

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No. 266 of 1998

7.5.1999
DATE OF DECISION.....

Smt K. Dutta

(PETITIONER(S))

Mr R. Dutta

ADVOCATE FOR THE
PETITIONER(S)

-VERSUS-

Union of India and others

RESPONDENT(S)

Mr J. L. Sarkar, Railway Counsel

ADVOCATE FOR THE
RESPONDENTS.

THE HON'BLE MR JUSTICE D.N. BARUAH, VICE-CHAIRMAN

THE HON'BLE MR G.L. SANGLYINE, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Vice-Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.266 of 1998

Date of decision: This the 7th day of May 1999

The Hon'ble Mr Justice D.N. Baruah, Vice-Chairman

The Hon'ble Mr G.L. Sanglyine, Administrative Member

Smt Kasturi Dutta,
Staff Nurse, Central Hospital,
N.F. Railway, Maligaon,
Guwahati-781011.

.....Applicant

By Advocate Mr R. Dutta.

-versus-

1. The Union of India, through the
General Manager,
N.F. Railway, Guwahati.
2. The General Manager (P),
N.F. Railway, Maligaon,
Guwahati.
3. The Chief Medical Director,
N.F. Railway, Maligaon,
Guwahati.
4. The Medical Director,
Central Hospital, Maligaon,
N.F. Railway, Guwahati.
5. The Medical Superintendent,
Dibrugarh Railway Hospital,
Dibrugarh.
6. Smt Lalita Dey,
Matron II, working as Tutor,
Nursing Training School,
Central Hospital, Maligaon.
7. Smt Salomi Indwar,
Sister Tutor,
Central Hospital, Maligaon,
N.F. Railway, Guwahati.

.....Respondents

By Advocate Mr J.L. Sarkar, Railway Counsel.

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O R D E R

BARUAH.J. (V.C.)

This application has been filed by the applicant
seeking certain directions to the respondents.

2. Facts for the purpose of disposal of this
application are:

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The General Manager (P) issued Annexure 2 Advertisement dated 6.1.1997 for appointment to the post of Sister Tutor in the Central Railway Hospital, Maligaon, N.F. Railway, Nursing Training Centre. As per the advertisement the minimum qualification for appointment to the post are as follows:

"Master of Nursing, if not available B.Sc/ Post Basic, B.Sc., even if this is not available a candidate with Diploma in Nursing education and administration or any other equivalent post basic Diploma with eight years of teaching and administrative experience in Nursing.

Nursing cadre employees full filling the above condition may apply for the post of Sister Tutor in scale Rs.2000-3200/-."

From the qualification mentioned above it is clear that the first choice is Master of Nursing. If no candidate having that qualification is available then the next choice is B.Sc/Post Basic B.Sc. If that is also not available then a candidate with Diploma in Nursing education and administration or any other post basic Diploma with eight years of teaching and administrative experience could apply. The applicant alongwith others applied for the post. There was no candidate having a degree of Master of Nursing. The applicant and another person had B.Sc. (Nursing) and one or more candidates had Diploma in Nursing education and administration. As per the qualification mentioned above as no candidate having Master of Nursing degree was available the administration was under its obligation to first examine the candidates having B.Sc. (Nursing). However, the authority decided to appoint one Smt Salomi Indwar- the respondent No.7.

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According to the applicant, respondent No.7 neither possessed Master of Nursing degree nor B.Sc. (Nursing). Therefore, unless the applicant and the other persons having B.Sc. (Nursing) are found to be disqualified the respondent No.7 could not be called for the selection and be appointed. The further contention of the applicant is that there is nothing in the record to show that the applicant of the other candidate with B.Sc. (Nursing) were not found eligible for certain other grounds.

2. This application was admitted by this Tribunal on 7.12.1998. The respondent Nos.1 to 5 have entered appearance. The private respondent Nos.6 and 7 have not entered appearance though notices were issued to them. As the notices were sent as far back as 10.12.1998 it is presumed that notices had been served to those respondents also. The official respondent Nos.1 to 5 have not filed any written statement even though this Tribunal granted several adjournments for filing of written statement. The records have also not been produced. Today Mr J.L. Sarkar, learned Railway Counsel submits that in spite of his best efforts he has not been able to produce the records.

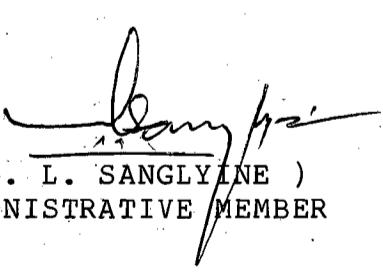
3. We have heard Mr R. Dutta, learned counsel for the applicant and Mr J.L. Sarkar appearing on behalf of the respondents. Though no written statement has been filed and records have not been produced, Mr Sarkar made an endeavour to address this Tribunal on the basis of the instructions he received by way of parawise comments. He also submits that from the parawise comments, there is nothing to indicate that the applicant and the other candidates were otherwise not qualified. He only points out from the materials available to him that in the selection the applicant was not found qualified. However, no further information are available. On going through

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the Annexure 2 Advertisement dated 6.1.1997 it appears that as no candidate with Master of Nursing degree was available and unless the applicant and the other candidate with B.Sc. (Nursing) were found otherwise disqualified, the administration had no jurisdiction to consider the appointment of respondent No.7. As the records are not available before us and the written statement has also not been filed we find it difficult to decide the matter. Therefore, we send back the matter with direction to the respondents to consider the case of the applicant and if the applicant is otherwise qualified and she being a graduate in Nursing her case will have to be decided first. If the applicant is not qualified otherwise only then the question of considering the appointment of respondent No.7 will come.

4. In view of the above we set aside the Annexure 9 order of appointment of respondent No.7 and direct the respondents to consider the case of the applicant and the others with B.Sc. (Nursing) in the manner indicated above. This must be done as early as possible at any rate within a period of two months from the date of receipt of this order.

5. The application is accordingly disposed of. No order as to costs.


(G. L. SANGLYINE)
ADMINISTRATIVE MEMBER


(D. N. BARUAH)
VICE-CHAIRMAN