

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A. No.3576/2018

Reserved on : 20.09.2018

Pronounced on : 27.09.2018

**HON'BLE MR. V. AJAY KUMAR, MEMBER (J)
HON'BLE MR. A.K. BISHNOI, MEMBER (A)**

Ashish Kumar,
Aged about 44 years, Group "C"
S/o Shri Rewat Ram,
R/o 24, Type II Qrts., Masjid Moth,
AIIMS Residential Campus, New Delhi-49
(Working as Medical Record Technician,
Room No.1, EHS OPD, Near RAK OPD,
AIIMS Hospital, Ansari Nagar,
New Delhi-110029). .. Applicant

(By Advocate: Shri Amit Anand)

Versus

1. The Director,
All India Institute of Medical Sciences (AIIMS),
Ansari Nagar, New Delhi-110029.
2. The Administrative Officer,
Recruitment Cell,
All India Institute of Medical Sciences (AIIMS),
Ansari Nagar, New Delhi-110029. ...Respondents

(By Advocate : Shri V.S.R. Krishna)

ORDER

By Mr. V. Ajay Kumar, Member (J)

The applicant, a Medical Record Technician in the respondent – All India Institute of Medical Sciences (in short, AIIMS), filed the O.A. seeking the following relief(s):

"(i) Quash and set aside the order dated 13.07.2018, cancellation notice dated 04.04.2016 and order dated

25.06.2018, and letter dated 02.06.2016 (Annexure A-1 Colly);

- (ii) Direct the respondent to promote applicant to the post of MRO since the year 2013 with all consequential benefits as since 2006 and at the time of direct recruitment he was only 01 departmental candidate who fulfilled all criteria of direct recruitment for the post of MRO and having far more experienced then the experience required in advt. and he is also understanding AIIMS record system very well.

Or

- (iii) Direct the respondent to quash and set aside the DPC against the cancelled post under direct recruitment.
- (iv) Direct the respondent to conduct the direct recruitment for the said post as per the recruitment rules and eligibility in the year 2012/2013 as per the case of Y.V. Rangaiyah; and conduct the written examination only as per the list of eligible candidates which was sent to Exam Section by Rectt. Cell on 09.02.2016.
- (v) May also pass any further order(s), direction(s) as be deemed just and proper to meet the ends of justice".

2. It is submitted that in response to Annexure A/4 Recruitment Notice No.10/2013 dated 02.12.2013 issued by the respondent – AIIMS calling for applications for filling up of various Group 'D' and Group 'C' posts on direct recruitment basis including the post of Medical Record Officer, the applicant being qualified and eligible applied for the same.

3. On 20.06.2015, the respondents screened the candidates including the applicant for the post of Medical Record Officer and, on 09.02.2016, the respondents finalized the list of eligible candidates for written examination. In the said list, the applicant was only one eligible departmental candidate, out of all the

departmental candidates who had applied for the post. However, thereafter the respondents have not proceeded with the Annexure A/4 Recruitment Notice in any manner. The repeated representations made by the applicant went in vain.

4. It is further submitted that the respondents, on 04.04.2016, published a Cancellation Notice stating that the advertisement for filling up one post of Medical Record Officer vide Recruitment Notice No.10/2013 is cancelled. The representations of the applicant to continue the recruitment process was rejected by the respondents on 02.06.2016. The subsequent representation made by the applicant again rejected by the respondents vide the impugned Annexure A/1 Memorandum dated 13.07.2018, stating that their decision on the cancellation of the selection process for the post of Medical Record Officer was already communicated to the applicant on 02.06.2016 itself. Aggrieved by the same, the applicant filed the instant O.A.

5. Heard Shri Amit Anand, the learned counsel for the applicant and Shri V.S.R. Krishna, learned counsel appeared on behalf of the respondent – AIIMS on receipt of advance notice.

6. The learned counsel for the applicant submits that once the respondents initiated the process for selection to the post of Medical Record Officer, they cannot cancel the same. He further submits

that the reasons given by them for cancellation of the said selection vide their letter dated 02.06.2016 are illegal and arbitrary.

7. The learned counsel for the applicant further submits that though the respondents cancelled the process of selection for the post of Medical Record Officer on 04.04.2016 itself, on which date they had published the Cancellation Notice, and though the period of limitation for filing the instant O.A. expired from the said date of cancellation, but since the respondents rejected the claim of the applicant 2nd time on 13.07.2018, the instant O.A. filed on 11.09.2018 is well within limitation.

8. Firstly, it is the settled principle of law that it is the prerogative of an employer to fill up a particular post or not. The applicant though eventually working in the respondent – AIIMS, but the impugned selection was through direct recruitment and it is not even the case of the applicant that the selection was cancelled after the applicant was declared selected. Admittedly, the selection for the post of Medical Record Officer was cancelled even before any candidate was declared selected. Hence, we do not find any merit in the O.A.

9. Further, it is also the settled principle of law that consecutive representations or consecutive rejection orders with regard to the

same claim cannot extend the period of limitation (see **Union of India & others v. M.K. Sarkar**, (2010) 2 SCC 59).

10. In the circumstances, the O.A. is dismissed both on the merits as well as on the point of limitation. No order as to costs.

(A.K. BISHNOI)
Member (A)

(V. AJAY KUMAR)
Member (J)

/Jyoti/