

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 815/2000



New Delhi this the 17th day of July, 2000.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SHRI V. K. MAJOTRA, MEMBER (A)

Mrs. O.P.Sethi,
Nursing Superintendent,
Safdarjung Hospital,
R/o 94, Nehru Apartments,
Kalkaji,
New Delhi-110019.

... Applicant

(By Shri S. N. Anand, Advocate)

-Versus-

1. Union of India through
Secretary, Department of Health
Ministry of Health and Family Welfare
Nirman Bhawan
New Delhi.
2. Director General Health Services
Nirman Bhawan
New Delhi.
3. Mrs.G. David
Chief Nursing Officer
Jawaharlal Institute of Post-Graduate Medical
Education and Research
Pondicherry.
4. The Medical Superintendent
Safdarjung Hospital
New Delhi.

Respondents

(By Shri S.M. Arif, Advocate)

O R D E R (ORAL)

Shri Justice Ashok Agarwal :

Applicant who is working as a Nursing Superintendent in Safdarjung Hospital, New Delhi, by the present OA seeks a direction to respondent Nos.1 &2 to consider her for promotion as Chief Nursing Officer in preference to or along with Mrs. G. David, respondent No.3 herein who has been promoted to the said post with effect from 15.10.1994. According



(b)

to the applicant, she has put in a longer tenure in the combined nursing service than respondent No.3. She is accordingly entitled to be promoted as Chief Nursing Officer prior to respondent No.3. For this purpose, she claims benefit of the period she had been holding the post of Nursing Superintendent on ad hoc basis on which post she had been regularised with effect from 6.10.1997. According to the applicant, she has a preferential right for promotion to the post of Chief Nursing Officer over that of respondent No.3.

2. We have heard the learned counsel appearing for the contending parties and we find that the applicant does not and cannot claim the aforesaid promotion in preference to respondent No.3. Applicant by an order issued on 12.1.1995 at Annexure-A was promoted from the post of Assistant Nursing Superintendent to that of Nursing Superintendent. Respondent No.3, on the other hand by an order passed on the very same date, i.e. 12.1.1995 at Annexure-D was promoted from the post of Deputy Nursing Superintendent to that of Chief Nursing Officer. A perusal of the aforesaid orders of promotion that of applicant and of respondent No.3 shows that whereas applicant on 12.1.1995 was holding the post of Assistant Nursing Superintendent, respondent No.3 was already holding the post of Deputy Nursing Superintendent which is a higher post than that of ~~the~~ Assistant Nursing Superintendent. Respondent No.3, it is, therefore, clear, was holding a superior post than that of the applicant. She was accordingly entitled to be promoted as Chief Nursing Officer in preference

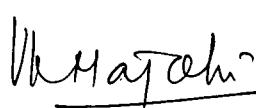
[Signature]



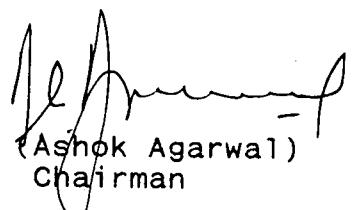
to the applicant. Since respondent No.3 has been promoted to a higher post than that held by the applicant, respondent No.3 would become entitled for the aforesaid promotion even though the applicant may have put in a longer tenure in the combined nursing service. The present position would ~~continue~~ ^{hold good} even if the period during which applicant had continued as Nursing Superintendent on ad hoc basis is taken into account.

3. There are three vacancies, we are informed of the post of Chief Nursing Officers in other Hospitals at New Delhi. As far as these vacancies are concerned, the recruitment rules which have come into force with effect from 3.2.1999 are applicable. A requisition has accordingly been made by the requisite authorities to the Union Public Service Commission for holding a Departmental Promotion Committee for filling up the aforesaid promotional posts on regular basis. The claim of the applicant, we are sure, will be considered by the Departmental Promotion Committee for promotion if she is otherwise found eligible. In the circumstances, no relief can be claimed for promotion to the aforesaid post of Chief Nursing Officer.

4. Present OA in the circumstances is dismissed, however, without any order as to costs.



(V.K. Majotra)
Member (A)



(Ashok Agarwal)
Chairman