

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NOs.407/97, 586/97 & 587/97

Dated this the 31st day of October 2001.

CORAM : Hon'ble Shri S.L.Jain, Member (J)

Hon'ble Smt. Shanta Shastry, Member (A)

1. Mrs. Prabha Pravin Bhosale
2. Chhaya Adhir Salvi
3. Nirmala Kashinath Bagul

All are Staff Nurse under
Medical Superintendent,
Kurduwadi, Central Railway,
Dist. Solapur.

...Applicants

By Advocate Uday Warunjikar

vs.

1. Divisional Railway Manager,
(Personnel) Solapur Division,
Central Railway, Solapur.
2. General Manager (Personnel),
Central Railway,
Mumbai C.S.T., Mumbai.
3. Union of India through
Railway Ministry,
New Delhi.

...Respondents

By Advocate Shri S.C.Dhawan

O R D E R

{Per : Shri S.L.Jain, Member (J)}

These OAs. (OA.NOs.407/97, 586/97 & 587/97) involve one and the same question of law, hence, we proceed to decide them together and heard together with the consent of the parties.

2. The applicants have sought the relief of direction to the respondents to correct the seniority list published on 1.1.1996 and to place the applicants accordingly.

3. The details of the applicants regarding their appointment are as under :-

	<u>OA.No.407/97</u>	<u>OA.No.586/97</u>	<u>OA.No.587/97</u>
Staff Nurse	13.8.1974 to 15.11.1974	23.1.1978 continued with 2 days break after every 3 months	Substitute 1.5.1984 with technical breaks
	17.11.1974 to 17.2.1975		Substitute 3.3.1985 Temporary employee
	Substitute 19.2.1975	8.5.1983	20.2.1986

4. The applicants are working as Staff Nurse under the Medical Superintendent, Kurduwadi in Solapur Division of Central Railway. The applicants underwent the selection process as per the directions given by the respondents and were regularised as Staff Nurse w.e.f. 2.3.1994.

5. The applicants claim that though they were working as Staff Nurse since the dates mentioned above in para 3 of this order, the respondents prepared the seniority list of Staff Nurse showing position as on 1.1.1996 in which applicants in OA.407/97, 586/97 and 587/97 are shown at Sr.No. 16, 17 & 19 respectively. The persons who are shown at Sr.No.1 to 15 were appointed later

in time than the applicants. Persons shown at Sr.No.1 to 9 were also promoted to Nursing Sister's post. The applicants orally represented their matter, also submitted representations which were replied by the respondents vide Ex.-'A-5'. The Respondent No. 1 failed to carry out correction in seniority list as per direction given by Respondent No. 2. The applicants are not shown as eligible for the post of Matron. Hence, these OAs. for the above said relief.

6. The learned counsel for the applicants based the claim on Annexure-5(4) letter No.HPB/710/R/Med. dated 12.12.1996 issued by Headquarters Office, Personnel Branch, Mumbai C.S.T. at para 2 which is as under :-

" The list of screening substitute Nurse has not been arranged as per merit or as per date of substitutes hence in this case it will be in order to assign seniority of them as per the date of continuous service as substitute."

He argued that the respondents have not placed on record the letter dated 28.11.1996 referred to in this letter to which the reply is, as such it cannot be made out in what context the reply was meant. It is true that the letter dated 28.11.1996 has not been placed by the respondents' counsel on record. On perusal of para 2, we are of the considered opinion that there cannot be any ambiguity or two opinions and the only conclusion is that substitute nurses who were screened have not been arranged as per merit or as per date of appointment as Substitute

Hence, it was desired that it will be in order to assign seniority to them as per the date of continuous service as substitute. It does not amount to that vide this letter Ex-'A-5' there was a direction from Respondent No. 2 to Respondent No. 1 that they will get the seniority from the date of their appointment.

7. The learned counsel for the respondents placed on record the Recruitment Rules in respect of Staff Nurse. On perusal of the same, we are of the considered opinion that the posts are to be filled by direct recruitment. The applicants were never appointed as Staff Nurse but they were only Substitutes and continued to be so till they are recruited by Railway Recruitment Board and regularised on 2.3.1994.

8. The promotional avenues of the Staff Nurse are to the Nursing Sister and then to Matron. Railway Recruitment Board is a Recruitment Agency. As such the applicants are only entitled to seniority from the date of regularisation i.e. 2.3.1994 and not earlier to it.

9. As such, we do not find any merit in any of the OAs. OAs. are liable to be dismissed and are dismissed accordingly with no order as to costs.

(SMT.SHANTA SHAstry)
MEMBER (A)

(S.L.JAIN)
MEMBER (J)

mrj.