

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI**

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O.A. No. 678/92  
T.A. No.

199

DATE OF DECISION 4-4-1997

Shri Kanta Prakash	Petitioner
Shri G.D. Bhandari	Advocate for the Petitioner(s)
<b>Versus</b>	
UOI & Ors	Respondent
Shri K.R. Sachdeva	Advocate for the Respondent(s)

COAM

The Hon'ble Smt. Lakshmi Swaminathan, Member (J)

The Hon'ble Shri R.K. Ahooja, Member (A)

1. To be referred to the Reporter or not? *yes*
2. Whether it needs to be circulated to other Benches of the Tribunal?

*Lakshmi Swaminathan*  
(Smt. Lakshmi Swaminathan)  
Member (J)

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Central Administrative Tribunal  
Principal Bench

O.A. 678/92

New Delhi this the 4th day of April, 1997

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Hon'ble Smt. Lakshmi Swaminathan, Member(J).  
Hon'ble Shri R.K. Ahooja, Member(A).

Kanta Parkash,  
S/o Jai Datt,  
Ward Boy,  
CGHS Police Hospital,  
Rajpur Road,  
Delhi.

...Applicant.

By Advocate Shri G.D. Bhandari.

Versus

1. Union of India through  
The Secretary,  
Ministry of Health & Family Welfare,  
Nirman Bhawan,  
New Delhi.
2. The Director,  
Central Govt. Health Scheme,  
Govt. of India,  
Nirman Bhawan,  
New Delhi.
3. Shri Bhagwati Prasad Joshi,  
ECG Technician,  
CGHS Police Hospital,  
Rajpur Road,  
Delhi.

...Respondents.

By Advocate Shri K.R. Sachdeva.

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicant is aggrieved by the order dated 24.1.1992 issued by the respondents appointing Respondent 3 as ECG Technician in a temporary capacity. He has sought a direction to set aside and quash the appointment letter of Respondent 3. He has further sought a direction to the respondents to appoint him on the basis of the findings of the Selection Committee to the post of ECG Technician with all consequential benefits.

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2. The brief facts of the case are that the applicant was appointed as Casual Labourer on 15.4.1973. Thereafter, he was appointed as Ward Boy on 19.8.1977. According to him, he has been performing the duty of the ECG Technician from 1980 onwards and has, therefore, acquired 11 years experience in that post. Respondent 2 issued a circular dated 20.2.1991 inviting applications for filling up one post of ECG Technician in the Grade Rs.1200-2040. The applicant had applied for this post and was also called for interview on 29.4.1991. The applicant has submitted that on inquiries made by him with the Administrative Officer as to why he had not been appointed, he was informed that his file had been sent to the DOP&T for approval of his appointment. Since no such letter of appointment had been given to him, he has filed this application. Shri G.D. Bhandari, learned counsel for the applicant, had submitted that as per the circular dated 20.2.1991, the selection should have been held only from amongst Group 'C' and 'D' employees and not from outsiders and the applicant had the necessary qualification. Since he has not received the /<sup>appointment</sup> letter, the applicant has submitted that he has sensed some foul play. According to him, Respondent 3 being an outsider had no eligibility to appear and was, therefore, not qualified to be appointed against the post of ECG Technician and the applicant should instead be appointed.

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3. The respondents have filed their reply and we have also heard Shri K.R. Sachdeva, learned counsel for the respondents. During the course of arguments, the learned counsel submitted that Respondent 3 against whose appointment this application has been filed has since passed away. The learned counsel submits that as per the recruitment rules to the post of ECG Technician in the Grade Rs.1200-2040, the recruitment is by direct recruitment. However, departmental candidates who possess the required qualifications may also be considered along with those others sponsored by the Employment Exchange by way of direct recruitment. Therefore, the contention of the applicant that the post should be filled up only from Group 'C' and Group 'D' employees for appointment to the post of ECG Technician is without any basis as it is against the provisions of the recruitment rules. It is accordingly rejected. ~~It is also not disputed~~

4. It is / that the applicant had been called for interview by the Selection Committee. The respondents have submitted the relevant file No.2-3/87 Estt.NG/CGHS Part-I which has also been shown to the learned counsel for the applicant. We note from the proceedings of the Selection Committee held on 29.4.1991 that there were 23 candidates sponsored by the Employment Exchange and 16 applications received from the departmental candidates. Interview letters had been given to all the persons out of which 19 candidates appeared for interview, including the applicant and Respondent 3 against the one vacant post of ECG Technician

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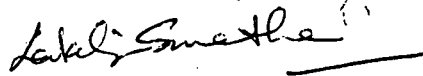
(Junior). After interviewing all the candidates, the Selection Committee had recommended the name of Respondent 3, Shri Bhagwati Prasad Joshi, in accordance with merit/performance. The learned counsel relies on the judgement of the Supreme Court in Osmania University represented by its Registrar Vs. Abdul Rayees Khan & Anr. (1997(1) AISLJ 162) in which it is held that <sup>the</sup> selection by a duly constituted committee done as per rules and without any arbitrariness cannot be interfered with by the court. Regarding the allegations of foul play, the respondents have submitted that the file was referred to the DOP&T for clarification about the applicability of age relaxation for Central Government employees to compete with the outside candidates. From a perusal of <sup>relevant</sup> the / records submitted by the respondents, it is seen that this doubt had arisen after the interviews had been held, where in the case of departmental candidates the maximum age admissible to them would be 40 years for Group 'C' posts in the case of general candidates and 45 years in the cases of Scheduled Castes and Scheduled Tribes. The DOP&T had clarified that the departmental candidates would be given the concession upto 40 years in the case of direct recruitment in Group 'C' posts provided they are in the same line or allied cadres. The competent authority had subsequently taken a decision by the order dated 18.7.1991 to take action as per the select list. As mentioned above, the duly constituted

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Committee had after interviewing all the candidates recommended the name of Respondent 3 for appointment to the post of ECG Technician (Junior). The applicant has not challenged the decision of the competent authority regarding the age relaxation in accordance with the /relevant rules and instructions. We, therefore, find no merit in this application and the same is accordingly dismissed. No order as to costs.

  
(R.K. Arooja)  
Member(A)

  
(Smt. Lakshmi Swaminathan)  
Member(J)

'SRD'