



**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A.No.1212/2021

This the 30th day of June, 2021

(Through video conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy
Hon'ble Ms. Aradhana Johri, Member (A)**

1. Keshar Ram
Aged about 26 yrs,
Qualified for post of Nursing Officer, Group-B
S/o Sh. Ladu Ram
R/o-Dhardharwalo KI Dhani, Dayasagar,
Jodhpur, Khara, Rajasthan – 345023
2. Anshul
Aged about 29 yrs,
Qualified for post of Nursing Officer, Group-B
S/o Sh. Baljor Singh
R/o- H.No. 755, Sir Chhotu Ram Park,
Street No.8, Jhajjar Road,
Bahadurgarh, Haryana – 124507
3. Anjali
Aged about 23 yrs,
Qualified for post of Nursing Officer, Group-B
D/o Sh. Vijender Kumar
R/o –V.P.O. – Barona, Tehsil-Kharkhoda,
District-Sonepat, Haryana -131402
4. Pratibha Sharma
Aged about 23 yrs,
Qualified for post of Nursing Officer, Group-B
D/o Sh. Pawan Kumar Sharma
R/o-04/490, Gali No. Friends Colony,
Johri Nagar, Near Panchmuki Chauk, Line Paar,
Bahadurgarh, Haryana – 124507
5. Ashvarya Sharma
Aged about 23 yrs,
Qualified for post of Nursing Officer, Group-B,
D/o Sh. Hanuman Sharma,
R/o –Mehandipur Balaji, Udaipura, Teshil –
Sikar,
District- Dausa, Rajasthan -303509



6. Yatendra Singh Solanki
Aged about 24 yrs.,
Qualified for post of Nursing Officer, Group-B
S/o Sh. Ummed Singh Solanki
R/o – Gad Rajputon Ka Paanch Mandir,
Purani Tonk, Tonk, Rajasthan – 304001
7. Rashmi
Aged about 23 yrs,
Qualified for post of Nursing Officer, Group-B
D/o Sh. Shripal Suhag
R/o VPO –Samchana, Tehsil-Sampla,
Distt-Rohtak, Haryana – 124404
8. Jyoti
Aged about 24 yrs,
Qualified for post of Nursing Officer, Group-B
D/o Sh. Hemparkash
R/o VPO –Badawali, Tehsil-Semari,
District-Udaipur, Rajasthan – 313026
9. Nagendra Singh Chouhan
Aged about 26 yrs,
Qualified for post of Nursing Officer, Group-B
S/o Sh. Vijay Singh Chouhan
R/o VPO –Badawali, Tehsil-Semari
District –Udaipur, Rajasthan – 313026
10. Subham Kumar Garg
Aged about 24 yrs,
S/o Sh. Mukesh Chand
R/o VPO-Barkhera, Tehsil-Bayana,
District-Bharatpur, Rajasthan – 321028
11. Pankaj Kumar Sharma
Aged about 28 yrs,
Qualified for the post of Nursing Officer,
Group-B
S/o Sh. Brijesh Sharma
R/o Opp ICICI Bank, Near PWD Chowki,
Gangapur Road, Lalsot,
Dausa, Rajasthan – 303503
12. Akshay Pareek
Aged about 23 yrs,
Qualified for the post of Nursing Officer,
Group-B
S/o Sh. Shiv Kumar Pareek

R/o Parwali Chowk Khejroli,
Jaipur, Rajasthan- 303803



13. Sonika
Aged about 25 yrs,
Qualified for the post of Nursing Officer,
Group-B
D/o Sh. Subhash
R/o H.no.97, VPO-Dubaldhan, Teshil – Beri,
District-Jhajjar, Haryana -124202
14. Aarti Ramdas Gavali
Aged about 28 yrs,
Qualified for the post of Nursing Officer,
Group-B
D/o Sh. Ramdas Baburao Gavali,
R/o Flat No.305, Mahalazmi Palace Society,
Pare Company Road, Narhe,
Pune, Maharashtra – 411041.
15. Anita
Aged about 25 yrs,
Qualified for the post of Nursing Officer,
Group-B
D/o Sh. Hanuman Singh Shekhawat
R/o Ward No. 14, Shekhawat Colony,
Churu, Rajasthan – 331001
16. Madhuri Tripathi
Aged about 27 yrs,
Qualified for the post of Nursing Officer,
Group-B
D/o Sh. Lalit Kumar Tripathi,
R/o- 151-Karad Road, Near Government
Hospital,
District-Jaipur, Rajasthan – 303603
17. Kiran Kanwar
Aged about 30 yrs,
Qualified for the post of Nursing Officer,
Group-B
D/o Sh. Surjan Singh,
R/o- Vill-Po- Dhadhar Teshil,
District- Charu, Rajasthan
18. Anjali Gusain
Aged about 24 yrs,
Qualified for the post of Nursing Officer,
Group-B



D/o Sh. Hoshiya Singh Gosain
R/o H.No. 385, Gali No.7, Ganesh Vihar,
Ganga Nagar, Rishikesh,
Dehradun, Uttarakhand - -249201

19. Krishankant Tyagi
Aged about 28 yrs,
Qualified for the post of Nursing Officer,
Group-B
S/o Sh. Mevaram Tyagi
R/o – Village-Sarkankheda, Post-Dubra, Teshil-
Dholpur,
District-Dholpur, Rajasthan – 328001
20. Archana
Aged about 25 yrs,
Qualified for the post of Nursing Officer,
Group-B
D/o Sh. Devender
R/o House No.282, Vill-Lowa Khurd,
Bahadurgarh, Haryana -131023
21. Anjali
Aged about 24 yrs,
Qualified for the post of Nursing Officer,
Group-B
D/o Sh. Darshan Kumar Joshi
R/o B-12A, Baljeet Vihar, Street -17,
Nithari Extension, Delhi- 110086.
22. Vaishali Joshi
Aged about 24 yrs,
Qualified for the post of Nursing Officer, Group-
B
D/o Sh. Darshan Kumar Joshi
R/o B-12A, Baljeet Vihar, Street-17,
Nithari Extension,
Delhi-110086. ... Applicants
(Through Advocate Sh. Gyanant Kumar Singh)

Versus

1. Union of India
Through Secretary,
Ministry of Health and Family Welfare,
Nirman Bhawan, New Delhi-110011.
2. All India Institute of Medical Sciences Delhi

Through its Director,
Ansar Nagar, New Delhi-110029.



3. All India Institute of Medical Sciences –Jodhpur
Through its Director,
Basni Industrial Area,
MIA Phase-II, Basni,
Jodhpur, Rajasthan -342005
4. All India Institute of Medical Sciences, Nagpur
Through its Director,
Plot-2, Sector-20, MIHAN
Nagpur, Maharashtra-441108 ... Respondents
(Through Advocate Sh. Kaushal Gautam)

ORDER (Oral)

Justice L. Narasimha Reddy:

The All India Institute of Medical Sciences (AIIMS) issued a Notice dated 05.08.2020 the Nursing Officer Recruitment, Common Eligibility Test (NORCET), 2020. Apart from stipulating the qualifications and eligibility criteria, the notification indicated the extent of reservation in favour of various categories. Reservation in favour of Economically Weaker Sections (EWS) was also provided to the extent of 10%. The applicants herein responded to the notification, and participated in the test. They claim the benefit of reservation of EWS.



2. On the basis of the marks secured by them, the applicants were otherwise to be considered for selection under the EWS category. However, on verification of the certificates submitted by them, the respondents rejected their candidature through individual letters addressed to them, in June, 2021 stating that the EWS certificates submitted by them were issued much after the stipulated date, i.e., 18.08.2020. This OA is filed challenging the action of the respondents in stipulating 18.08.2020 as the date before which the EWS certificate must be issued, as well as the individual orders of rejection.

3. The applicants contend that there is no stipulation in the notification that the EWS certificates must be filed before the last date, and the certification albeit made a bit later, is referable to a period during which the selection has taken place. They contend that the rejection of their cases simply on the ground that the EWS certificates were issued subsequent to 18.08.2020, is untenable in law.



4. The OA was listed earlier. We directed the learned counsel for the respondents to obtain instructions in the matter.

5. Today, we heard Shri Gyanant Kumar Singh, learned counsel for the applicants and Shri Kaushal Gautam, learned counsel for the respondents, in detail.

6. The issue involved in this OA is as to whether the EWS Certificates submitted by the applicants can be taken into account for the purpose of selection and extending the benefit of reservation. The notification is a comprehensive one. It also indicates the method of making the application and the forms of certificates, that are to be submitted for claiming reservation for one category, or the other. In case of EWS, the method of claiming the benefit under EWS category is dealt with under Para 7(ii) of the Advertisement. It reads as under:-

“7(ii) The vacancies advertised under EWS category are as per the instructions issued by DoP&T, Ministry of Personnel, Public Grievances & Pension, Govt. of India vide Om No. 36039/1/2019-Estt (Res), dated 31.01.2019. Application under EWS category will be considered subject to submission of Income and Assets certificate on a prescribed format issued by the competent authority



and subject to verification of genuinity of the certificate by the issuing authority. As per DoP&T OM No. 36039/1/2019-Estt (Res), dated 31.01.2019, the crucial date for submitting income and asset certificate by the candidate is the closing date for receipt of application for the post, except in cases where date is fixed otherwise. Therefore, a valid EWS certificate will be the one which has been issued by the competent authority, as prescribed by the GOI/DOPT on or before the last date of submission of online application i.e. 18.08.2020 Candidates who fail to produce valid EWS certificate will not be considered for reservation under this category. They will however, be considered for UR category. Therefore, EWS candidate must ensure that they have a valid EWS certificate on or before the last date of submission of application.”

From a perusal of this, it is evident that to be valid, an EWS certificate must be the one, which was issued before 18.08.2020. The requirement is not that the certificate must be submitted on or before 18.08.2020, but it must be the one, which was issued before that date. This gains strength from the guidelines issued by the DoP&T vide OM dated 31.01.2019. Para 5 thereof reads as under:-

“5.1. The benefit of reservation under EWS can be availed upon production of an Income and Asset Certificate issued by a Competent Authority. The Income and Asset Certificate issued by any one of the following authorities in the prescribed format as given in

Annexure-I shall only be accepted as proof of candidate's claim as belonging to EWS:-



- (i) District Magistrate/Additional District Magistrate/Collector/Deputy Commissioner/ Additional Deputy Commissioner/ 1st Class Stipendary Magistrate/ Sub-Divisional magistrate/ Taluka Magistrate/Executive magistrate/ Extra Assistant Commissioner.
- (ii) Chief Presidency Magistrate/Additional Chief Presidency Magistrate/Presidency Magistrate.
- (iii) Revenue Officer not below the rank of Tehsildar and
- (iv) Sub-Divisional officer of the area where the candidate and/or hi family normally resides.

5.2 The Officer who issues the certificate would do the same after carefully verifying all relevant documents following due process as prescribed by the respective State/UT.

5.3 The crucial date for submitting income and asset certificate by the candidate may be treated as the closing date for receipt of application for the post, except in cases where crucial date is fixed otherwise.”

7. Taking into account, the requirement under para 5.3, the respondents have indicated that the EWS certificate must be the one, which was issued on or before the last date for submission of application, which in the instant case is 18.08.2020. Admittedly, the EWS certificates submitted by the applicants were issued much after 18.08.2020. Naturally, the respondents have refused to take them into account.



8. Comparison is drawn by the applicants, with the certificate issued for OBC. It is argued that the respondents have accepted the OBC certificate that was issued long after 18.08.2020. In this regard, it needs to be observed that the certification of the social status cannot be pinned down to any particular date or year. The Hon'ble Delhi High Court took the view that the social status of a person comes to be attached with the birth and remains thereafter, and the mere fact that it was certified at a later stage, does not make any difference.

9. The EWS certificate, on the other hand, deals with the financial status, which is prone to change year after year. It is only when the financial status of the candidate was found to be within the stipulated limits, with reference to a particular period; that he will fit into the parameters of reservation for EWS. For instance, if the last date for submission of the application is 1st January of 2020, it may so happen that for the period preceding 01.01.2020, his financial resources and assets may have far exceeded, and in the next year, they may have depleted for variety of



reasons. In such a case, he may prefer to get a certificate, for the subsequent period, so that he would be within the parameters stipulated for reservation. Obviously for such reasons, the date, by which the EWS certificate must be issued, is stipulated.

10. There is another important aspect. The applicants seek to challenge the stipulation of the date 18.08.2020, as the one, by which the EWS certificate must be issued. That is the part of employment notification and once they have participated in the selection process, they cannot challenge that condition.

11. It is also argued that the concerned authorities were not issuing the EWS certificates during the relevant period due to Covid. That is totally a different aspect altogether. In such a case, the applicants should have made an effort to seek necessary relief, before submitting the applications or at the initial stage, before the appropriate forum.

12. We do not find any merit in the OA. It is accordingly dismissed. There shall be no order as to costs.



(Aradhana Johri) (Justice L. Narasimha Reddy)
Member (A) Chairman

/Sunita/lg/pj/Sarita