

CENTRAL ADMINISTRATIVE TRIBUNAL**CHANDIGARH BENCH**

OA No. 060/00785/2017
MA No. 060/00152/2018

Pronounced on : 04.05.2018
Reserved on : 23.04.2018

CORAM: HON'BLE MR.SANJEEV KAUSHIK, MEMBER(J)
HON'BLE MRS. P. GOPINATH, MEMBER(A)

Amandeep Kaur Walia D/o Ravinder Singh Saini aged 30 years working as Clinical Instructor, National Institute of Nursing Education, PGIMER, Sector 12, Chandigarh.

.....Applicant

BY ADVOCATE: **Sh. Vikas Bali**

VERSUS

1. Union of India through the Secretary to Govt. of India, Ministry of Health and Family Welfare, New Delhi.
2. The Director, Postgraduate Institute of Medical Education & Research, Chandigarh.
3. The Deputy Director (Administrative), Kairon Block, PGIMER, Sector 12, Chandigarh.
4. The Senior Administrative Officer (I), Establishment Branch, PGIMER, Sector 12, Chandigarh.
5. The Principal, National Institute of Nursing Education, Sector 12, Chandigarh.
6. Bandna Kumar aged 24 years D/o Seeta Ram working as Nursing Officer in PGIMER, Sector 12, Chandigarh.
7. Kamal Kumar S/o Nakli Ram aged 29 years working as Nursing Officer in PGIMER, Sector 12, Chandigarh.

.....Respondents

BY ADVOCATE: **Sh. Sanjay Goyal for respdts. No. 1-5**
Sh. S.P. Soi for respdts. No. 6-7

ORDER

BY MRS. P. GOPINATH, MEMBER(A):-

1. Applicant is working as a Clinical Instructor in PGIMER since 28.01.2012 and is performing the duties of teaching the nursing

students pursuing a course in B.Sc Nursing and Post Basic B.Sc Nursing courses in NINE/PGIMER.

2. Respondents No. 2-5 issued prospectus for admission to PhD, M.Sc (Nursing), and Post Graduate Diploma in Public Health Management in PGIMER, Deemed University. Six vacancies in M.Sc(Nursing) course were reserved for PGI staff. Applicant applied online for M.Sc (Nursing) course in the General Category. Applicant along with four others Clinical Instructors took the entrance exam under the Departmental Staff Quota in M.Sc Nursing course on 09.07.2017. On 10.07.2017, the merit list of the selected candidates including the departmental candidates was displayed on the official website by the respondents. Applicant was shown at Sr. No. 3 of the merit in the General Category for M.Sc (Nursing) and the applicant was expecting to go for counseling. Since NOC required to be produced by the applicant was not issued, applicant along with one another approached the Tribunal in OA No. 060/00752/2017 titled Amandeep Kaur and Anr. Vs. UOI & Ors. which was disposed of on 11.07.2017 directing the respondents to provisionally permit the applicant to participate in the process for counseling for admission without creating any rights on account of this participation.

3. On 11/12.07.2017, the applicant submits that the merit list of the entrance exam for M.Sc (Nursing) wherein earlier the applicant had qualified on merit, was altered and candidates shown at Sr. No. 29 & 30 with percentile 14.3617 and 12.5887 were brought above the applicant at Sr. Nos. 2 & 3 showing their percentile as

99.481 and 98.7589 in a revised merit list. This revised merit list was displayed on the website on 12.07.2017. Applicant's contention is that this was being done pursuant to the orders of the Tribunal in OA No. 060/00752/2017. Applicant challenges the act of the respondents in revising the merit list and not letting her seek admission in M.Sc course under Staff Quota.

4. The prayer of the applicant is to quash the revised merit list of entrance exam for M.Sc (Nursing) dated 11.07.2017 and show the applicant as eligible as per the earlier merit list dated 10.07.2017.

5. The respondents submit that the applicant along with five other candidates applied for NOC to appear in M.Sc (Nursing) entrance exam. The NOC was issued to all candidates wherein it was clearly stated that only one senior-most Clinical Instructor shall be allowed to join the M.Sc course in order to ensure smooth functioning of academic/teaching activity of NINE. Thus, the NOC issued was conditional and allowed only the senior most clinical instructor to join the M.Sc course. The merit list displayed on 12.07.2017 had a technical error, and was therefore cancelled and a revised list put up on website on 12.07.2017. As per orders of the Tribunal, the applicant was allowed to participate in the counseling. Since there were only three seats for the PGI staff in the General Category and the applicant's name was at Sr., No. 5, the applicant did not qualify for the course.

6. Several rounds of clarification explaining the reasons for revising the result were made before the Bench in order to satisfy the

applicant regarding the need to revise the result. The respondents' main argument is that after the announcement of the result, some students approached the respondents on the ground that the marks awarded to them were very low in comparison to their expectations and on the basis of their performance. The respondents had a re-look at this matter and observed that the answer key applied for Set-D of question paper was a wrong one i.e. instead of answer key of Set-D, answer key of Set-A was applied. The respondents admit that such a mistake had occurred and with the approval of the Competent Authority, a decision was taken to apply the right answer key. On application of right answer key, a revised result was prepared. Hence, the result and merit of only those candidates who were issued Set-D question paper underwent change on application of the correct answer key. The answer keys of the remaining three sets of question papers being correctly applied marks allocated were not required to be changed and the marks also did not undergo a change. However, the result of candidates with A, B & C question papers underwent a change when D candidates' result was amended correctly and placed in the appropriate merit slot in the order of rank drawn up on the basis of marks obtained. Hence, only the Set-D answer sheets were re-evaluated by applying the correct answer key and the merit of the candidates who were issued Set-D question papers underwent change which included a change in their percentile. The respondents' argument is that they merely corrected a mistake which had occurred at the time of evaluation and this was necessary in

order to provide justice to those whose answer sheet was evaluated by applying a wrong key, a mistake which could occur inadvertently in an evaluation process and had to be corrected.

7. During the course of arguments, the Bench had directed the respondents to file an affidavit stating as to how they had arrived at a conclusion that a re-evaluation was necessitated to redress the grievance of those examinees who had submitted a complaint. The Tribunal had also directed the respondents to submit as to whether the responsibility had been fixed on the official evaluator who had applied the wrong answer key on the Set-D OMR sheet and whether any action being taken against the concerned person.

8. The respondents clarified that the OMR sheets are evaluated by scanning the answer option bubble darkened by the candidate appearing in the examination, thereby clarifying that the OMR sheets can be scanned any number of times with the appropriate answer key. The respondents also submitted that no independent inquiry was justified as the matter related to application of a wrong answer key which was brought to their notice on the basis of complaint from the examinees that their marks were much less in comparison to their performance in the examination. The matter was looked into by the concerned professor in charge of the examination and a discrepancy was discovered in not applying the right answer key to the Set-D answer sheets.

9. The respondents also submitted complete details of all the candidates who had appeared in the entrance examination and

the specific set of the question papers A, B, C and D which was issued to them. Applicant Amandeep Kaur Walia bearing Roll No. 50067, applicant in this OA was issued Set-C question paper. Hence, applicant's answer did not need a re-evaluation as she was not issued a Set-D question paper and her answer remaining unchanged did not require a re-evaluation. In Annexure A, the examinees who were issued Set-D question papers, are clearly listed. Hence, only the answer sheets of these persons who were issued the Set-D question papers, required re-evaluation. On re-evaluation by applying the correct answer keys to these Set-D question papers, there was a change in the percentile obtained by such persons. Such results having undergone a change on re-examination, would require the entire result of the examination to undergo a change by suitable interpolation according to their revised marks.

10. Applicant appears to have a doubt that the results were modified to suit the convenience of or favour certain examinees. Despite above argument made before the Bench, in order to remove the doubt, the Bench called for the entrance examination file. We note from the examination file that on 11.07.2017, the Professor In charge of the examination cell has issued a letter to the Director, PGI that the results of the exam had been released and thereafter, some students approached the examination in charge that their results were not as expected, as per performance. This was looked into and it was found that the key used for one set of answer sheets was wrongly applied while evaluating the answer sheet. The examination

in charge in this communication sought the permission of the Director to withdraw the result so as to rectify the discrepancy. Vide note dated 11.07.2017 in the same file, the permission was granted to cancel the previous result and prepare the fresh result. In the file, we find that various complaints have been filed by nine persons wherein they have challenged the result in respect of their own performance. Thus, a complaint by some examinees regarding their below expectation performance, appears to be the reason why the examination in charge was forced to have a re-look at the result. The re-look at the result reveals that a wrong answer key was applied to the Set-D question paper and Set-D question paper had to be re-evaluated and the result subsequently re-drafted on the basis of marks obtained in re-evaluation of the Set-D question paper.

11. On a perusal of the file presented in the court by the respondents, we note that on the complaint received from some examinees, it came to notice that a wrong answer key had been applied to Set-D question paper inadvertently and this had to be corrected. The respondents had thereafter taken necessary action to correct the discrepancy brought to their notice and took a decision to apply the right question key to the Set-D question paper and amend the result on the basis of the re-evaluation of the papers by applying the correct answer key.

12. In view of the above facts, the Bench observes that there is no need to interfere in the correction of results on a re-evaluation of

Set D answer sheets so made in the result of the M.Sc (Nursing) examination of PGI, Chandigarh.

13. OA is dismissed. MA No. 060/00152/2018 is also disposed of accordingly. No costs.

**(P. GOPINATH)
MEMBER (A)**

**(SANJEEV KAUSHIK)
MEMBER (J)**

Dated:
ND*

