

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No.507/2018

Wednesday, this the 31st day of January 2018

**Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. K.N. Shrivastava, Member (A)**

Ms. Pallavi Kumari, (Aged about 36 years)
d/o Sh. Chander Bhan, R/o RZ-322
Gali No.7, Geetanjali Park,
West Sagarpur, New Delhi

..Applicant

(Mr. A K Bhakt, Advocate)

Versus

Govt. of NCT of Delhi & others

Through

1. The Chief Secretary
Govt. of NCT of Delhi
Delhi Secretariat, IP Estate
New Delhi – 110 002
2. The Chairman
Delhi Subordinate Services Selection Board
FC-18, Institutional Area
Karkardooma, Delhi – 110 092
3. The Secretary
Department of Health & Family Welfare
Govt. of NCT of Delhi
Old Secretariat, Near Vidhan Sabha
Civil Lines, New Delhi – 110 054

..Respondents

(Mr. M D Jhangra, Advocate for Mrs. Priyanka Bhardwaj, Advocate)

O R D E R (ORAL)

Justice Permod Kohli:

Notice. Mr. M D Jhangra for Mrs. Priyanka Bhardwaj, learned counsel, appears and accepts notice on behalf of respondents.

2. The applicant applied for the post of 'A' Grade Staff Nurse in 2007. She applied as an SC candidate under Post Code No.071/07 in Municipal Corporation of Delhi (MCD), as it then was, and as a general category candidate under Post Code No.170/07 in Govt. of NCT of Delhi. Her candidature was cancelled vide order dated 11.01.2010. Aggrieved of the same, the applicant filed O.A. No.4029/2010. This O.A. was disposed of vide order dated 19.08.2011 with the following directions:-

“9. DSSSB conducted a common examination for filling up vacancies of Staff Nurse in two different organizations. The applicant gave two separate application forms. She claimed SC reservation for the Post Code 071/07 and did not claim reservation for SC in the other Post Code 170/07. What mistake she did? Is there any prohibition that a candidate belonging to SC Category cannot apply in UR category. The UR category is open to all candidates it is General Category. How the applicant cannot be considered for UR Category vacancies in Post Code 170/07 if she is otherwise eligible in the merit list. The confusion done by 1st respondent DSSSB is that applicants case was sent under SC Category for Post Code 170/07 where she had admittedly applied for the UR vacancies. Applicants SC candidature and caste certificate for the Post Code 071/07 is not in dispute. Her case should have been sent to MCD the 2nd respondent for offering her appointment under Post Code 071/07 in the SC Category. DSSSB did what should not have been done and did not do what should have been done. The said confusion has termed the applicants case as violative of condition 21(e) in the application form. The confusion is the result of callous and arbitrary action of the 1st respondent and the impugned order being illegal needs to be quashed and set aside. We order accordingly.

10. For the reasons stated above, and based on the facts and circumstances of the case, the OA succeeds. In the result, we direct the 1st respondent to consider the applicants candidature for the vacancies in Post Code 071/07 as SC and if she is found to be in the merit list for SC reserved vacancies, she shall be offered appointment to the post by the 2nd respondent as expeditiously as possible but not later than 9 weeks from the date of this order. We also order that she will be assigned her seniority as per her position in the merit list and she will be entitled to the notional date of joining from the date her immediate junior has been issued the appointment and she will be eligible to get her salary with effect from the date she joins in the post.”

3. Consequent upon the aforesaid directions, the applicant came to be appointed as Staff Nurse in Govt. of NCT of Delhi vide office order dated 01.02.2012/14.06.2012 (Annexure A/6 colly.)). The grievance of the applicant is that despite her appointment, she has not been given due seniority on the basis of her merit and from the date her juniors were appointed. She made a representation dated NIL (Annexure A/1 (colly.)). Since no decision has been taken thereon, this O.A. has been filed seeking a direction to the competent authority to take decision on the aforesaid representation in the light of the judgment passed by this Tribunal in O.A. 4029/2010.

4. In this view of the matter, the O.A. is disposed of at the admission stage with a direction to respondent No.3 to take decision on the aforesaid representation of the applicant and dispose of the same by passing a reasoned and speaking order within a period of two months from the date of receipt of a copy of this order.

(K.N. Shrivastava)
Member (A)

(Justice Permod Kohli)
Chairman

January 31, 2018
/sunil/