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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 1842/2003

New Delhi, this the 5th day of April, 2004

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN
HON'BLE SHRI S.A. SINGH, MEMBER (A)

1. Praveen Ahmad
S/o Shri Ali Jaan
r/o F-48, Top Floor
Gali No.1, Rim Market
Khanpur
New Delhi - 110 062.
2. Anil Kumar
s/o Shri Chhattu Mandal
r/o DDA Flats 137, South Enclave
Dakshinpuri, Ambedkar Nagar
Sector-V
New Delhi. Applicants

(By Advocate: Ms. Chetna Rao, proxy of Mr.
M.K. Bhardwaj)

Versus

Govt. of NCT Delhi & Ors. through:

1. The Dte. of Health Services
GNCTD, Karkardooma
Delhi.
2. The Secretary
Delhi Staff Service Selection Board
Karkardooma
Delhi.
3. The Medical Superintendent
Dr. B.S. Ambedkar Hospital
Sector-6, Rohini
New Delhi. Respondents

(By Advocate: Sh. Vijay Pandita)

O R D E R

Justice V.S. Aggarwal:-

Applicants by virtue of the present application seeks setting aside the result for the post of Technician OT declared by the respondents on 1.3.2003 and further to direct the respondents to consider them for appointment against the post of Technician OT on the basis of result declared on 31.10.2002.

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2. The relevant facts are that the advertisement had been issued inviting applications for certain posts including the Technician OT. The applicants applied for the posts and they were allowed to sit in the written test held on 29.9.2002. Applicant No.1 was considered under the OBC category and Applicant No.2 was in General category. Results were declared and the name of the applicants found place in the successful candidates. The unsuccessful candidates had filed OA 2732 of 2002 and other connected applications and the same were disposed of by this Tribunal on 3.1.2003 with the following directions:

1. We deprecate the practice prevalent that the result is declared without drawing the merit list. Merit list must always be drawn before declaring the result;
2. The respondents are directed to pick up the loose threads and draw the merit list notifying the Roll Nos of the successful candidates as per the merit list subject to the directions given hereunder. The merit list should be drawn as per rules and instructions on the subject;
3. Applications regarding the posts other than staff nurses must fail and are dismissed subject to the directions given above;
4. In case of staff nurses, only 37 general candidates and 37 candidates of reserved category shall be given the appointment letters. Of the 37 reserved category candidates, further distribution shall be made between the SC, ST and other backwards classes candidates as per the instructions on the subject;
5. The male candidates for staff nurses shall also be considered according to their merit and if

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they are meritorious, subject to the directions given above, they shall be appointed;

6. The balance of the vacancies for staff nurses may be filled up in accordance with the rules and the law on the subject;
7. The staff nurses who had been appointed on contract basis or otherwise on temporary basis subject to the availability of the vacancies should be allowed to continue till the regular appointments were made and till then their services shall not be terminated.
8. The other directions that had been given in OA No. 2157/2002 need not be repeated."

3. It is asserted that this Tribunal had not found any infirmity in the final result that was declared. But despite that, according to the applicants, in violation of the directions of this Tribunal, the result of the applicants has been cancelled. According to the applicants, the said action of the respondents is illegal and, therefore, the reliefs which we have referred to above have been prayed.

4. The application has been contested.

5. Respondents contend that names of the applicants could not find place in the merit list of successful candidates because they were over-age. The age of Un-reserved candidate was 27 years on the closing date, i.e., 18.2.2003 whereas Sh. Praveen Ahmed was over-age by 2 years and 17 days. The age of OBC candidate was 30 years. Sh. Anil Kumar was

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over-age by 5 years 9 months and 17 days. Respondents plead that they had complied with the directions of this Tribunal and drawn the merit list.

6. We have already reproduced above the directions that had been given in the earlier Original Applications that were filed by certain unsuccessful candidates. It was directed that respondents should draw the merit list as per the rules and instructions on the subject. We hardly repeat our displeasure that the result was declared and the merit list was drawn taking note of the fact that certain candidates may not even be eligible. All the same, law has to take its own course and on that short ground, the result as such could not have been set-aside. *later on*

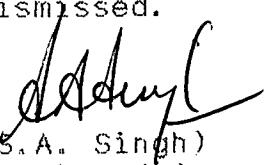
7. Plea has been taken that while cancelling the results of the successful applicants no notice to show cause had been issued. We find that so far as this particular contention is concerned, the same was without any merit. The reason being that no indefeasible right had accrued to the applicants. The merit list as already referred to above was still to be re-drawn. In that event, necessarily the exercise had to be done by the respondents and the principle that the applicants should have been issued show-cause notice before doing so, cannot be accepted.

8. The only other contention that requires consideration is as to if the applicants were entitled to age relaxation or not.

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9. Applicants were serving in the Hamdard University. It is an autonomous body. The age relaxation would only be permissible if they had rendered service in the Union of India/Govt. of National Capital Territory of Delhi. Our attention has not been drawn to any instructions which permit relaxation of age even when a person is serving in such autonomous body. The applicants could not be treated as departmental candidates. In that view of the matter, the said contention also must be held to be without any merit.

10. Resultantly, the Original Application being without merit must fail and accordingly is dismissed.


(S.A. Singh)
Member (A)


(V.S. Aggarwal)
Chairman

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