

Central Administrative Tribunal Principal Bench, New Delhi

O.A. No.3811/2014

Thursday, this the 16th day of May 2019

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)

Dr. Umar Farooq, s/o Mohd. Irfan
Aged about 33 years
r/o N-40 B, Near Robust Gym,
Jagat Ram Park, New Delhi – 110 092
Applied for GDMO

..Applicant

(*Nemo*)

Versus

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| 1. Govt. of NCT of Delhi through its Secretary
Department of Health & Family Welfare,
9 th Level, A Wing, Delhi Secretariat
IP Estate, New Delhi – 110 002 | 4. Dr. Abishaker K,
Medical Officer,
Delhi Govt. Dispensary
Nangloi, N.Delhi-41 |
| 2. The Director, Directorate of Health Services
Govt. of NCT of Delhi, F-17, Karkardooma
Delhi – 110 032 | |
| 3. Union Public Service Commission through Secretary
Dholpur House, Shahjahan Road,
New Delhi – 110 069 | |

..Respondents

(*Nemo* for respondent Nos. 1 & 2 - Mr. Ravinder Aggarwal, Advocate
for respondent No.3)

O R D E R (ORAL)

Justice L. Narasimha Reddy:

The Government of National Capital Territory of Delhi (GNCTD) issued an Advertisement on 19.07.2013 inviting applications for selection/appointment of General Duty Medical Officers. 679 vacancies were notified and reservation in favour of various categories was provided. The applicant has also

participated therein, and he claimed the social status of OBC. However, he could not make it to the selection. This O.A. is filed challenging the clause contained in the Advertisement, which is to the effect that OBCs mentioned in the Central List and the list notified by the GNCTD, shall be eligible to apply.

2. The plea of the applicant is that the posts are exclusively for Delhi, and there was absolutely no basis for enabling the OBCs mentioned in the Central List, to participate in the selection. Secondly, he challenged the very Advertisement and sought declaration to the effect that it is arbitrary and unconstitutional.

4. Though no counter affidavit is filed on behalf of respondent Nos.1 & 2 (GNCTD), respondent No.3 (UPSC) has filed its reply opposing the O.A. Two principal objections are raised, namely, (i) that having participated in the selection process, the applicant cannot challenge the very process; and (ii) that he did not implead the affected candidates.

5. There is no representation for the applicant. Hence, we perused the records, as provided under Rule 15 of CAT (Procedure) Rules, 1987. Since it is one of the oldest cases, we heard learned counsel for respondent No.3.

6. The clause in the Advertisement, to which the applicant takes exception, reads as under:-

“In respect of cases belonging to Govt. of National Capital Territory of Delhi, OBCs included in the Central list and list Notified by Govt. of National Capital Territory of Delhi are eligible.”

7. According to the applicant, the posts are of GNCT of Delhi, and there was no basis for enabling the OBCs mentioned in the Central List. This plea is too difficult to be accepted. The reason is that Delhi is the National Capital, and every citizen has a right to seek employment therein. Obviously for that reason, Delhi is not conferred with an independent Statehood on par with other States. We, however, do not intend to make any pronouncement on this aspect.

8. A serious flaw arises in the case of the applicant. If he was aggrieved by the clause mentioned above, he was expected to file O.A. challenging the same, much before his participation. However, he took chance and only when he did not get selected, he filed the instant O.A. This is impermissible in law. The principles of acquiescence and estoppel operate against him. The Hon'ble Supreme Court in **Ramesh Chandra Shah & others v. Anil Joshi & others** (2013) 11 SCC 309 held that such a course is not permissible in law.

9. Secondly, by the time the O.A. was filed, the select list was already there and quite a large number of OBC candidates were selected and appointed. Some of them are from the Central List.

Any adjudication undertaken in this O.A. would affect their rights. The applicant did not make any endeavor to implead such candidates.

10. We do not find any merit in this O.A. It is accordingly dismissed. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

May 16, 2019
/sunil/