

CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH, P A T N A.

O.A.No. 467 of 1996.

Date of Decision : 19-FEB-2001.

1. Smt. Jayoti Roy (Kisku),
2. Smt. Chinta Devi,
3. Smt. Swapna Dhar Gupta,
4. Smt. Neelu Kumari,
5. Smt. Saroj Morin Ekka,

.....All are Nursing Sisters in scale of Rs.1640-2900 (RP) working in the Eastern Railway Main Hospital, Jamalpur in Munger district of Bihar.

.....APPLICANTS.

By Advocate :- Shri A.N.Jha.

Vs.

1. Union of India represented through the General Manager, Eastern Railway, Fairlie Place, 17, Netaji Subhash Road, Calcutta-1.
2. The Chief Works Manager, Eastern Railway Workshop, at & P.O.: Jamalpur, District : Munger.
3. The Chief Medical Superintendent, Eastern Railway Main Hospital, at & P.O.: Jamalpur, District Munger.
4. Smt. Bina Singh, Nursing Sister now promoted as Matron, Gr.II through the Chief Medical Supdt., Eastern Railway Main Hospital, Jamalpur.
5. Smt. Champa Beara, Nursing Sister, now promoted as Matron, Gr.II, through the Chief Medical Supdt., Eastern Railway Main Hospital, at & P.O. Jamalpur.
6. Smt. Rekha Das, Nursing Sister, now promoted as Matron, gr.II through the Chief Medical Supdt., Eastern Railway Main Hospital, at & P.O. Jamalpur (Munger).

.....RESPONDENTS.

By Advocate :- Shri Gautam Bose.

C O R A M

HON'BLE MR. JUSTICE S.NARAYAN, VICE-CHAIRMAN.
HON'BLE MR. L.R.K.PRASAD, MEMBER (ADMINISTRATIVE).

OPEN COURT ORDER

JUSTICE S.NARAYAN, V.C.:- The applicants, presently working as Nursing Sister, have impugned the panel of promotion (Annexure-A) prepared by the official

respondents granting promotion to respondents no.4 to 6 to the post of Matron Gr.II in the scale of Rs.2000 to 3200/-. A representation had earlier been filed by the applicant, which was turned down by an order dated, 29th March, 1996, of the official respondents, as contained in Annexure-A/4, and, therefore, that order is also sought to be quashed.

2. Admittedly, the applicants, along with the private respondents no.4 to 6, participated in a selection process initiated for promotion to the post of Matron Gr.II, as referred to above. As many as nine candidates, including the applicants, participated in the written test and as a result thereof they were also invited to attend the viva-voce test by an order dated, 16th December, 1995 (Annexure-R/3). Ultimately, it were only the respondents no.4 to 6, who were selected for the post and were given promotion as per the impugned order (Annexure-A).

3. In order to determine the merit of the case, we have been able to locate that the crux of the matter was whether, the promotional post of Matron Gr.II, in the scale of Rs.2000-3200/- RP), was a selection post or non-selection post ? In this regard, our attention was drawn to a schedule regarding classification of posts consequent to the merger of the grades as a result of the 4th Pay Revision Commission's recommendation. A Railway Board notification dated, 5th February, 1987, with label as RBE No. 20/87 was published for the purpose. On perusal of the schedule we find it ^{for} granted that the post of Matron Gr.II was a selection post and, for all practical purposes, the promotion was to be made on the basis of merit-cum-

seniority.

4. That being as such, it has been amply demonstrated by the respondents on the record that as the result of the written test, together with the viva-voce test, it were only the respondents no.4 to 6 who could ultimately succeed for the selection to the promotional post; and that the present applicants could not succeed therein. This would certainly hit at the very root of the applicant's claim for promotion.

5. Apart from what has been noticed above, it is further worthy of notice that as per established principle of law, an incumbent, who has already participated in the selection process, can not be permitted to challenge its validity subsequently after once he has been declared un-successful. In this regard, we have chosen to place reliance on the decisions of the Supreme Court in the case of Madan Lal & Ors. Vs. State of Jammu and Kashmir & Ors., reported in AIR 1995 SC 1088. The relevant principle can be usefully extracted hereinbelow :

"Therefore, the result of the interview test on merits can not be successfully challenged by a candidate who takes a chance to get selected at the ~~in~~ said interview and who ultimately finds himself to be unsuccessful. It is also to be kept in view that in this petition we can not sit as a Court of appeal and try to re-assess the relative merit of the concerned candidates who had been assessed at the oral interview nor can the petitioners successfully urge before us that they were given less marks though their performance was better. It is for the interview Committee which amongst others consisted of a sitting High Court Judge to judge the relative merits of the candidates

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who were orally interviewed in the light of the guidelines laid down by the relevant rules governing such interviews. Therefore, the assessment on merits as made by such an expert committee can not be brought in challenge only on the ground that the assessment was not proper or justified as that would be the function of an appellate body and we are certainly not acting as a Court of appeal over the assessment made by such an expert committee."

The same principle has been reiterated in the case of University of Cochin Vs. N.S. Kanjuman & Ors., reported in PLJR 1997 (2) SC 40.


6. The facts and circumstance, as noticed in the instant case, would certainly be governed by the principle, as referred to above, and that being as such, it was not open for the applicants to challenge the result of the selection process in which he unsuccessfully participated.

7. Before we part with the discussion, we may also refer to an objection raised by and on behalf of the applicants in regard to constitution of the selection Committee, which ultimately decided the result of the selection process. Learned counsel for the applicant has drawn our attention to an Advocate's notice dated, 13th March, 1996, sent to the official respondents on behalf of the applicants. In context of that representation, the Medical Superintendent, Jamalpur, of course, issued one confidential letter, as at Annexure-A/6. We have applied our mind in this regard also, but to concur with the submissions made on behalf of the official respondents that the Selection Committee was duly constituted comprising of two J.A. Grade Officers and One W.P.O. and further, that one of the Members, namely, Shri H.K.Mandal belonged

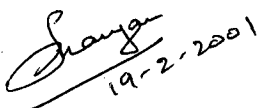


to Scheduled Caste community and, therefore, there was satisfactory compliance of the guidelines for constituting the selection Committee. Hence, on this score also we do not find anything wrong in the selection process.

8. Regard having had to the facts and circumstance, as discussed above, we arrive at a definite conclusion that the instant O.A. is devoid of merit and, accordingly, it is dismissed. There shall be no order as to costs.


(L.R.K. PRASAD)
MEMBER (A)

s kj


(S. NARAYAN)
VICE-CHAIRMAN