

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

O.A. No.4257 of 2014

This the 26th day of March, 2019

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

Laxman Lal (aged about 43 years), Cood-Mate
s/o Late Ganesh Lal,
R/o 82-F, Aram Bagh,
Pahar Ganj,
Delhi-110055.

....Applicant
(None present)

VERSUS

Union of India & Ors.

1. The Secretary,
Ministry of Health and Family Welfare,
Govt. of India,
Nirman Bhawan,
New Delhi-110001.
2. Dr. Ram Manohar Lohia Hospital
Baba Kharak Singh Marg,
Delhi-110001
Through
Its Representative/Medical Superintendent

.....Respondents
(By Advocate : Shri Rajender Nischal)

O R D E R (Oral)

Ms. Nita Chowdhury, Member (A):

When this matter was taken up, none appeared for the applicant. On previous date of hearing, i.e., 7.3.2019, when neither the applicant nor his counsel appeared, this Court granted last opportunity to the applicant to argue his case. In view of the above circumstances, we proceed to adjudicate

this case by invoking the provisions of Rule 15 of the CAT (Procedure) Rules, 1987 and according heard learned counsel for the respondents.

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

- “(i) direct the Respondents to stop the proceedings to declare the result for the post of the Jr. ECG Technician and allow the Applicant to sit in the Interview for the post of Jr. ECG Technician; or
- (ii) direct the Respondents to upgrade the post of the Applicant from Grade ‘D’ to ‘C’; and
- (iii) direct the Respondents to release the salary of the Applicant for the post of Jr. ECG Technician as he has due diligence and honestly since 6.11.2003; and
- (iv) to pass such other and further orders which the lordships of this Hon’ble Tribunal deem fit and proper in the existing facts and circumstances of the case.”

3. In this case, the applicant is aggrieved by the action of the respondents vide which his request for sitting in the interview, which was scheduled to be held on 14.11.2014 for the post of Jr. ECG Technician advertised on 27.5.2013, was not acceded to and accordingly, he was not allowed to appear in the said interview.

4. Pursuant to notice issued to the respondents, they have filed their reply in which they have stated that applicant was appointed as Cook Mate as per his service records in Dr. R.M.L. Hospital, New Delhi. Applicant was posted in

Cardiology Department of the said hospital in the capacity of Group 'D' staff from 19.6.2009, he gained knowledge of ECG Reading under the supervision of Sr. Technicians and Doctors. Doctor incharge of Accident & Emergency Department has given him certificate on personal capacity treating that he has gained experience to operate ECG Machine. Administration has not issued such type of certificates to the applicant.

4.1 They further stated that such posting of Group 'D' staff in specialized ward and by virtue of such postings, if they perform some of the duties of regular Group 'C' employees which are technical in nature in the interest of patient care this will not entitle him to promotion/regularization him to the higher scale attached to such Group 'C' staff. Applicant was not formally posted to hold full charge of the duties of the higher post nor was he to be conferred any benefit.

4.2 As per recommendations of 6th CPC, all Group 'D' staff ceased in the Government of India and all existing Group 'D' employees have been placed in Group 'C' staff with minimum grade pay of Rs.1800/- in PB-I (Rs.5200-20200). Accordingly applicant has been placed in Group 'C' along with other staff.

4.3 They further stated that as per the existing Recruitment Rules for the post in question, the method of selection to the post of Jr. ECG Technician, Group 'C' post carrying pay scale

in PB-I (5200-20200) with GP of Rs.2400/- is 100% by direct recruitment, total sanctioned strength is 18 posts only in Cardiology department of the said Hospital. Age limit for direct recruitment is 20-25 years and relaxation of departmental candidate (who have completed three years regular service in the same line or cadre) is upto the age of 40 years for UR candidate, 45 years for SC candidates as per the latest instructions issued by the DOP&T, Govt. of India vide OM dated 27.3.2012.

4.4 They also stated that as per the service record, the date of birth of the applicant is 13.8.1971 (42 years) on 31.12.2012. He attained the maximum age as applicable to Govt. employee well before last date of receiving of the applications for this post.

5. In the rejoinder, the applicant has reiterated the stand taken by him in his OA and refuted the contentions of the respondents as raised in the counter affidavit filed by them.

6. The stand of the applicant in the OA is that he being a Cookmate was posted in the Cardiology department to perform the ECG duty vide order dated 29.5.2009 and he has been discharging the duties. Since the respondents have advertised the post of Jr. ECG Technician, the applicant has sought permission to allow him to appear in the said

interview by granting age relaxation to him but this was wrongly disallowed by the respondents.

6.1 Further contention of the applicant in this OA is that having worked for so many years in the Cardiology Department of the said Hospital, the applicant has acquired requisite experience in handling the ECG Machine and as such the respondents ought to have given him relaxation and allow to appear in the interview held for the said post.

7. Counsel for the respondents submitted that application of the applicant for the post of Jr. ECG Technician was summarily rejected by the respondents as he was over aged at the time of closing date of inviting application for the said post as his date of birth was 13.8.1971 (42 years). In support of his contention, learned counsel for the respondents placed reliance on DOP&T OM dated 27.3.2012 on the subject of consolidated orders on relaxation in upper age limit allowed to various categories of Government servants and in terms of the instructions contained in the said OM, permissible age relaxation will be given upto 40 years of age in case of General category, to which the applicant belongs, for appointment to Group 'C' and erstwhile 'D' (now MTS posts) by direct recruitment which same line or allied cadres.

8. After having heard learned counsel for the respondents and perusing the material placed on record, we observe that

the said post of Jr. ECG Technician is required to be filled up 100% by direct recruitment as per the provisions of the Recruitment Rules and relaxation in the case of departmental candidates with three years continuous service in Central Government is required to be considered upto 40 years of age in the case of General category candidates and upto 45 years of age in the case of SC/ST. Admittedly the applicant being a General category candidate is entitled to get relaxation upto 40 years of age. It is not the case of the applicant that his age was within 40 years at the time of closing of receipt of applications for the said post. Mere acquiring of experience in handling of ECG machine and issuance of any certificate by any Doctor about his work in Cardiology department does not confer him any right to be appointed to the post of ECG Technician.

9. In the OA filed by the applicant, no technical qualifications of the applicant have been given. In fact, he has himself stated in his application dated 1.6.2013 that he has passed 10th class from the CBSE Board. Just by mentioning that he needs age relaxation, a person cannot presume that all the qualifications for the posts will also be relaxed for him. The rules themselves clearly show that the method of selection to the post of Jr. ECG Technician, Group 'C' post, carrying pay scale PB -1 Rs.5200-20200 with GP Rs.2400/- is 100% by Direct Recruitment, age limit for direct recruitment

is 20 – 25 years and relaxable for departmental candidates who have completed 3 years of regular service in the same line or cadre upto the age of 40 years for UR candidates, 45 years for SC/ST candidates as per latest instructions issued by the DoP&T. Govt. of India. Hence, as the applicant does not satisfy technical qualification or the age for the said post, no cause is made out for granting the reliefs as made in this OA.

10. In view of the above, for the foregoing reasons, we do not find any merit in the present OA and the same is accordingly dismissed. There shall be no order as to costs.

(S.N. Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

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