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OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated : This the 11th day of MAY 2004.

Original Application no. 546 of 1997.

Hon'ble Maj Gen K K Srivastava, Member (A)
Hon'ble Mr. A.K. Bhatnagar, Member (J)

Km. Manjula Sahai,
D/o Late Umapati Sahai,
R/o Railway Quarter No. 178-A,
Culcutta Railway Colony,
GORAKHPUR.

... Applicant

By Adv : Sri S.K. Om & Sri Anil Kumar

V E R S U S

1. Union of India through General Manager,
N.E. Rly., Gorakhpur.
2. Medical Director, Lalit Narain Mishra Railway Hospital,
N.E. Rly., Gorakhpur.
3. Senior Divisional Medical Officer (Administration),
N.E. Rly., Gorakhpur.

... Respondents

By Adv : Sri V.K. Goel

O R D E R

Maj Gen K K Srivastava, AM.

In this OA, filed under Section 19 of the A.T. Act, 1985, the applicant has prayed for direction to the respondents not to cancel the selection for the post of Matron Grade II (Pay scale Rs. 2000-3200), held in pursuance of notification dated 27.09.1996, besides direction to the respondents to declare the result of viva voce test held on 17.12.1996. The applicant has further prayed that the notification dated 6.5.1997 for selection for the post of Matron Grade II be quashed. The applicant through amendment application, allowed on 16.10.1997, has further prayed that the order of the respondents dated

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26.2.1997 cancelling the selection of Matron Grade II held in pursuance to the notification dated 27.09.1996 be quashed and also to quash the result of written examination held in pursuance to the notification dated 06.05.1997.

2. The facts as brought out by the applicant, in short, are that the applicant joined the respondents establishment as Staff Nurse on 11.03.1981. While working as Staff Nurse she was promoted as Nursing Sister in the pay scale of Rs. 1640-2900 w.e.f. 01.03.1993. The respondent no. 2 vide notification dated 27.09.1996 (Ann A1) ordered for selection for the post of Matron Grade II in the pay scale of Rs. 2000-3200. The said selection was to be held for eight posts (7 general and 1 SC). The applicant's name was included in the list of eligible candidates. The written examination was held on 19.10.1996 and the result of written examination was declared on 27.11.1996 (Ann A3) and the applicant was declared successful. The viva-voce test was held on 17.12.1996 and as per applicant she did very well in the viva voce and had full hope of getting selected. However, the selection was cancelled vide order dated 26.02.1997. A fresh notification for the selection of Matron Grade II was issued on 06.05.1997. Aggrieved by the same the applicant filed this OA which has been contested by the respondents by filing counter affidavit.

3. Heard Sri S.K. Om learned counsel for the applicant and Sri V.K. Goel learned counsel for the respondents, carefully considered their submissions and closely perused records as well as pleadings.

4. Sri S.K. Om, learned counsel for the applicant submitted that the order dated 26.2.1997 cancelling the selection initiated through written test on 19.10.1996 and

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viva voce on 17.12.1996 (Ann 1 to the CA) is illegal as no reason has been given for cancelling the selection. Learned counsel for the applicant further submitted that such an action by Director Health is in violation of provisions of para 219 (k) of IREM Vol I. In case the selection was to be cancelled as per rules the matter should have been placed before the General Manager who is the only competent authority to cancel the selection.

5. At this point the learned counsel for the respondents submitted that para 219 (k) would apply only if the panel has been drawn. In the present case the selection was cancelled earlier to the formation of the panel and, therefore, this argument of learned counsel for the applicant will not hold good.

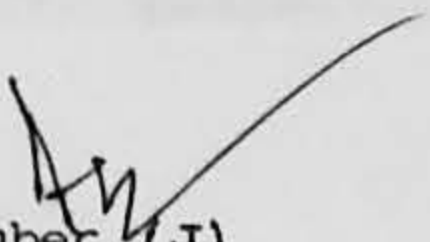
6. We have given our anxious consideration to the point raised by the learned counsel for the parties. In the relief clause the applicant has challenged the selection held in pursuance to the notification dated 6.5.1997 also. Since the selection held in pursuance to the notification dated 6.5.1997 has been challenged, it was *incumbant* upon the applicant to have impleaded the necessary parties because any order passed in favour of the applicant in this OA would have civil consequences for those who have ^{*already been*} selected in pursuance to the notification dated 06.05.1997. In the present OA since the necessary parties i.e. persons selected through notification dated 6.5.1997 have not been made parties we are ^{*in grant of*} unable to consider ^{*any*} relief to the applicant on the ground of nonjoinder of necessary parties.

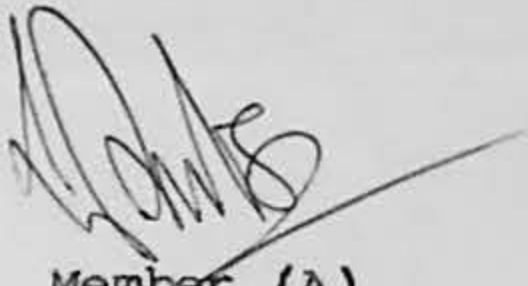
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7. In the facts and circumstances, we dismiss the OA on the ground of nonjoinder of the necessary parties.

8. There shall be no order as to costs.


Member (J)


Member (A)

/pc/