

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE THIRTEENTH DAY OF OCTOBER 1986

Present : Hon'ble Shri Ch. Ramakrishna Rao ... Member (J)

Hon'ble Shri P. Srinivasan ... Member (A)

APPLICATION NO. 278/86

Smt. Alice Vedantham,
W/o Shri K. Vedantham,
Nursing Sister,
Railway Hospital,
Ashokapuram,
Mysore-8.

... Applicant

(Shri H.S. Jois ... Advocate)

V.

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

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

The Chief Personnel Officer,
Southern Railway,
Park Town,
Madras-600 003.

The Chief Medical Officer,
Southern Railway,
Park Town,
Madras-600 003.

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

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

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

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

... Respondents



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

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

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

Smt. Brewart,
Nursing Sister,
Railway Hospital,
Madurai, Tamil Nadu.

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

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

... Respondents

(Shri N.S. Venugopal .. Advocate for R 1 to 4)

This application came up for hearing before Court to day,
Hon'ble Member (J) makes the following:

O R D E R

This application was initially filed as a Writ Petition in the High Court of Karnataka at Bangalore praying for the issue of a writ of Mandamus against respondents 1 to 4 declaring the selection of nursing sisters as Matron/Grade III of respondents 5 to 14 herein as contained in Exhibit AA dated 9.1.1980 and Exhibit AB dated 14.3.1980 as illegal.

2. This application was fixed for final hearing today. Despite several opportunities given on earlier occasions the applicant has not appeared either in person or through counsel. Today also the matter was called several times but none was present for the applicant. Shri A.N. Venugopal, Advocate for respondents 1 to 4 was present. We may, at this stage, mention that on 10.9.1986

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this Tribunal has dismissed the application so far as it related to applicants 8, 9, 10 and 13 since notices could not be served on them and the applicant was also unable to furnish their correct addresses.

3. The facts giving rise to this application are briefly as follows: The applicant was appointed as Nurse in the Railway Hospital on 11.7.1951 and remained there upto 2.12.1959. She was transferred to Vijayawada on 12.12.1959 on promotion as Nursing Sister. She was posted to Mysore Division on 17.1.1962 when she was confirmed as Nursing Sister. She continued to work in Mysore Division. The next promotion for a Nursing Sister is to the post of Matron/Grade III, a selection post to be filled on all Railway seniority through viva voce test conducted by a Selection Board consisting of three Members - two Doctors and a Personnel Officer - . The principal allegation of the applicant is that she appeared at the viva voce test for the post of Matron on several occasions during the period from 21.11.1967 to 11.12.1979 but she was not selected at any of the interviews. According to the applicant Dr. L.R. Balasubramaniam who was a Member of the Selection Committee which interviewed her in 1975 was illdisposed to her and so she was not selected. However, we are informed by Shri Venugopal, learned Counsel for respondents 1 to 4 that the applicant was promoted on 21.7.1983 to the post of Matron/Grade III and she retired from service in the year 1984.

4. The allegation, in the main, of the applicant is that she appeared before the Selection Board on several occasions; that the merits of her application was not taken into account by the Selection Board; that one Dr. L.R. Balasubramaniam who was on the Selection Board in the viva voce test held in 1975 was not well disposed towards her and his presence on the Selection Board

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prejudiced her chances of being selected as Matron/Grade III and in the circumstances the impugned order promoting her juniors should be quashed.

5. Shri Venugopal learned Counsel for respondent 1 to 4 submits that the post of Matron/Grade III is a selection post; that the applicant is not entitled to be promoted automatically on the basis of her seniority; that on each occasion when the viva voce test was conducted she did not obtain the qualifying marks for selection and, therefore, she was not selected for the post of Matron/Grade III. Shri Venugopal further maintains that no details of the alleged bias of Dr. Balasubramaniam against her have been furnished in the application nor has he been made a party to the application. Shri Venugopal submits that in any event the applicant was promoted to the post of Matron/Grade III on 21.7.1983 and, therefore, she can have no real grievance against her non-selection in the past for the said post.

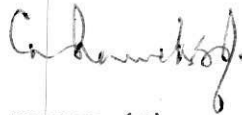
6. After perusing the records and considering the contentions put forth by Shri Venugopal on behalf of respondents 1 to 4, we are satisfied that the application is devoid of substance. The case of the applicant was considered on every occasion and as ill luck would have it for her she did not come up to the standard expected of her by the interview board. As already stated no details in support of the allegation of bias have been made by the applicant in her application and in the absence of any material it will be difficult to arrive at any conclusion regarding the allegation of mala fide levelled against Dr. L.R. Balasubramaniam. In any case the applicant was not selected even on other occasions when Dr. Balasubramaniam was not on the Selection Board and this plea, therefore, lacks substance. Further the fact that the applicant got her promotion



in the normal course on 21.7.1983 shows that the administration had no animus or prejudice or bias against her and it was only because of her inability to secure the qualifying marks that she was not selected to the post of Matron/Grade III. But when she was found suitable for the post she was appointed to the post. The plea of bias, therefore, fails. We do not propose to interfere in the process of selection.

7. The merits of the application stated above apart, this Tribunal is loath to interfere in any appointment made by a Selection Committee of experts duly constituted for the purpose since it is exclusively their domain and the merits and demerits of the candidate cannot be examined with precision by us. We, therefore, refrain from entering into the merits and demerits of the assessment of the applicant by the selection committee on various occasions.

8. In the result the application is dismissed. But in the circumstances there will be no orders as to the costs.



MEMBER (J)



MEMBER (A)

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
* * * * *

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated: 29.4.87

Review Application No. 30/86
(in Application No. 278/86(T)

Applicant

Smt Alice Vedantham

V/s The Secy, M/o Rlys and 13 Ors

To

- | | |
|---|---|
| <p>1. Smt Alice Vedantham
Nursing Sister
Railway Hospital
Ashokapuram
Mysore - 8</p> <p>2. The Secretary
Ministry of Railways
Rail Bhavan
New Delhi - 110 001</p> <p>3. The General Manager
Southern Railway
Park Town
Madras - 600 003</p> <p>4. The Chief Personnel Officer
Southern Railway
Park Town
Madras - 600 003</p> <p>5. The Chief Medical Officer
Southern Railway
Park Town
Madras - 600 003</p> <p>6. Smt K.A. Thilothamma
Nursing Sister
Railway Hospital
Erode
Tamil Nadu</p> | <p>7. Smt Leela G. Nair
Nursing Sister
Golden Rock Railway Hospital
Tiruchirapalli</p> <p>8. Smt E. Shantha
Nursing Sister
Railway Hospital
Madurai
Tamil Nadu</p> <p>9. K. Jayalakshmi
Nursing Sister
Railway Hospital
Perambur
Madras City</p> <p>10. Smt Dhanalakshmi Damodaran
Nursing Sister
Railway Hospital
Perambur
Madras City</p> <p>11. Miss I. Kalyani
Nursing Sister
Railway Hospital
Perambur
Madras City</p> <p>12. Smt P.K. Sarojini
Nursing Sister
Railway Hospital
Mysore - 2</p> |
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13. Smt Brewart
Nursing Sister
Railway Hospital
Madurai
Tamil Nadu
14. Smt A. Vambu
Nursing Sister
Railway Hospital
Perambur
Madras City
15. Smt Swarna Bai M.K.D. Raju
Nursing Sister
Railway Hospital
Mysore - 2
16. Shri A.N. Venugopal
Advocate
High Court Buildings
Bangalore - 560 001

* * * *

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH
IN REVIEW APPLICATION NO. 30/86

Please find enclosed herewith the copy of the Order passed by this
Tribunal in the above said Application on 7-4-87

B.N. Venkatesh Rao
Deputy Registrar
(Judicial)

Encl : As above

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. 0/86

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,
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Tiruchirapalli,

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

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

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Smt. Dhanalakshmi Damaderan,
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 15.10.1986 made in application No.273/86. In that application, the applicant had challenged two orders- one dated 9.1.80 (Exhibit AA) and another dated 14.3.80 (Exhibit AD) 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 judgment 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.




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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 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}egation 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 end} 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.


B. V. Venkatesh
DEPUTY REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

Sd/-
MEMBER (J)

Sd/-
MEMBER (A)

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