

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD

Dated : This the 08th day of November, 2016

Original Application No. 258 of 2007

Hon'ble Mr. Justice Dinesh Gupta, Member (J)
Hon'ble Mr. K.N. Shrivastava, Member (A)

Asha Gupta, W/o Dr. Dr. J.P. Gupta, R/o 210 Railway Vihar, Rapti Nagar Phase 4, Gorakhpur, Presently working as Nursing Sister in Lalit Narain Mishra Railway Hospital, North Eastern Railway, Gorakhpur.

.... Applicant

By Adv : Shri S.K. Om

VERSUS

1. Union of India, through General Manager, North Eastern Railway, Gorakhpur.
2. Chief Personnel Officer (Administration) North Eastern Railway, Gorakhpur.
3. Medical Director, Lalit Narain Mishra Railway Hospital, North Eastern Railway Gorakhpur.
4. Senior Divisional Medical Officer (Administration), North Eastern Railway, Gorakhpur.

.... Respondents

By Adv: Shri Anil Dwivedi

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By Hon'ble Mr. K.N. Shrivastava, Member (J)

This OA has been filed under Section 19 of the Administrative Tribunals Act, 1985. The applicant has prayed for the following specific reliefs:

"i. To Call for record and issue writ, order or direction in the nature of certiorari quashing the orders dated 11.12.2006 and 27.12.2006 passed by respondents No. 1 and 3 respectively.

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- ii. issue writ, order or direction in the nature of mandamus commanding the respondents to promote the petitioner on the post of Matron grade 2 (Rs. 6500 – 10500) in pursuance to the notification dated 02.03.2006.*
- iii. To issue any other writ, order or direction which this Hon'ble Tribunal deems fit and proper in the facts and circumstances of the case.*
- iv. Award costs of the original application in favour of the applicant."*

2. The brief facts of the case are that the applicant was initially appointed as Staff Nurse in October, 1992. Later on, the applicant was promoted as Nursing Sister on 26.07.2002. On 27.12.2005 the Respondent No. 4 notified 9 posts for Matron Grade II to be filled by Seniority-cum-merit from amongst eligible candidates. The applicant participated in the said selection process. Out of these 9 posts, 06 posts were for general category candidates whereas the remaining 03 for reserved candidates. Respondent No. 4, vide Annexure A-2 dated 01.03.2006, published the select list in which the name of the applicant had been indicated at Sl. No. 7 in the General category. As the vacancies meant for General Category were only 06, the applicant's selection was purportedly against any anticipated vacancy. In other words the applicant was kept in the wait list. The selected candidates were allowed to join against the Matron Grade II vacancies.

3. As there were some complaints against the said selection process, the respondents decided to cancel the entire selection vide Annexure A-4 dated 27.12.2006. The aggrieved parties approached this Tribunal by filing OA No. 32/07 in which an interim order was passed on 17.01.2007 whereby the selected candidates, who had already joined, were allowed to continue in the posts of Matron Grade II.

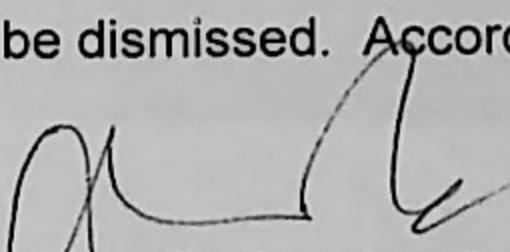
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4. The case of the applicant is that one Ms. L.S. Singh, Matron Grade II had been declared as unfit on medical ground and thus one post of Matron Grade II has fallen vacant and as such operating the waiting list, she should be selected against the said vacancy.

5. Pursuant to the notice issued, the respondents have filed their reply. The applicant thereafter filed rejoinder. On completion of pleadings, the case was taken up for final hearing today. Heard Shri Pradeep Mishra proxy counsel to Shri S.K. Om, learned counsel for the applicant and Shri Anil Dwivedi, learned counsel for the respondents.

6. The basic fact to be considered is that the applicant was never selected to the post of Matron Grade II, only her name was placed in the wait list. The entire selection was cancelled by the respondents vide Annexure A-4 on the ground of irregularities and some of the selected candidates on the basis of interim order passed in OA No. 23 of 2007 were allowed to continue in the post of Matron Grade II. Unlike the selected candidates, no interim relief had been given by this Tribunal to the applicant. The respondents' counsel has submitted a copy of the judgment passed by this Tribunal in OA No. 23 of 2007 dated 21.01.2010 allowing the OA.

7. In this view of the matter, we do not find any substance in the contention of the applicant and we feel that the OA, being devoid of merit, deserves to be dismissed. Accordingly, the OA is dismissed. No costs.



(K.N. Shrivastava)
Member (A)

/pc/



(Justice Dinesh Gupta)
Member (J)