

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
BENCH, ALLAHABAD

(This The 20/12 Day Of May 2011)

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

Original Application No. 226 of 2006
(U/S 19, Administrative Tribunal Act, 1985)

1. Smt. Indira Gardia W/o Late Umesh Singh.
2. Shakuntala Misih W/o Late D. Draman.
3. Shakuntala Soper W/o Manoj Kumar.
4. Smt. Gita Sain Berma W/o Dilip Kumar.

All are posted as Nursing Sister U/Sr. M.S. E.C. Rly.
Mughalsarai District Chandauli.

..... Applicants

By Advocates: **Shri S.K.Dey**
 Shri S.K. Mishra

Versus

1. Union of India through the General Manager E.C. Rly. Hajipur.
2. The Senior D.P.O. E.C. Rly. Mughalsarai.
3. Smt. Alima Joseph Nursing Sister U/MS/ECR/
Mughalsarai.



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4. Smt. Alma Johu. Nursing Sister U/MS/ECR/ Mughalsarai.
5. Smt. A.R. Petter Nursing Sister/MS/ECR/District - Chandauli.

..... **Private Respondents**

By Advocate: Shri Ravi Ranjan

O R D E R

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

1. Invoking Rule 15 of the CAT (Procedure) Rules, this O.A. is dealt with in this order.
2. The four applicants in this O.A. are posted as Nursing Sisters in the Grade Pay Rs.5500 -9000/-. The next stage in the hierarchy is the post of Matron in the Grade Pay Rs.6500 - 10500/-.
3. The said post was notified in September, 2005. There were five vacancies under the General category and one S.C. vacancy. The seniority position of the Applicants in the seniority list dated 03.03.2004 was at Sl. No.6 to 9. Written test for the post of Matron was held and the results declared on 23.02.2006 in which Two Scheduled Tribe Nursing Sisters and Three General Nursing Sisters were declared suitable. The private Respondent Nos.3 and 4 were juniors while private Respondent No.5 does not figure in the seniority list published on 03-03-2004 at all whereas these have been declared successful in the written examination. The applicants have made representation about ineligibility of the

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some of the selected candidates but as there was no response they have challenged Annexure A-3 order dated 03.02.2006 and sought the following relief/s:-

"8.1 That this Hon'ble Court may be pleased to quash the impugned result dated 23.02.2006 and the respondents may be directed to consider to the post of Matron in scale of Pay Rs.6500 -10500/- on the basis of seniority cum suitability. "

4. Respondents have contested the O.A.. According to them, 17 candidates were short listed for promotion to the post of Matron. The applicants also participated in the selection. On the basis of the written test and related process final result was published on 04.10.2006. All the applicants were declared unsuccessful except one ST candidates, who was declared successful against the general category.

5. According to the Respondents, though the private Respondent No.5 did not figure in the seniority list dated 03.03.2004, she was promoted as Nursing Sister on 14.09.2004 and was eligible for appearing in the post. The contention that she is ineligible is wrong. The Respondents have also stated that seniority is not the only criterion in the selection grade promotion which is decided by a positive act of selection.

6. As stated at the very outset, the Applicant's counsel was not present. This being an old case of 2006 vintage, invoking Rule 15 of the CAT (Procedure) Rules, 1987, the case has been considered.

7. When a post is declared as 'selection post' merit-cum-seniority (and not seniority subject to fitness) is the criterion for

selection. Written examination, dispassionately conducted, would bring out the best among the candidates participating in the selection. There are no contentions or allegations that the written test conducted was illegal or suffer from any malpractice. The applicants have participated in the written test. When merit is the criterion, seniority takes a rear seat and amongst those who secure same merits, then seniority would dictate their promotion. If there are candidates, who have been found successful in the exam and performed better than the seniors in the interview, their selection cannot be faulted with. The O.A. is thus, devoid of merits, and therefore dismissed. No costs.



Member - A



Member - J

Sushil