

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA 1759/2017

Reserved on 14.11.2018
Pronounced on 12.12.2018

Hon'ble Ms. Nita Chowdhury, Member (A)
Hon'ble Mr.S.N. Terdal, Member (J)

1. Balram Meena, Age 27 years,
Designation: Unemployed
S/o Sh. Syodan Ram,
R/o-Village- Raysingh Ki Dhani,
Post-Cheeplata, Tehsil-Neem,
Ka Thana, Distt-Sikar, Rajasthan
2. Rakesh Nagar, Age 27 years,
Designation- Unemployed
S/o Sh. Prahlad Nagar,
R/o Village-Laxmipura, Post-Takholi,
Tehsil & Distt.-Tonk,
Rajasthan-304001.
3. Suraj Bairwa, Age 27 years
Designation- Unemployed
S/o Sh. Gareeba Ram,
R/o M.No. 118, Trilok Nagar,
Ward No. 32, Tehsil-Gangapur
City, Distt.-Sawi Madhopur,
Rajasthan.

.... Applicants

(By Advocate: Ms. Pallavi Awasthi for Dr. Vijendra Mahndiyan)

VERSUS

1. Employees State Insurance Corporation
Directorate (Medical) Delhi
ESI Scheme: Dispensary Complex,
Tilak Vihar (Tilak Nagar), New Delhi
Pin-110018.
2. Govt. of NCT of Delhi Through
The Principal Secretary,
Department of Health & Family Welfare,
Government of NCT of Delhi,
Delhi Secretariat, I.P. Estate,
New Delhi.

... Respondents

(By Advocate:Ms. Nidhi Singh for Mr.Murari Kumar)

ORDER**Hon'ble Mr. S.N.Terdal, Member (J):**

Heard Ms. Pallavi Awasthi for Dr. Vijendra Mahndiyan, counsel for applicants and Ms. Nidhi Singh for Mr. Murari Kumar, counsel for respondents, perused the pleadings and all the documents produced by both the parties.

2. In this OA, the applicant has prayed for the following reliefs:

- "i) Set aside notice No. 111-A-12/2012/online exam/2012-12/RC (M) dated 10.03.2017 issued by respondent No. 1.
- ii) Issue a direction to the Respondents to call the applicants for document verification and put them in the further process of selection for the post of staff nurse under post code 01.
- iii) Any other order/directs as deems fit to the Hon'ble Tribunal in the interest of justice to the applicants."

3. The relevant facts of the case are that in response to the advertisement of the respondents published in November, 2012, the applicants applied for the post of Staff Nurse in Para-medical cadre group 'C'. Thereafter they appeared for the examination and they secured more than cut-off marks of the successful candidates in their respective category. But, however, in the notice dated 17.02.2017 published by the respondents calling for successful candidates to get their documents verified, the names of the applicants were not reflected in the said notice. The applicants on 09.03.2017 served a legal notice on the respondents for not calling them for documents

verification. By the impugned Circular dated 10.03.2017, the respondents informed the applicants that they were ineligible for the following reasons:

“No status about Registration with Nursing Council has been reported/replied in relevant column in Online Application form. Moreover no document was enclosed with application form as an evidence having Registration with Nursing Council. So application was liable to be rejected at initial stage.”

4. The counsel for the applicants vehemently and strenuously submitted that they are eligible candidates in all respects and that they were allowed to appear in the examination and they have scored more than the cut-off marks fixed for their respective categories. Nevertheless, not calling them for documents verification is arbitrary on the part of the respondents and as such the said impugned Circular dated 10.03.2017 be set aside and the respondents be directed to call the applicants for their documents verification.

5. The respondents in their counter affidavit submitted that in view of large number of candidates appearing for the examination, detailed scrutiny of the applications at the initial stage would not be undertaken and the said detailed verification would be done only at the time of short listing of the candidates. At the time of short listing before calling the candidates for documents verification, it was found that the applicants have not stated anything about their status of registration with Nursing Council and that no documents were enclosed along with the application form to evidence their registration with the Nursing Council. The relevant paras of the written statement are reproduced below:

- "6. The answering Respondent submits that in the advertisement at General instructions Point No. (F), it was clearly mentioned that "Because of large no of application, corporation may not undertake detailed scrutiny of applications to ascertain the eligibility and other aspects at the time of written test examination. Therefore, the candidates are advised to go through the eligibility criteria and other requirements of educational qualification, age, experience, etc. and satisfy themselves that they are eligible before applying. When scrutiny is undertaken, even after preparation of merit list, the claim of the candidate can be rejected if the claim made in the application is not found substantiated and the decision shall be final." The copy of the advertisement is annexed and marked as ANNEXURE R-1.
7. The answering Respondent submits that the application of the applicants/candidates were rejected at the time of scrutiny as did not fulfil the essential qualifications on closing date of 21.12.2012 and they failed to submit any document regarding their respective registration with Nursing Council. The applicants neither attached any documentary evidence with application form nor mention their respective registration number with Nursing Council in the online application as invited in the advertisement for the selection.
8. The answering Respondent submits that in the advertisement at the top of the General Instructions it was clearly mentioned that the "candidates have to register online as per given instructions in website and send the system generated application form with duly supported with clear/legible attested copies of the relevant certificates and marks statements (in English or Hindi) along with Bank Challan should be sent by Registered post/Speed post or by hand on or before (Last Date) as applicable". It is submitted that the applicants/candidates did not provide any documents (Hard Copy) to the respondent as on closing date.
9. The answering respondent submits that a letter issued by the department/respondent no.1 o 22.05.2017 against the legal notice issued by the applicants, in which it was clearly mentioned the reason behind rejection of the candidature of the applicants. It is submitted that the applicants were not called for document verification as no status about his registration with Nursing Council was replied in the relevant specified column in online application and neither any document was enclosed with the application form before the last date i.e. 21.12.2017. The copy of the letter dated 22.05.2017 and the online application form of the applicants herein are annexed and marked as ANNEXURE R-2 & R-3 respectively.

10. The answering respondent submits that none of the applicants filled up their online application form seriously and thus left blank important columns which were necessary as per recruitment regulations, applicable in this regard.
11. The answering respondent submits that the Applicant No.1 i.e. Balram Meena in its online application do not have its signature. It is submitted that the candidate's name and the corresponding signature do not match. On the contrary the name that appears in the signature box is entirely different than that which appears as the candidate's name.
12. The answering respondent submits that before declaration of list of shortlisted candidates, the applications are verified at various stages. It has been already mentioned in the advertisement at general instructions that at any stage if it is found that the candidates does not fulfil the essential qualification, their candidature are liable to be cancelled.
13. The answering respondent submits that in the online application form which was generated after filling up the application it was clearly mentioned at the foot note that "while sending the application to ESIC please enclose photocopy of Educational or Required certificate". It is submitted that none of the applicants herein complied with the said instructions which was mentioned in the advertisement as well as in the online generated application form. Thus their candidatures were rejected after following the proper procedure by the ESIC department. Hence, no injustice has taken place against the applicants."

In view of the reasons given by the respondents in support of the impugned Circular dated 10.03.2017, we are of the opinion that there is no reason to interfere with it.

6. Accordingly, OA is dismissed. No order as to costs.

(S.N.Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

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