

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

O.A.No.3841/2011

Order reserved on 16th August 2018

Order pronounced on 4th October 2018

**Hon'ble Mr. K.N. Shrivastava, Member (A)
Hon'ble Mr. S. N. Terdal, Member (J)**

Chandra Narayan Joshi
Age about 35 years
s/o Sh. Satya Narayan Joshi
r/o Front of Municipal Corporation
Behind of Shiv Mandir
Hanuman Hattha, Bikaner (Raj.)

(Mr. Amit Anand, Advocate)

..Applicant

Versus

Union of India through

1. The Chairman
Indian Railway, Rail Bhawan
New Delhi
2. General Manager
Northern Railway
Baroda House, New Delhi
3. Railway Recruitment Board
SCO-34, Sector 7 C
Madhya Marg, Chandigarh

..Respondents

(Mr. V S R Krishna and Mr. Shailendra Tiwary, Advocates)

O R D E R

Mr. K.N. Shrivastava:

The Railway Recruitment Board (RRB), Chandigarh issued notification No.01/2008 dated 23.02.2008 for filling up 45 posts of Staff Nurse (UR 23, SC 8, ST 3 & OBC 11). 8 out of these posts were meant for

the hospitals of Ambala Division, whereas remaining 37 for Northern Railway Central Hospital, New Delhi. The result of the selection was declared on 24.08.2009. The applicant had appeared in the selection process (Roll No.1000041) under UR category. A few candidates, belonging to reserved category, were also selected under UR category on the basis of their merit positions. 3 selected candidates in Ambala Division (1 SC, 1 OBC & 1 SC – selected under UR) did not join. Like-wise, 4 candidates (2 UR + 2 SC) did not join the Northern Railway Central Hospital, New Delhi. Later on, 3 replacement candidates against these vacancies from RRB, Chandigarh (obviously from the wait list) (2 UR & 1 OBC) were received, leaving the balance as un-filled, i.e., 1 UR + 3 SC. Another OBC candidate from the wait list was considered as UR candidate. The applicant claims that as per the information received by him under Right to Information Act, 2005 (RTI), vide letter dated 24.09.2011, 11 candidates from select list had not joined and he is, thus, entitled for consideration as his name figures in the wait list. Accordingly, the applicant has approached this Tribunal in the instant O.A. praying for the following main reliefs:-

“(i) to quash and set aside the impugned fresh notification that has been issued by the respondents on 30.05.2011 (Annexure-A-1).

(ii) to appoint the applicant on the post of Staff Nurses as he is in the waiting list and is fully eligible for appointment to the said post.”

2. The respondents, in their reply / additional affidavit, have stated that 22 UR candidates were selected by RRB, Chandigarh as per Annexure-AA (colly.) (pp. 230-231), which included 2 SC candidates and 1 OBC candidate selected against UR category on the basis of their merit position. The applicant has secured 40% marks, whereas the last empanelled candidate

under UR category, namely, Mr. Nand Kishore had secured 42.34% marks. They have further stated that the currency of the panel has already expired and hence, the claim of the applicant cannot be considered even though there are some vacant posts against which the selected candidates did not join.

3. On completion of pleadings, the case was taken up for hearing the arguments of the parties on 16.08.2018. Arguments of Mr. Amit Anand, learned counsel for applicant and Mr. V S R Krishna with Mr. Shailendra Tiwary, learned counsel for respondents heard.

4. Mr. Amit Anand, learned counsel for applicant stated that the respondents, vide their letter dated 24.09.2011 in reply to an RTI query of the applicant, have clearly informed that 11 selected candidates did not join, which included 4 UR category candidates. His further argument was that if the contention of the respondents that the currency of the panel had expired on 20.10.2010, is to be considered on its face value, in that case, how come an UR candidate, Mr. Nand Kishore, was allowed to join on 05.05.2011, as indicated in Annexure AA-1 (colly.) letter dated 25.01.2017, which is a letter from the Northern Railway to the learned counsel for respondents.

5. *Per contra*, Mr. V S R Krishna, learned counsel for respondents maintained the averments made in the reply / additional affidavit filed by the respondents that the currency of the panel had expired and hence, the claim of the applicant for consideration cannot be looked into.

6. We have considered the arguments of learned counsel for the parties and have also perused the pleadings.

7. From the records, it is quite evident that many out of the selected 45 candidates did not join. The reply of the respondents to the RTI query of the applicant clearly indicates that as many as 11 selected candidates, including 4 belonging to UR category, did not join. We find considerable merit in the argument of Mr. Amit Anand that the contention of the respondents to the effect that the currency of the select-panel had expired on 20.10.2010 cannot be accepted on its face value, in view of the letter dated 25.01.2017 (pp. 230-231), wherein one of the selected candidates under UR category, namely, Mr. Nand Kishore, was allowed to join on 05.05.2011. This would go to show that the panel was operated even beyond 20.10.2010.

8. In the conspectus, we dispose of this O.A. in the following terms:

(a) The respondents are directed to verify as to the number of vacancies under UR category, which remained unfilled due to non-joining of the selected candidates as on 05.05.2011 when Mr. Nand Kishore, one of the selected candidates under UR category, was allowed to join.

(b) If as on 05.05.2011 any UR vacancy remains unfilled, the case of the applicant against such vacancy shall be considered in accordance with his position in the wait list.

(c) The directions at (a) & (b) above shall be complied with within a period of two months from the date of receipt of a copy of this order.

There shall be no order as to costs.

(S N Terdal)
Member (J)

(K.N. Shrivastava)
Member (A)

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