

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO. 785/2000

Friday, this the 7th day of May, 2001

Hon'ble Shri S.A.T. Rizvi, Member (A)

1. Mohd. Lukman
S/O Ata Ilahi
R/O 407, Income Tax Colony,
Pitam Pura, Delhi-34.
2. Mohd. Hasim
S/O Mohd. Mian
R/O House No.20, Baktawar Pur,
Delhi-36.

...Applicants.

(By Advocate: Shri P. Chakravarty)

VERSUS

1. Lt. Governor, NCT of Delhi
through Secretary (Medical),
5 Sham Nath Marg, Delhi-54.
2. Medical Superintendent,
Lok Nayak Jai Prakash Narain Hospital,
Jawahar Lal Nehru Marg, New Delhi-2.
3. Additional Secretary (Health)
Public Health Coordinator,
Technical Recruitment Cell,
Govt. of NCT of Delhi,
Jawahar Lal Nehru Marg,
New Delhi-2.

...Respondents

(By Advocate: Shri Harvir Singh)

O R D E R (ORAL)

In order to overcome the serious administrative problem given rise to by the strike of the technical staff from 20.7.1998, the respondents sought to recruit Nursing Orderlies (NOs) as well as other members of technical staff on a purely temporary basis by issuing an advertisement in news papers. Along with so many others, both the applicants in the present OA also applied for the post of NOs and were interviewed by the respondents, and appointment letters were issued to them on 14.3.2000 and 22.3.2000 respectively placed at Annexure-7 (pages 49

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to 51 & 53 to 54 of the paper book). However, after a short period of employment, their services have been dispensed with vide respondents' memorandum dated 1.4.2000 at Annexure-8 (pages 56 & 57 of the paper book). Aggrieved by the same, they have filed the present OA.

2. Heard the learned counsel on either side and perused the material placed on record.

3. Drawing our attention to the appointment letters issued to the applicants, the learned counsel appearing on behalf of the respondents has pointed out that in terms of para 14 of the said letters, both the applicants were informed that their appointment was subject to their being selected at the interview, the results of which were then awaited. Having said this, the learned counsel has produced for my perusal lists of persons finally selected by the respondents after the interviews held over a period of time. The relevant papers have been filed with an additional affidavit, a copy of which was provided to the learned counsel appearing on behalf of the applicants. The said affidavit has been taken on record. I have perused the same and find that after screening a very large number of applicants who had applied in response to the aforesaid advertisement dated 26.1.1999, the respondents went about interviewing the candidates screened in, again a very large number, by constituting four different boards set up vide respondents order of 18.10.1999. All those who had applied in response to the said advertisement together with those whose names had been sponsored by the

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employment exchange as also those who had been engaged on daily wage basis immediately on the strike taking off, were interviewed by the aforesaid boards. The applicants, though interviewed, were not finally selected and that is why their services have been dispensed with by the aforesaid impugned orders dated 1.4.2000. The learned counsel for the respondents has vehemently argued that in view of para 14 contained in the appointment letters issued to them, the applicants could never contend that they had been finally selected and properly and regularly appointed by means of the memorandums dated 14.3.2000 and 22.3.2000 issued by the respondents. The plea raised by them in the present OA is, therefore, according to him, an after-thought and could not be successfully taken, more so, because both of them have admittedly been interviewed by the aforesaid selection boards and found unfit to be appointed in the post of NO.

4. The papers filed by the learned counsel for the respondents along with their additional affidavit show that the proceedings of the selection boards had been completed by 16.3.2000 and by the same date, lists of all the persons selected had also been drawn up. Keeping this in view, it is somewhat surprising that the respondents should have chosen to issue appointment letters in favour of the applicants as late as on 14.3.2000 and 22.3.2000 respectively. The respondents should have known, according to me, that the appointment of regularly selected persons was, at that point of time, already round the corner. Despite this, the aforesaid appointment letters were issued with the result that the

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services of both the applicants had to be terminated immediately thereafter w.e.f. 1.4.2000. I am also somewhat baffled by the fact that the respondents chose to issue appointment letters vide memorandums dated 14.3.2000 and 23.4.2000 by adopting a format which is normally used when regular appointments are made. That the respondents have introduced a paragraph therein on the lines of paragraph 14 of the aforesaid letters fails to satisfy me. I have no hesitation in concluding, therefore, that the format adopted by the respondents in issuing appointment letters to the applicants had the potential of misleading the applicants into believing that both of them had secured regular appointments. Termination of their services immediately thereafter has added insult to injury. I would, in the peculiar circumstances of this case, expect the respondents to investigate and find out for themselves as to why appointment letters were issued to the applicants in the formats normally adopted at the time of making regular appointments. The possibility of mischief, if any, which may have led to the issuance of the aforesaid appointment letters needs to be closely examined and those found guilty would deserve to be dealt with to avoid such things happening in future.

5. My attention has been drawn by the learned counsel for the respondents also to the recruitment rules framed by the respondents in respect of the post of NO. The same provides for direct recruitment to the post. However, no provision has been made therein laying down the detailed procedure for making direct recruitments.

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The learned counsel appearing for the respondents has not been able to produce for my perusal executive instructions, if any, setting up the procedure for direct recruitment. It is likely that the respondents have not issued any such instructions. However, instructions issued by them on 18.10.1999 setting up for four different boards to interview the applicants could in a way be regarded as executive/ administrative instructions meant to supplement the provisions made in the relevant recruitment rules. Thus, though the respondents may not appear to have made any significant irregularity by following the aforesaid procedure in making selections for the post of NO, they are advised, however, to consider supplementing the relevant recruitment rules by issuing well considered executive instructions to take care of the procedure for direct recruitment in its entirety.

6. In the circumstances outlined in the preceding paragraphs, the OA is found to be devoid of merit. The same is accordingly dismissed. No costs.



(S.A.T. Rizvi)
Member (A)

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