vacancies) Act, 1959. In support of his claim, the applicant has relied upon the Supreme Court judgement in the case of Raj Kumar Vs. Shakti Raj 1997(9) SCC 527 wherein it has been held that the "necessary requirement should be that they should necessarily not only notify but also call the names from employment exchange; in addition they should give wide publicity in the media inviting applications from qualified persons for selection". Since the applicant has not been offered the post of Nursing Orderly, he has filed this OA claiming the aforesaid reliefs.





3. Respondent have contested the case and have stated that they have invited applications for the post of Nursing Orderly created in 1999 in the interest of general public through advertisement in the newspapers having wider circulation and they have also displayed the circular on the office notice board. All the persons who have registered their names with the Employment Exchange were interviewed after scrutiny of their applications and persons who qualified the interview have been given the appointment. However, thirty newly created posts have now been advertised and requisitions have been sent to the Employment Exchange. Respondents have denied that name of applicant was deleted from the list of selected candidates. On the basis of their performance in the interview, merit list of the selected candidates was prepared and final selection was made for the newly created posts in the interest of efficient functioning of the hospital and general public. Since the minimum educational qualification for the Group D post is 8th standard, it was not thought suitable to conduct any written examination and the selection was made on the basis of interview only. In view of these submissions, applicant is not entitled for any relief and the OA be dismissed.

4. Heard the contentions of the learned counsel for the rival contesting parties and perused the records.

5. During the course of the arguments, learned counsel for the applicant drew our attention to the judgement of the Supreme Court (supra) and stated that respondents have not placed requisition on the Employment Exchange for sponsoring names of candidates as required under the



(23)

rules. He also submitted that as against 6 vacancies which were advertised in the newspapers, they have selected 25 candidates, which is illegal as per law laid down by the Supreme Court.

6. On the other hand, the learned counsel of the respondents has stated that selection was held by a duly constituted selection committee which conducted the interview and prepared the merit list on the basis of the performances of the candidates.

7. On our direction, respondents have furnished the file relating to selection proceedings. We have gone through the original records. A merit list of 20 candidates for the post of Nursing Orderly has been prepared by the selection board. In this list, name of applicant appears at Sl.No.15. Respondents have appointed only 14 candidates from the merit list prepared by the selection board. We also find that the merit list has been prepared on the basis of marks obtained by each candidate and also keeping in view the reservation for various categories i.e. SC/ST/OBC.

8. We further find that the respondents have advertised only 4 posts of Nursing Orderly whereas a panel of 20 candidates has been prepared on the basis of interview. According to their own admission, respondents have prepared the merit list of selected candidates for newly created posts in the interest of efficient functioning of the Hospital and general public. They have also stated in their reply that 30 newly created posts have now been advertised and requisitions have been sent to the Employment Exchange. This shows that vacancies are



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still available with them in the grade of Nursing Orderly. It is because of this reason that a panel of 20 candidates was prepared. Since they have already appointed 14 persons out of this panel and the name of applicant appears at Sl.No.15 in the said panel and that vacancies are available with the respondents, we are of the considered view that ends of justice would be duly met by giving a direction to the respondents to consider giving appointment to the applicant in the grade of Nursing Orderly against one of the available vacancies. We do so accordingly. This shall be done within a period of two months from the date of receipt of a copy of this order.

9. The OA is disposed of in the above terms. No costs.



(Shanker Raju)
Member(J)



(M.P. Singh)
Member(A)

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