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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.543/2004

New Delhi, this the 1st day of March, 2005

Hon'ble Shri Justice M.A. Khan, Vice-Chairman(J)  
Hon'ble Shri S.K. Naik, Member(A)

1. Mrs. Babita Khera  
A-703, Daffodils Society  
Plot No.36, Sector 6  
Dwarka, New Delhi
2. Mrs. Maya  
332, VPO Katewara, Delhi
3. Mrs. Kamlesh Kumari  
442, Sector 1, Block 11  
Opp. LHMC & Smt.S.K.Hospital  
New Delhi
4. Mrs. Werila Ghagre  
89/447, Sector I  
Gole Market, New Delhi
5. Miss NG.Machila Moyon  
K-5/12, Udyan Marg  
Sector II, Gole Market, New Delhi .. Applicants

(Shri B.B.Raval, Advocate)

versus

Union of India, through

1. Secretary  
Ministry of Health & Family Welfare  
Nirman Bhavan, New Delhi
2. Director General of Health Services  
Nirman Bhavan, New Delhi
3. Principal  
Lady Hardinge Medical College and  
Smt.S.K.Hospital, New Delhi
4. Deputy Director(Admn.)  
Lady Hardinge Medical College and  
Smt.S.K.Hospital, New Delhi .. Respondents

(Shri R.N.Singh, Advocate)

ORDER

Shri S.K. Naik

By virtue of the present application, applicants – 5 in number – seek a direction to the respondents to hold Departmental Promotion Committee (DPC) meeting to fill up all the vacancies right from 1998 onwards till date by preparing year-wise panel and also to consider and promote the applicants to the post of Nursing Sister against the points earmarked for SC/ST category. The applicants, belonging to SC community, claim that they have

Shri S.K. Naik



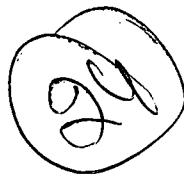
put in more than 7-11 years of service and thus have become eligible to be considered for promotion to the next higher grade i.e. Nursing Sister. They further claim that there are still 6 vacancies meant for SC category against which the applicants can be promoted.

2. Learned counsel for the applicants has contended that as per the seniority list notified on 31.8.1998, names of applicants figure at Sl.No.39, 153, 198, 267 and 270 respectively. According to him, respondents have not held any DPC meeting from 1997 till date for any category except for one DPC in the year 2002, which was held only for general category candidates. He, therefore, contends that the respondents are bound to prepare year-wise panel from 1998 onwards till date. He has further contended that as has been held by the Supreme Court in the case of N.R.Banerjee Vs. UOI that when DPCs are not held year-wise respondents cannot club all the vacancies together which has been the practice followed by the respondents in this case. According to him, there are a number of vacancies meant for SC/ST candidates and the claim of the applicants has been ignored.

3. Learned counsel has further stated that it was incumbent upon the respondents to update the seniority list year-wise before holding of any DPC and they have not updated the seniority list of 1998 even once. On this ground, the counsel says that subsequent DPC held during the year 2002 has to be held as irregular. According to him, seniority list becomes obsolete after some employees in that list are promoted and therefore before any DPC is held, it is necessary for the respondents to revise the seniority list. He has further assailed the conduct of the respondents on the ground that during the year 2002, they have held 3 DPCs within a period of three months and that too to consider the cases of only general candidates thus totally ignoring the interests of SC/ST candidates.

4. Respondents have contested the OA. While in their reply they have stated that the applicants fulfill the condition with regard to the requisite length of service i.e. 5 years for promotion as per the Recruitment Rules, they are quite junior and they do not come even within the extended zone of consideration by five times as per DoPT instructions on the subject. During the pendency of the OA, respondents have obtained clarification with regard to reservation for SC/St candidates from DoPT and have held a review DPC during the year 2004. In the review DPC, year-wise vacancies were taken into account and the panels were prepared year-wise after taking into account SC/ST candidates within the extended zone of consideration, as a result of

Ans



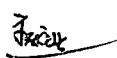
which one of the applicants, i.e. Smt. Babita Khera, has been promoted w.e.f. 5.10.2001. In so far as other applicants are concerned, the counsel contends that since they are at Sl.No.141, 183, 248 and 251 of the seniority list, they could not make it to extended zone of consideration, which was five times the number of vacancies. Thus, being very junior, their case for promotion could not be considered.

5. With regard to the objection raised by the learned counsel for the applicants that during the year 2001 (wrongly stated as 2002 by the applicants) respondents have promoted 12 general category candidates, counsel for the respondents admitted that the respondents have filled up 12 vacancies of subsequent years by unreserved candidates. He has explained that vacancies were only against the roster points reserved for general candidates and thus no prejudice has been caused to the interests of SC/ST category.

6. We have heard the learned counsel for the applicants and have perused the material available on record.

7. The main plank of attack of the learned counsel for the applicants is that if the respondents had convened DPCs every year for year-wise vacancies including those earmarked for SC/ST category in keeping with the DoPT instructions on the subject, applicants would have been promoted earlier as they possess more than the required length of service for being considered for promotion. According to him, there is still back-log of vacancies available for SC/ST category and though the respondents have assured for conducting review DPC, they have not taken any action in this regard.

8. At the time of filing the OA, the main relief sought for by the applicants was for a direction to the respondents to hold DPC for filling up of vacancies from 1998 tilldate by preparing year-wise panel and also consider the applicants' case against the points meant for SC/ST. Respondents have now held a review DPC. Counsel for the respondents has submitted that year-wise vacancies were taken into consideration in the review DPC held on 22.6.2004 in which the zone of consideration relating to SC/ST candidates was extended five times of the number of vacancies. It has also been submitted that consequent to this exercise, applicant at Sl.No.1 has since been promoted and thus her application has become infructuous. With regard to the others, it has been explained that being far junior in the seniority list, their names did not reach the zone of consideration even from amongst their own category



and therefore obviously they could not be considered. While every SC/ST candidate has got a right of consideration, juniors from amongst them could not come up for consideration over their seniors in the same category. Since the seniority list has not been challenged, the argument advanced by the learned counsel for the applicants that updating of seniority list is a pre-requisite before holding of every DPC, we are afraid, would not be essential. Seniority lists are revised only as and when required. DPC is only apprised of if there is any change with regard to any officer already promoted, died or left service etc. Thus, to say that because seniority list has not been updated before holding of DPC and the same is vitiated, in our view, is not correct. It has been reiterated that applicants are far juniors and thus we cannot but hold that if the applicants have not made it even to the extended zone of consideration, they cannot claim promotion even against reserved points.

9. Under the circumstances, we find no merit in the present OA and the same is accordingly dismissed. No costs.

S.K. Naik  
(S.K. Naik)  
Member(A)

M.A. Khan  
(M.A. Khan)  
Vice-Chairman(J)

/gtv/