



In the Central Administrative Tribunal

Calcutta Bench

OA No. 350/01341/2018

Prabha Kumari, w/o Arbind Mahto, aged about 35 years, working as Nurse Grade - II (Staff Nurse) under the overall control of the Director, National Institute of Homoeopathy, at present residing at National Institute of Homoeopathy Staff Quarter, Type - III, No.7, JC Block, Salt Lake, Sector - III, Kolkata - 700098.

...Applicant

- Vs -

1. Union of India through the Secretary,
Ministry of Health & Family Welfare, Govt. of India,
having office at Nirman Bhawan, B-Block,
GPO Complex, INA New Delhi, Pin - 110001.
2. Secretary, Ministry of Ayush,
Ayush Bhawan, B-Block, GPO Complex,
INA New Delhi, Pin - 110023.
3. President, Governing Body, National Institute of Homeopathy,
Minister of State, (Independent Charge), Ministry of Ayush,
Ayush Bhawan, B-Block, GPO Complex,
INA New Delhi, Pin - 110023.
4. The Secretary to the Govt. of India,
Ministry of Finance, Department of Expenditure,
North Block, New Delhi - 110001.
5. The Director, National Institute of Homoeopathy,
Block GE, Sector III,
Salt Lake, Kolkata - 700106.

...Respondents

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH

O.A/350/1341/2018

Date of Order: 29.11.2018

Coram: Hon'ble Mr. A.K Patnaik, Judicial Member

Prabha Kumari

-VS-

National Institute of Homeopathy

For the Applicant(s): Mr. C. Sinha, Counsel

For the Respondent(s): Mr. S. K Datta, Counsel

ORDER (Oral)

A.K Patnaik, Member (J):

Heard Mr. C.Sinha, Ld. Counsel for the applicant.

2. Mr. S.K.Datta, Ld. Counsel, who usually appears for the National Institute of Homeopathy, is present and on my request, Ld. Counsel for the applicant has served copy of the O.A. along with annexures on him as I do not want the Official Respondents to go unrepresented. Heard Mr. Datta in extenso.

3. This O.A. has been filed under Section 19 of the Administrative Tribunals Act, 1985 with the following prayers: अस्त्यमेव जयते

" a) To direct the respondents to act in accordance with the Recruitment Rules of Nurse Grade-I (Nursing Sister) and hold a DPC for considering the case of the applicant for promotion to the post of Nurse Grade-I (Nursing Sister) and if found fit in the said DPC grant promotion to the applicant to the post of Nurse Grade -I (Nursing Sister) w.e.f completion of 6 years regular service in the feeder post i.e 25.09.2016 with all consequential benefits.

b) To set aside and quash the Impugned Advertisement No. 8-012/NIH/DAVP/2012 with regard to filling up 08 posts of Nurse Grade -I (Nursing Sister) through Direct Recruitment.

c) Any other order or order(s) as the Hon'ble Tribunal deems fit and proper. "

Wd

4. At the outset, Mr. Sinha submitted that the applicant was appointed as Nurse Grade-II (Staff Nurse) on 24.09.2010 in the NIH and although the applicant fulfills the criteria as prescribed under the present Recruitment Rules for promotion to the post of Nurse Grade -I (Nursing Sister) but no DPC has been conducted by the authority and her case has not been considered though there exists clear vacancies in the post of Nurse Grade -I. He further submitted that ventilating her grievance, the applicant has made representation dated 22.05.2018 (Annexure-A/9) to Respondent No.5 and the grievance of the applicant may be redressed if the said authority is directed to consider the representation preferred by the applicant under Annexure-A/9 within a specific time frame.

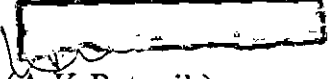
5. Having heard Ld. Counsel for the parties, without going into the merit of the matter, I dispose of this O.A. by directing Respondent No.5 to consider the representation under Annexure-A/9, if the same is still pending consideration, and pass a reasoned and speaking order keeping in mind the rule position as well as Recruitment Rules and result be communicated to the applicant within a period of three months from the date of receipt of copy of this order. Although, I have not entered into the merit of the matter still then I make it clear that if after such consideration the applicant's grievance is found to be genuine and he is otherwise entitled and eligible for promotion then necessary direction may be issued for granting her the benefit of promotion within a further period of six months from the date of consideration. I also make it clear that if in the meantime the said representation has already been disposed of then the result thereof be communicated to the applicant within two weeks.

6. With the aforesaid observation and direction, this O.A. stands disposed of. No costs.



7. As prayed for by the Ld. Counsel for the applicant, copy of this order, along with paperbook be transmitted to Respondent No. 5 by Speed Post, for which, he undertakes to deposit the cost with the Registry within a week.

8. Copies of this order be handed over to the Ld. Counsel for both the parties.


(A.K. Patnaik)
Member(J)

RK/PS

