

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A. No.510 of 2014

This the 28th day of February 2019

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

Kavita Choudhary
Aged about 32 years,
D/o Sh. Tulcha Ram Choudhary,
R/o-A/284, Gali No.2/4,
Meet Nagar, New Delhi-110094.

....Applicant

(None present)

VERSUS

Govt. of NCT of Delhi, through:

1. The Chief Secretary,
Govt. of NCT of Delhi,
Delhi Secretariat, Delhi.
2. Dy. Secretary,
Govt. of NCT of Delhi
Department of Health & Family Welfare,
(Technical Recruitment Cell),
9th Level, A-Wing,
Delhi Secretariat, Delhi.
3. The Chairman,
Delhi Subordinate Service Selection Board,
FC-18, Institutional Area,
Karkardooma, New Delhi.
4. The Sub-Divisional Magistrate, Seelampur,
District North East, Govt. of NCT of Delhi,
GT Road, Seelampur, Delhi-110053.
5. The Superintendent,
Guru Teg Bahaur Hospital,
Delshad Garden, Shahdara, Delhi-95.

.....Respondents

(By Advocate : Shri Vijay Pandita)

O R D E R (Oral)

Ms. Nita Chowdhury, Member (A):

None for the applicant today. On previous date of hearing also, there was no appearance on behalf of the applicant and in view of the above circumstances, we proceed to dispose of this OA by invoking the provisions of Rule 15 of the CAT (Procedure) Rules, 1987 and accordingly heard learned counsel for the respondents.

2. By filing this OA, the applicant is seeking the following reliefs:-

- “(a) Call for the records leading issuance of show cause notice dt. 10.12.2012 and non issuance of posting order in favour of the applicant.
- (b) Quash and set aside the show cause notice dt. 10.12.2012 (Annexure A/1),
- (c) Direct the Respondent No.1 & 2 to appoint the applicant to the post of Staff Nurse hence forth with consequential benefits including seniority and other attendant benefits on the basis of her merit position.
- (d) Pass such other or further order(s) as this Hon’ble Tribunal may deem fit and proper in the facts and circumstances of the case.”

3. On previous date of hearing, i.e., 20.02.2019, this Court passed the following orders:-

“Nobody appears for the applicant.

Counsel for the respondents, addressing the Court on this OA, states that the applicant of this OA could not give proof of continuous residence in Delhi for a period of 9 years prior to issue of the OBC certificate and in view of the same, she was given a show cause notice. In reply to the show cause notice, the applicant has herself

admitted that her husband was living in Delhi before 1993 and she has claimed OBC status from her marriage on 26.06.2011. Hence, show cause notice issued on 10.12.2012 by the respondents prima facie appears to be in accordance with rules. We give applicant last opportunity to present the arguments.

List the case on 28.02.2019 under the category of "PART HEARD MATTERS".

It is made clear that no further opportunity shall be given to any party.”

4. In this case the issue is confined to the fact whether the applicant claim of OBC status without having given any proof of continuous residence in Delhi for a period of nine years prior to issue of the OBC certificate simply on the basis that her husband, who belongs to OBC category, is living in Delhi since before 1993 and hence, she claimed OBC status from the date of her marriage on 26.6.2011. We do not have any assistance from the applicant on this core issue. However, we are of the considered view that nobody can claim that by virtue of marriage to an OBC from Delhi she can be said to have acquired the status of OBC category *de hors* the provisions without specifically providing proof of continuous residence in Delhi for a period of nine years prior to issue of OBC certificate as this is the pre-condition for acquiring the OBC category certificate.

5. In view of the above factual position of residence by the applicant in Delhi only after her marriage to an OBC on 26.6.2011, we do not find any merit in this case to quash the

show cause notice dated 10.12.2012 and the present OA is accordingly dismissed. There shall be no order as to costs.

(S.N. Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

/ravi/