

11

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 1785/93.

New Delhi, this the 18th day of March, 1994.

SHRI J.P.SHARMA, MEMBER (J).

SHRI B.K. SINGH, MEMBER (A).

1. Neelam Rani,
D/o Gulab Chand,
R/o B-340, New Seema Puri,
Delhi.
 2. Jamma Prasad,
S/o Sri Ram Pal,
R/o H.No. 85/277, Lady Harding Staff Quarter,
New Delhi.
 3. Hemlata,
w/o Sri Krishan Kumar,
R/o 325, V& Post Nagla Thakran,
Delhi.
 4. Maha Singh,
S/o Sri Hari Singh,
R/o L-2/139-B, D.D.A. Flats,
Kalkaji, New Delhi.
 5. Dayalu Hari,
S/o Gopi Chand,
R/o H.No. 103, Type IV, Sector-III,
Sadiq Nagar, New Delhi.
 6. Daya Chand, S/o Kishan Chand,
R/o 16/4, I, Bapa Nagar, New Delhi.
 7. Prakash Chand, S/o Balla Dutt,
R/o A-II, D.D.A. Flat, Sindhara Kalan,
New Delhi.
 8. Kailash Chand, S/o Ganesh Dutt,
R/o 84-A, G.T.B. Hospital, Delhi.
 9. Shashi Kumar, S/o Anand Prakash,
R/o D-20-B, D.D.A. Staff Quarter,
Madi Pur, New Delhi.
 10. Madan Singh, S/o Mohar Singh,
R/o 812, Gulabi Bagh, Delhi.
 11. Uday Sharma, s/o Shahzad Singh,
R/o 14/5, Tilak Nagar, New Delhi.
- ...Applicants

(By advocate : Dr. D.C. Vohra)

Versus

1. Government of National Capital
Territory of Delhi, through the
Secretary, Directorate of Health Services,
E - Block, Saraswati Bhawan,
Connaught Place, New Delhi.
- 6

- 12
2. Dr. Bharat Singh,
Director,
Health Services of Govt. of National
Capital Territory of Delhi,
E - Block, Saraswati Bhawan,
Connoght Place, New Delhi.
 3. Mr. Surinder Singh,
Administrative Officer,
Directorate of Health Services of
Govt. of National Capital Territory of Delhi,
E - Block, Saraswati Bhawan,
Connoght Place, New Delhi.
 4. The Staff Selection Board, through
Chairman, Directorate of Health Services,
E - Block, Saraswati Bhawan,
Connoght Place, New Delhi-110001. ...Respondents
- (By advocate : Shri D.N. Goverdhan)

ORDER

SHRI J.P. SHARMA :

The Directorate of Health Services conducted interviews in the month of June 1993 for the recruitment of various group 'D' posts. The applicants were also candidates for the various categories of posts, i.e., Nursing Orderly, Messenger, Sweeper, Chowkidar, Mali, Ward Boy, Store Khallasi. Those posts are in the scale of Rs.750-940. All the aforesaid applicants were issued letters summoning them for interview for various dates from 3-6-1993 onwards. The Selection Board Committee was constituted of which Shri V.K. Jha, Joint Director (Admn.), Directorate of Health Services was the chairman. The other two members of the Committee were Shri R.K. De and other Attar Singh. This Selection Committee interviewed some of the candidates for the aforesaid posts till 11-6-1993. However, Shri V.K. Jha, Chairman of the Committee on account of his some emergent personal work proceeded on leave after adjourning the interviews for 15 days. At the relevant time, Dr. V.P. Varshney constituted ad hoc selection committee and inducted a new member Shri D.C. Upreti, Dy. Director (Planning) and Shri R.K. De was made Chairman of the Committee. The newly constituted ad hoc committee conducted the interviews of the remaining candidates. The newly constituted committee finalised the result of the aforesaid interview including that of the earlier period from 3-6-1993 to 11-6-1993

1

when Shri V.K. Jha, Jt. Director, was the Chairman of the Committee. The result of the said interview was also declared and placed on notice board on 28-7-93 and 29-7-93. In the meantime, Dr. V.P. Varshney retired on superannuation on 31-7-93 and Dr. Bharat Singh joined as Director (Health Services). By the public notice dated 10-8-93, the said result placed on the notice board on 28th & 29th June, 93, was declared null and void and, therefore, cancelled. Aggrieved by the aforesaid order, the present applicants jointly filed this application on 10-8-93 praying for the grant of the reliefs that the aforesaid order of 10-8-93 declaring the list of eligible candidates null and void be quashed and a direction be issued to the respondents to give effect to the list declared of the eligible candidates and further the list declared earlier be held to be valid and a further direction to the respondents not to hold fresh interview for the aforesaid posts. The applicants got amended the application and further added fresh paragraphs 3 and 4 in the application.

2. A notice was issued to the respondents who contested the application and stated that Dr. V.P. Varshney without the approval of Secretary (Medical)/Secretary (Services)/Chief Secretary constituted an ad hoc Selection Board Committee which was totally illegal and further that committee itself finalised the selection inspite of the fact that the duly nominated chairman Dr. V.K. Jha had joined his duty and he was not even consulted in the matter. In view of this, there is no illegality in declaring void the result declared by illegally constituted selection board committee.

3. We have heard the learned counsel for the parties at length and perused the records. The applicants in the rejoinder filed certain more documents to show that the selection board committee constituted by Dr. V.P. Varshney was with the approval of Secretary (Medical). We summoned the original records and we find that Secretary (Medical) has not approved the newly constituted ad hoc selection board committee nor any approval was given of the select list prepared by the new committee. From the departmental file, it appears that in 1991, the Services

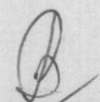
14

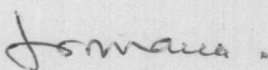
Department constituted a selection board and nominated Joint Director (Admn.) as Chairman. Shri V.K. Jha was holding that post and so when the interview for the posts commenced from 3-6-93, he along with other two members including one belong to S.C. community constituted the selection board committee and interviews were held till 11-6-93. 12th and 13th June, 1993 were holidays. Since there was a bereavement he had to in the family of Mr. Jha, the Chairman, proceed on leave from 14-6-93. Shri Jha joined his duties on 26-6-93. Shri Jha before proceeding on urgent leave adjourned the interview for 15 days. In view of this, the committee which was presided over by Shri R.K. De and induction of Shri D.C. Upreti as third member was without any authorisation from the Services Department of Delhi Administration. Director (Health) could not supersede the earlier order of constitution of selection board without referring the matter to the Secretary (Medical) or Secretary (Services). Moreover, the flaw in the constitution of new committee which was that it was only ad hoc committee/in normal meaning should stop functioning the moment Shri V.K. Jha is available but inspite of that, the interviews were continued. However, the newly constituted selection board could not finalise the result of the interviews which were held earlier of the period when Mr. Jha presided over the committee from 3-6-93 to 11-6-93. Another illegality that has been committed is that without approval of the competent authority, the result of the interviews was published on the notice board and the matter has been done in an undue haste. Thus, we don't find any fault in the order of declaring the aforesaid eligibility list of candidates as null and void.

4. The learned counsel for the applicants argued that the applicants are not at fault and they should not be punished having undergone the ordeal of appearing before the selection board. However, the applicants have no vested right to interfere in the administrative matter if it transpires from the proceedings of the said selection board that it was not duly constituted or that the result has been published in an irregular manner and as such, they have no right to challenge the impugned order of 10-8-93. The counsel for the

respondents has relied on the authority of the STATE OF HARYANA vs. SUBHASH CHANDER 1973 (2) SLR p.138. The Hon'ble Supreme Court relying on the decision of BAI SHALINDER vs. GOVERNING BODY OF NARANDA COLLEGE, 1962 (2) SUPPL. SCR p.144, observed that ^{an} ^{or} ~~no~~ order ~~that~~ ^{le} mandamus may issue to compel an authority to do something, it must be shown that the statute imposed a legal duty on that authority and the aggrieved party has a legal right under the statute to enforce its performance. The petitioners of that case were said to have no legal right under the rules to enforce its performance. In a recent decision in the case of UNION TERRITORY OF CHANDIGARH vs. DILBAGI SINGH AND OTHERS reported in A.I.R. 1993 SC p.796, the Hon'ble Supreme Court considered a similar matter where the Chandigarh Administration cancelled the select list of candidates for appointment as conductors in the Chandigarh Transport Undertaking prepared by a selection body constituted therefor because of its view that select list ~~not~~ having been prepared in a fair and judicious manner. The Central Administrative Tribunal interfered with the order on the ground that opportunity of hearing thereon was not afforded. The Hon'ble Supreme Court held that a select list prepared in an unfair and unjudicious manner can be cancelled without giving an opportunity to the members of the selection committee. That is not a requirement of natural justice. In that case, the select list was also found to have been prepared without adopting common eligibility criteria for all candidates. It was ⁱⁿ further pointed out/~~that~~ case that the selectees in the select list should have been heard by the Chandigarh Administration before it cancelled the list as ~~a~~ dubious. The Hon'ble Supreme Court rejected the contention of the learned counsel also. The Hon'ble Supreme Court in this case also considered the decision in SHANKARASAN DASH vs. UNION OF INDIA reported in A.I.R. 1991 SC p.1612, where it has been held that a candidate seeking appointment to a civil post cannot be regarded to have acquired an indefeasible right to appointment ~~in~~ in such posts merely because of the appearance of his name in the select list of candidates for such posts.

5. In view of the above facts and circumstances, we find that the impugned order of 10-8-93 declaring the select list null and void does not call for any interference. The original application, therefore, is dismissed being devoid of merit. No costs.


(B.K. SINGH)
MEMBER (A)


(J.P. SHARMA)
MEMBER (J)

/KALRA/
18031994.