

Central Administrative Tribunal
Principal Bench
New Delhi

C.P.No.65/2015
in
T.A.No.17/2013

Order Reserved on: 06.01.2016
Order pronounced on 07.01.2016

Hon'ble Shri V. Ajay Kumar, Member (J)
Hon'ble Shri Shekhar Agarwal, Member (A)

Sandeep Kumar
S/o Sh. Kaptan Singh
R/o H.No.118, Indraj Colony
Bawana
Delhi – 110 039. ... Applicant

(By Advocate: Shri S.N.Gupta)

Versus

1. Dr. S.K.Sharma
Director,
Health & Family Welfare Department
Govt. of NCT of Delhi
F-17, Karkadooma
Delhi – 110 032.

2. Shri SCL Das
Secretary
Health & Family Welfare Department
Govt. of NCT of Delhi
9th Level, A-Wing
IP Extension
Delhi Secretariat,
New Delhi – 110 002.

3. Shri VK Singh (Secretary)
 Delhi Subordinate Services Selection Board
 FC-18, Institutional Area
 Karkardooma
 Delhi – 92. ... Respondents

(By Advocate: Sh. B.N.P.Pathak)

O R D E R

By V. Ajay Kumar, Member (J):

The applicant's candidature for selection to the post of Technical Assistant (Group IV) [Post Code No.068/2006] was rejected by the respondents due to the reason that Diploma of Medical Laboratory Technology (DMLT) passed by him was not from a recognized institution. The applicant's WP(C) No.8798/2007, filed in the Hon'ble High Court of Delhi, against the said action, was transferred to this Tribunal as TA No.17/2013.

2. This Tribunal, after hearing both sides, disposed of the TA by Order dated 23.05.2014 as under:

"14. In these circumstances and for the aforesaid reasons, we direct the respondents to consider the candidature of the applicant in this OA as possessing a recognized diploma in MLT and decide his suitability for the post taking into account other conditions of the Recruitment Rules and the department for a fresh appointment. It is noted that Hon'ble High Court in its order dated 02.01.2008 had directed the respondents not to fill up one post of Technical Assistant Group-IV Code no.068/06 till 17.01.2008. This interim order was continued vide orders dated 17.01.2008 and 23.04.2008. The interim order was not extended beyond 31.07.2008. There is also no pleading with regard to the availability of the post of Technical Assistant Group-IV as of now. The above direction will, therefore, be applicable only if one of those posts has not been filled up as yet. No costs."

3. Alleging violation of the aforesaid order, the applicant in the TA filed the present CP.

4. After the CP is filed, in compliance of the aforesaid orders of this Tribunal dated 23.05.2014 in TA No.17/2013, the respondents passed an order on 18.03.2015. Accordingly, it is submitted, on their behalf, that there is no violation of the orders of this Tribunal.

5. Heard Shri S.N.Gupta, the learned counsel for the applicant and Shri B.N.P.Pathak, the learned counsel for the respondents, and perused the pleadings on record.

6. Though this Tribunal directed the respondents to consider the candidature of the applicant as possessing a recognized Diploma in MLT and decide his suitability for the post taking into account other conditions of the recruitment rules and the department for a fresh appointment, but the said direction is applicable only, if one of the post has not been filled up till the date of the said order.

7. It is the specific case of the respondents that the interim order dated 02.01.2008, directing the respondents not to fill up one post of Technical Assistant (Group IV) Code No.068/2006 till 17.01.2008, was not extended beyond 31.07.2008 [which is not disputed by the applicant's counsel] and hence the said vacancy was notified in the subsequent notifications and consequently as no post of relevant notification is available, as on the date of passing of the order on

23.05.2014 in TA No.17/2013, the said order was not implementable as per the observations made thereunder and hence, there is no deliberate or wilful disobedience or violation of the orders of this Tribunal.

8. In the circumstances and in view of the specific observation made in the Order dated 23.05.2014 in TA No.17/2013, we are of the view that there is no violation of the said order of this Tribunal by the respondents.

9. Accordingly, the CP is closed. Notices are discharged. No costs.

(Shekhar Agarwal)
Member (A)

(V. Ajay Kumar)
Member (J)

/nsnrvak/