

Central Administrative Tribunal
Principal Bench: New Delhi

C.P. No. 560/2001 In
O.A. No. 1907/2000

(AO)

New Delhi this the 13th day of March, 2002

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J)
Hon'ble Shri V.K. Majotra, Member (A)

1. Dinesh Kumar,
Son of Shri Satya Narayan,
R/o 25/4, Ahir Mohalla,
Najafgarh Road, Nangloi,
Delhi-54.
2. Bijender Kumar
S/o Late Shri Jas Ram Singh,
R/o 147, Gali No.13,
Balbir Nagar Extension,
Nalapar Shahdara, Delhi-32.

(By Advocate: Shri Apurb Lal)

-Petitioner

Versus

Shri Ashok Kumar Mukherjee,
Director,
Institute of Pathology (ICMR),
Safdarjung Hospital, Campus,
Post Box No. 4909,
New Delhi-29.

(By Advocate: Shri V.K. Rao)

-Respondent

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Hon'ble Shri V.K. Majotra, Member (A)

OA-1907/2000 was disposed of vide order dated 15.5.2001 with the following observations/directions to the respondents:-

"In the facts and circumstances brought out in the preceding paragraphs and in paragraph 7 in particular, I find that having regard to the practice hitherto followed by the respondents and the provisions made in the Recruitment Rules, the applicants might be entitled to be considered for appointment/regularisation in

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the post of Laboratory Assistants in their turn and subject to availability of vacancies. Accordingly, I proceed to dispose of this OA by directing the respondents to consider the claims of the applicants for appointment/regularisation as LA as expeditiously as possible keeping in view the observations made in this order and provisions made in the aforesaid Recruitment Rules, and pass a speaking order".

2. Learned counsel stated that respondents have not implemented the aforesated orders and not regularised the petitioners on the posts of Laboratory Assistants.

3. On the other hand, learned counsel of the respondents, drew our attention to Annexure R-1 dated 28.9.2001 stating that applicants' claim for appointment/regularisation as Laboratory Assistants was considered but respondents are not in a position to regularise them as there is no vacancy available in the Institute at present. However, the Institute shall certainly consider their case for appointments subject to availability of vacancies in their turn to the post commensurate with their qualifications and experience.

4. As per the Recruitment Rules of 2000, 75% posts of Laboratory Assistant have to be filled by promotion and 25% by direct recruitment. The applicants are claimants for direct recruitment and their candidature has to be considered in accordance with the rules.

5. Whereas in terms of Court's orders, applicants' claim was to be considered for appointment to the post of Laboratory Assistant in their turn and subject to availability of vacancies, respondents have denied existence of any vacancies at present. In the OA itself,

it was not applicants' case that any one junior to the applicants had been appointed/regularised as Laboratory Assistant.

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6. In the absence of any vacancy of the post of Laboratory Assistant and also in the absence of any allegation of appointment of a junior on the post of Laboratory Assistant, it cannot be stated that there has been any violation in implementation of court's orders. As a matter of fact, respondents have stated in Annexure R-1 that they would consider applicants' case for appointment in their turn subject to availability of vacancies.

7. Having regard to the above discussion, we do not find any truth in the allegation made by applicants against respondents regarding violation of directions of this court. Accordingly the C.P. is dismissed and notice against respondents under the contempt of Courts Act, 1971 is discharged.

V.K. Majotra

(V.K. Majotra)
Member (A)

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Vice-Chairman (J)

cc.