

(Ceb)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL; HYDERABAD BENCH  
AT HYDERABAD.  
OA.983/93.

Date of Judgment: 22-8-95.

Between:-

Smt. J. Elizebeth

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Applicant

1. Union of India, reptd. by its Secretary,  
Ministry of Health, New Delhi.
2. Director General of Health Services,  
Nirman Bhavan, New Delhi-110 011.
3. Additional Director, Central Government  
Health Scheme, K.S. Bhavan, Begumpet, Hyderabad.

...

Respondents.

Counsel for the Applicant: Mr. V. V. L. N. Sarma

Counsel for the Respondents: Mr. N. V. Ramana, Addl. CGSC.

CORAM:

HON'BLE MR. JUSTICE V. NEELADRI RAO, VICE CHAIRMAN  
HON'BLE SHRI R. RANGARAJAN, MEMBER (ADMINISTRATIVE)

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OA 983/93

Dt.of decision:22-8-95

JUDGEMENT

X As per Hon'ble Justice Sri V.N.Rao, Vice Chairman X

Heard the counsel for both the parties.

2. The applicant joined service as Nursing Orderly in the P&T Dispensary, Hyderabad in pursuance of appointment order dt. 29-8-74. She passed SSC in 1979.

3. The recruitment rules as per Notification No.4-80/73/CGHS(P)(C), dt.22-1-79 disclose that 10% of the posts of the LDCs are to be filled by promotion based on departmental Examination confirmed to Class IV employees who have passed Matriculation or its equivalent examination and have rendered five years service in that grade. It is stated for the respondents that as there are 31 posts of LDC, 3 (three) posts have be filled by way of promotion from Class IV and as per rules the examination was conducted and three were selected and promoted as LDCs and two are kept in the waiting list in 1981. The further plea for the respondents is that thereafter there was no occasion to conduct examination for consideration to the posts of LDC except for ST vacancy.

4. It is stated for the applicant in the rejoinder that copy of the notification has to be sent to various dispensaries to enable the eligible Class IV employees to appear for the departmental examination for consideration for promotion to the posts of LDC, and as the same was not sent, many eligible employees have not got the opportunity to appear for the same.

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5. It may be noted that the promotion is on the basis of departmental examination for which those who completed five years of service and having Matriculation or equivalent qualification. Seniority is not the criterion for selection for promotion as LDC, if the selection has to be made only on the basis of the total marks obtained at the examination. But, of course, if the performance has to be assessed by giving the marks. It is not clear on the material placed before us as to whether it is being done on the basis of the marks allotted, or on the basis of the gradings.

6. While it is stated for the respondents that seniority lists of various grades were prepared, the contention for the applicant is that as such seniority lists are not yet communicated to the various dispensaries, the same have to be despatched to the various dispensaries so as to enable the employees of each grade in the dispensaries to pursue the same and to raise the objections, if any.

7. This O.A. was filed praying for a direction to the respondents to prepare a common seniority list of the employees holding the various posts with different designations in Category-D working in all the 17 CGHS dispensaries in Hyderabad, to fix up the notional seniority of the applicant with effect from the date on which any of her juniors were promoted to the posts of L.D.C. with all consequential monetary and other benefits.

8. We already observed that as it is stated for the respondents that necessary seniority lists were prepared, they have to be communicated to the various dispensaries, as referred to above, if they are not yet communicated.

9. The applicant has not impleaded the Class-IV employees who were selected and promoted in 1981 as LDCs, and hence on that ground itself, it has to be held that their promotions cannot be set aside. Further, the challenge to the promotions of 1981 after 12 years cannot be entertained on the ground of laches. The applicant is not yet promoted as LDC and hence the question of fixation of notional seniority in the post of LDC does not arise and accordingly the OA in regard to that relief has to be dismissed.

10. It is needless to say that the concerned authority has to communicate the notification to all the dispensaries as and when it is necessary to conduct departmental examination for eligible Class-IV employees for consideration for promotion to the posts of LDC. It is also necessary for the concerned head of the dispensary to affix it to the notice board so as to give wide publicity to the concerned. Hence, it is proper to observe that the concerned authority has to obtain the acknowledgement from the heads of various dispensaries about the receipt of the copy of the notification, and also about the affixing of the same on the notice board of the concerned dispensary so as to ensure that all the concerned are made known about the notification.


11. It is stated that two from out of those who appeared for the 1981 examination were placed in waiting list. No rule is produced for the respondents to show that such a panel has to be prepared for keeping some in the waiting list

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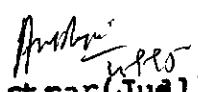
and if such a panel has to be prepared, the same has to be kept in force till it is exhausted. Hence, it has to be stated that the panel in regard to those who were kept in the waiting list shall be deemed to have lapsed, and as and when future vacancies arise steps have to be taken in accordance with the rules and by keeping in view the judgement of the Apex Court in Sabhariwala's case.

12. The OA is ordered accordingly. No costs. //

  
(R. Rangarajan)  
Member (A)

  
(V. Neeladri Rao)  
Vice Chairman

Dt. 22-8-95  
Open Court Dictation

  
Dy. Registrar (Judl)

kmv

Copy to:-

1. Secretary, Ministry of Health,  
Union of India, New Delhi.
2. Director General of Health Services,  
Nirman Bhavan, New Delhi-110 011.
3. Additional Director, Central Government  
Health Scheme, K.S. Bhavan, Begumpet, Hyderabad.
4. One copy to Mr. V.V.L.N. Sarman, Advocate  
3-4-524, Barkatpura, Hyderabad.
5. One copy to Mr. N.V. Ramana, Addl. CGSC. CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR. JUSTICE V. NEELADRI RAO  
VICE CHAIRMAN

A N D

THE HON'BLE MR. R. RANGARAJAN: (M (ADMN))

DATED 22-8-1995.

~~ORDER/JUDGMENT:~~

~~M.A./P.A./C.A.No.~~

OA.No.

in

983/93

TA.No.

(W.P.)

~~Admitted and Interim directions  
issued.~~

~~Allowed.~~

~~Disposed of with directions.~~

~~Dismissed.~~

~~Dismissed as withdrawn~~

~~Dismissed for default~~

~~Ordered/Rejected.~~

~~No order as to costs.~~

No Spare Copy

Central Administrative Tribunal  
DESPATCH  
20 SEP 1995 NSW  
HYDERABAD BENCH