

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

...

Original Application No. 290/00302/2017

Date of Order: 10.05.2019

CORAM:

HON'BLE MRS. HINA P.SHAH, MEMBER (J)
HON'BLE MS. ARCHANA NIGAM, MEMBER (A)

Nitender Sarswat s/o Shri Prakash Chand aged about 25 years, R/o Jatawas, Lohawat, T&D – Jodhpur.

...Applicant

(By Advocate: Shri Rishabh Purohit, proxy counsel for Shri Kuldip Mathur)

Versus

1. The Union of India through Ministry of Labour and Employment, Government of India, Central Secretariat, New Delhi.
2. Employees State Insurance Corporation, through its Chairman ESIC Model Hospital Sector-9A, Gurgaon, Haryana – 122001.
3. Medical Superintendent, ESIC Model Hospital Sector-9A, Gurgaon, Haryana- 122001.

...Respondents

(By Advocate: Shri Mala Ram Pareek for resp. 2 and 3)

ORDER (ORAL)

The applicant has filed the present OA u/s 19 of the Administrative Tribunals Act, 1985 praying for the following reliefs: -

- (i) That record of the case may kindly be called for.
- (ii) That remark appended against the name of the applicant in Notice dated 11.08.2017 may kindly be ordered to be quashed and set aside.
- (iii) That the respondents may kindly be directed to include the name of the applicant in the selection process for the post of Staff Nurse pursuant to the advertisement issued by the respondents.
- (iv) That the respondent authorities may kindly be directed to grant appointment to the applicant on the post of Staff Nurse if found fit on other counts.
- (v) Any other relief, which this Hon'ble Tribunal deems fit and proper in favour of the applicant any be granted. The Original Application may kindly be allowed with costs and all circumstantial benefits may be granted in favour of the applicant.
- (vi) Costs of this application be ordered to be awarded in favour of the applicant.

2. The applicant, in pursuance to recruitment notice Ann.A/1 for filling up various posts including the post of Staff Nurse had submitted online application on 30.12.2015 (Ann.A/2). After accepting the online application, he was issued admit card for appearing in the examination scheduled to be held on 21.05.2016. He appeared in the said examination for selection to the post of Staff Nurse and was declared successful and was placed at Sl.No.89 in the first list of result declared by the respondents (Ann.A/4). A list of shortlisted candidates in order to participate in the process of verification of documents was issued vide notice dated 13.05.2017. The name of the applicant found place in the said list (Ann.A/5). The respondents addressed a communication dated 15.6.2017 (Ann.A/6) to the applicant

to appear on 4.7.2017 at 11.00 A.M. for the purpose of verification of documents. The respondents instructed the applicant to submit valid documents as mentioned therein in consonance with the check-list referred. Thereafter, in order to complete the selection process, the applicant had to undergo medical test as his name appeared in the list of successful candidates for document verification. The medical test was conducted between 16.8.2017 to 25.8.2017, but applicant's name did not find place in the said list of the candidates required to appear for the medical test and the reason for rejection was mentioned as "mismatch of identity" (Ann.A/7). The applicant approached the respondents for clarifying the remark. The applicant stated that the plausible reason appears to be failing to match the spelling of name of the applicant in Devnagri Script (Hindi) from one document compared to other. Though the applicant in all the documents including identify card have mentioned his name as "Nitender Sarswat" and in Devnagri Script (Hindi) in most of the documents it is stated as "नितेन्द्र सारस्वत", however, in one document it is spelled as "नितेंदेर सारस्वत". The applicant further states that his name, father's name, date of birth, address and other related aspects were same, but the respondents treated the

applicant differently by rejecting his candidature for the post of Staff Nurse.

3. This Tribunal vide order dated 22.8.2017 while hearing the matter on interim prayer issued notices to the respondents and directed them to allow the applicant provisionally to participate in the medical examination and also directed that one post be kept vacant till the disposal of this OA. It is noticed that thereafter the matter was listed on several dates, but the respondents have failed to file reply to the OA so far. The applicant is insisting for early disposal of the OA. Therefore, we do not find any reason to further prolong the matter waiting for the reply of the respondents as sufficient time has already been given and accordingly, we are proceeding to decide the matter on the basis of the material available on record without the reply of the respondents.

4. Heard Shri Rishabh Purohit, proxy for Shri Kuldeep Mathur, learned counsel for the applicant and Shri Mala Ram Pareek, counsel for respondent Nos. 2 and 3.

5. It is evident from the record and the documents perused by this Tribunal that the spelling mistake in the name of the applicant is curable as the same appears to be

a typographical mistake or it may be a mistake of translation from English to Hindi. The issue is only with regard to incorrect spelling mentioned in Devnagari Script (Hindi) in Aadhar Card. Other details including name of the applicant in English in the said document is as per all other identify proofs, however, a slight deviation in Devnagari Script occurred, which was made the basis to exclude the name of the applicant for appearing in medical examination, which in our view, cannot be said to be justified. The respondents ought to have afforded an opportunity to the applicant to get it rectified within a time frame, which opportunity has been afforded to other candidates under the column "documents due".

6. The applicant has annexed various documents showing his identity and there is no point of confusion in these documents about his identity. The only mismatch appears to be in the spelling in Devnagari Script in his Aadhar Card, which has already been got rectified by the applicant (Ann.A/3). The applicant after appearing in the examination conducted by the respondent has been declared successful. Therefore, we do not find any reason for the respondents to reject his candidature only on the ground of identity

mismatch, which does not now appear to be a ground for rejection after rectification of the same.

7. In these facts and circumstances of the case, the respondents are directed to complete the selection process to the post of Staff Nurse in respect of the applicant within a period of three months from the date of receipt of a copy of this order. Since one post of Staff Nurse has been ordered to be kept vacant as per order of this Tribunal dated 22.8.2017, the candidature of the applicant can be considered against the vacant post, if he is otherwise found suitable after completion of selection process.

8. The OA stands disposed of in above terms with no order as to costs.

(ARCHANA NIGAM)
ADMV. MEMBER

(HINA P.SHAH)
JUDL. MEMBER

R/