

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 6TH DAY OF DECEMBER, 2001

Original Application No.1061 of 1995

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MR.C.S.CHADHA, MEMBER(A)

Kuldeep Kumar Yadav, Son of  
Sri ram Saran Yadav, 7/8 A Dandia,  
Allahpur, Allahabad.

... Applicant

(By Adv: Shri K.C.Sinha)

Versus

1. Union of India through  
Director General of Ordnance  
Service O.S.-8C Master General  
Ordnance Branch, Army headquarters  
D.H.Q, New Delhi.
2. Officer Incharge  
Army Ordnance Corps, Record Office,  
Sikandarabad.
3. Officer Commanding C.O.D  
Chheoki, District Allahabad.

... Respondents

(By Adv: Shri S.C.Tripathi)

O R D E R(Oral)

JUSTICE R.R.K.TRIVEDI,V.C.

By this OA the applicant has prayed for a direction to the respondents to issue an appointment letter to the applicant for the post of Male Nurse(Unqualified) in the scale of Rs.950-1500 in pursuance of the selection which was held on 12.8.1993.

The facts in short giving rise to this application are that names were requisitioned from the Employment Exchange for appointment of Male Nurse in Central Ordnance Depot(COD) Chheoki. The requisition letter was sent to the Employment Exchange with a clear stipulation that the Employment Officer may sponsor the candidates having two



years experience in nursing also as the selection is to be made on priority basis. The Employment Exchange had earlier intimated to the respondents that no candidate registered with the Medical Council is available. The Employment Exchange also requested to be informed quickly whether experienced candidates though not registered with the Medical Council may be recommended. These letters have been filed as (Annexure RA-1 and RA2). The name of the applicant was accordingly sponsored by the Employment Exchange and he was selected for appointment on 12.8.1993. The applicant was informed accordingly and was required to appear for joining with certain documents. The letter dated 12.8.1993 has been filed as (Annexure 4). However, the appointment letter was not issued to the applicant by the respondent no.2, aggrieved by which this OA has been filed.

The case of the respondents as stated in the counter affidavit is that it is true that applicant was selected for appointment but as the Appointing Authority is respondent no.2, when the papers were forwarded for his approval he insisted that only a male nurse who is registered with the Medical Council can be appointed and thus the proposal was turned down. The question for determination for this Tribunal is as to whether a candidate having no registration with the Medical Council could be appointed or not and whether the view taken by the respondent no.2 is justified. For this purpose, Appendix-J to ROI C/3/77 which contains recruitment rules for the post of Compounder Hospital grade II in any ordnance Corps is very important. Against Col.No.3 of the aforesaid rule the two scales have been provided. One for qualified persons which is Rs.330-10-380-EB-12-500-EB-15-560. Another scale provided is for unqualified persons which is Rs.260-6-326-EB-8-350. In column no.6 distinction has been made clear

regarding qualified and unqualified compounder male nurse which is being reproduced below:

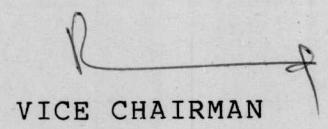
"Only persons who are registered or are eligible for registration under Sub Sec(C) of Sec.31, or Under Sec.32 of the Pharmacy Act 1948 will be appointed to the post in the scale of Rs.330-10-380-EB-12-500-EB-15-560. In case of non-availability of fully qualified Compounder, Matriculate who have worked for not less than 3 years on compounding of drugs in a hospital or dispensary or any other place where drugs are regularly dispensed on prescription or medical practitioner may be appointed in the scale of pay of Rs.260-6-326-EB-8-350 for unqualified."

From the aforesaid rule it is clear that even an unqualified person who is Matriculate and has sufficient experience could be appointed. In the present case, Employment Exchange made it clear that the qualified hands having registration with Medical Council <sup>or who</sup> are qualified to get registration are not available. When qualified candidates were not available then letter was <sup>sent to</sup> forwarded ~~to~~ <sup>have</sup> unqualified persons as provided under rules. In response to this names of three persons including applicant were received from Employment Exchange. Selection proceedings were held and applicant was selected. In our opinion, after selection the appointment ~~could~~ not be refused to applicant, on the ground that he does not have registration. The respondents proceeded with the selection with full knowledge that applicant has no registration. In our opinion, the view taken by the respondent no.2 is not correct and appears to be contrary to rules. The applicant is entitled for relief.

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For the reasons stated above, this OA is <sup>allowed</sup> ~~allowed~~.  
Respondent no.2 is directed to issue appointment letter in  
favour of the applicant within two months from the date a  
copy of this order is filed. There will be no order as to  
costs.

  
MEMBER(A)

  
VICE CHAIRMAN

Dated: 6.12.2001

Uv/