

Open Court

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD**

(THIS THE 10th DAY OF November, 2010)

Hon'ble Dr. K.B.S. Rajan, Member (J)
Hon'ble Mr. D.C. Lakha, Member (A)

Original Application No.594 of 2005
(U/S 19, Administrative Tribunal Act, 1985)

Smt. Suneeta Shadman, wife of Sri Rohit Admund Shadman, Resident of D-59/133, Churdi Compound, Sagra, Varanasi, Staff Nurse, D.L.W. Hospita, Varanasi St. No.11575.

..... Applicant

Present for Applicant : **Shri V.K. Srivastava, Advocate**

Versus

1. *Union of India, through General Manager, D.L.W., Varanasi.*
2. *Chairman, Railway Recruitment Road, Allahabad.*
3. *The Joint Director, Establishment (N)-II, Govt. of India, Ministry of Rlys, Railway Road, New Delhi.*
4. *Dy. Chief Personnel Officer, D.L.W., Varanasi.*
5. *Chief Medical Supdt., DLW, Varanasi.*

..... Respondents

Present for Respondents : **Shri A.K. Sinha, Advocate**

ORDER

(Delivered by Hon. Dr. K.B.S. Rajan, Member-J)

The short question involved in this case is as to whether constitution of selection committee as contained in Sub Para (iv) of order dated 09.09.2002 is as per Rules.



2. Brief facts of the case is that the applicant joined as Staff Nurse in D.L.W. Hospital, Varanasi, where she worked up to March, 2004. Earlier, by order dated 15.04.2002 her documents were sent to the Secretary Railway Recruitment Board, for regularization as Staff Nurse. For such regularization, qualifying in the written test is essential and accordingly the Board has directed the Railway Recruitment Board to conduct necessary written examination on the same basis as for the other examination conducted by the Railway Recruitment Board. In addition, a Committee of three Juniors Administrative Grade Officers nominated by Chief Personnel Officer shall conduct the interview and for selection the marks obtained in the written test and interview would be taken into account. The applicant participated in the written test held on 19.11.2003. She could not qualify in the written test, and hence her services were terminated w.e.f. 18.03.2004.

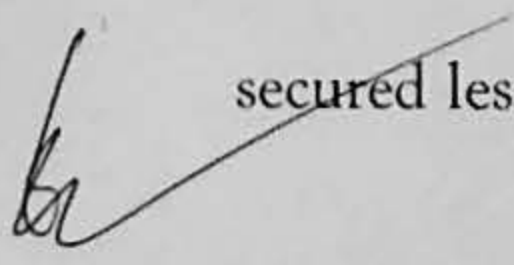
3. Original Application No.1033 of 2004 was filed by the applicant, which was disposed of with a direction to the respondents to pass speaking and reasoned order within the time calendared therein. The respondents by the impugned order dated 29.12.2004 had rejected her representation giving cogent reason.



4. Counsel for the applicant argued that the written test should have been conducted by some other authority and not the Chairman, Railway Recruitment Board. It is also argued that another substitute Staff Nurse junior to the applicant is still continuing while the applicant, the senior has been shunted out.

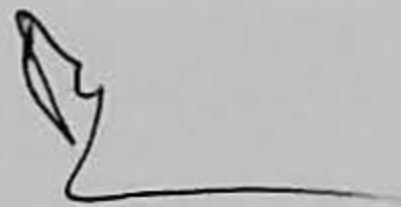
5. Counsel for the respondents submitted that as the applicant has failed in the written examination itself, there is no question of regularization and in so far as, the junior to the applicant continuing Staff Nurse is concerned, her case is different, inasmuch as, she had not failed in any written examination.

6. We have considered the pleadings as well as the arguments. Though the applicant entered the Railways as a substitute and continued to function in that capacity, regularization cannot be granted as a matter of course, and for the purpose of regularization, the applicant should qualify in the written test. If the respondents had terminated the services on the ground that the applicant, though qualified in the written test, could not get through in the Viva voce, possibly, under the orders of the Railway Board dated 25.01.1976 she could have been considered for regularization, even if she had secured less marks in interview. That is not the case here. The least

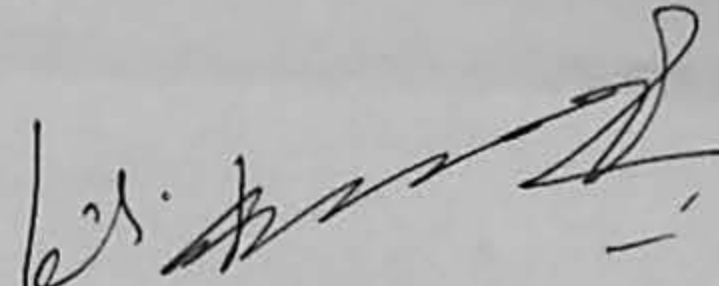


requirement for regularization is qualifying in the written test, which the applicant failed to fulfill. As such, we have no option except to reject the O.A..

7. Accordingly, the Original Application is dismissed. No costs.



(D.C. Lakha)
Member-A



(Dr. K.B.S. Rajan)
Member-J

Sushil