

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE 7th DAY OF APRIL 1987

Present : Hon'ble Shri Ch.RAMAKRISHNA RAO MEMBER(J)

Hon'ble Shri P.Srinivasan MEMBER(A)

R.APPLICATION No.30/86

Smt.Alice Vedantham,
Nursing Sister,
Railway Hospital,
Ashokapuram,
Mysore - 8.

...

APPLICANT

V.

Union of India by
its Secretary for
Railways,
Govt. of India,
New Delhi.

The General Manager,
Southern Railway,
Park Town,
Madras - 600 003.

The Chief Personnel Officer,
Southern Railway,
Park Town,
Madras - 3.

The Chief Medical Officer,
Southern Railway,
Park Town,
Madras - 3.

Smt. K.A.Thilothamma,
Nursing Sister,
Railway Hospital,
Erode,
Tamil Nadu.

Smt. Leela G.Nair,
Nursing Sister,
Golden Rock Railway Hospital,
Tiruchirapalli,

Smt.E.Shantha,
Nursing Sister,
Railway Hospital,
Madurai,
Tamil Nadu.

K.Jayalakshmi,
Nursing Sister,
Railway Hospital,
Perambur,
Madras City.

Ch

Smt. Dhanalakshmi Damadaran,
Nursing Sister, Railway Hospital,
Perambur,
Madras City.

Miss. I. Kalyani, Nursing Sister
Railway Hospital,
Perambur, Madras City.

Smt. P. K. Sarohini, Nursing Sister,
Railway Hospital, Mysore - 2.

Smt. Brewart, Nursing Sister,
Railway Hospital, Madurai, (TN).

Smt. A. Vembu, Nursing Sister,
Railway Hospital, Perambur.

Smt. Swarna Bai M. K. D. Raju,
Nursing Sister, Railway Hospital, Mysore-2.

RESPONDENTS.

(Shri A. N. Venugopal ... Advocate)

This review application has come up before the court today. Hon'ble Shri Ch. Ramakrishna Rao, Member(J) made the following :

O R D E R

In this application, the applicant wants us to review our order dated 13.10.1986 made in application No.278/86. In that application, the applicant had challenged two orders- one dated 9.1.80(Exhibit AA) and another dated 14.3.80(Exhibit AB) by which certain person had been promoted as Matrons Grade III from the post of Nursing Sister while the applicant was not so promoted. It was alleged in the application that a certain Dr. L. R. Balasubramaniam, who was Divisional Medical Officer was prejudiced against the applicant and that was why she was not given promotion. When the matter was fixed for hearing, the applicant and her counsel were absent and we proceeded to deal with the matter on merits with the assistance of Shri A. N. Venugopal, counsel for the respondents. Perusing the application, we were unable to notice any specific allegations of malafides against Dr. Balasubramaniam and even when he was not on the Selection Board, the applicant had not been selected for promotion. We were of the view that we could not substitute our judgement for that ..

of the Selection Board and that the Selection Board having considered her for promotion and allegations of malafides not having been established, we could not direct that she be promoted with retrospective effect alongwith those who were promoted by the two impugned orders dated 9.1.1980(Ex AA) and 14.3.1980 (Ex AB).

2. The applicant who appeared in person explained that her counsel could not inform her of the hearing which was fixed for 13.10.86 and that therefore she could not appear on that date. Since our order was passed in her absence, she wanted us to review our order after hearing her. We gave her an extended hearing since her contention was that she could not be present to explain her case on 13.10.86, to ascertain whether there was any material which was not presented to us at that time and which would make a difference in the decision that we have already rendered. She urged two points namely that the Railway Board upgraded certain Group C and Group D posts w.e.f.1st January 1979 and 1st June 1979 respectively. The post of Nursing Sister which she held stood upgraded to that of Matron Grade III from 1st January 1979 and her contention was that she should have been made Matron Grade III as a result of that upgradation from 1st January 1979. She produced a copy of letter dated 24.9.1979 written to the Secretary, Railway Board, by the General Manager, Southern Railway, which referred to the letters of the Board by which the upgradation had been ordered. She was still unable to produce the original orders of the Board by which upgradation was made, to show whether persons working as Nursing Sisters should automatically have been made Matron Grade III or whether they had to go through a process of selection for the purpose. The second point urged by her was that her allegation of mala fides against Dr. Balasubramaniam had not been considered in our order.

3. Shri Venugopal, learned counsel for the respondents, opposed the contentions of the applicant.

C. J.

4. We have considered the matter very carefully. As we have stated earlier, the prayer in the original application was that orders of promotion to posts of Matron Grade III made on 9.1.1980 and 14.3.1980 be declared illegal and the respondents be directed to promote the applicant from those dates. What is sought in the present application filed as a review application is quite different namely ^{and} that the applicant should have automatically been upgraded from 1.4.79 on the upgradation of her post. This prayer not having been made in the original application cannot be considered in a review application. So far as the ^{all} ~~al~~legation of mala fides against Dr. Balasubramaniam is concerned, we have dealt with this in our order where we have stated that no specific details of mala fides had been given in the application. Even now, the applicant's allegation was that she had made a representation that she had not been promoted to Dr. Balasubramaniam and that ^{not ent} ~~that~~ had annoyed him. This cannot be accepted ^{and} ~~as~~ a specific allegation of mala fides because anybody can urge that when he protested against a decision, the person protested against immediately turned inimical to him. Thus, apart from a vague allegation brought before us, there were no specific details furnished to sustain this allegation. We therefore rejected that contention in our original order. We see no reason to change our decision on this ground either.

5. In view of what we have stated above, we see no point in admitting the review application because nothing new has been thrown up which would justify a review of our original order.

6. In the result, we decline to admit this review application and reject it. Parties to bear their own costs.

Chandrasekhar
MEMBER(J)

P. S. V. S. ^{Use}
7/4/87
MEMBER(A)

AN.