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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.No.3172/2003

Monday, this the 5th day of January, 2004

1. Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri S. K. Naik, Member (A)

1. Mrs. Ambily Shaji
w/o Shaji Philip
aged 31 years
A 8 B, DDA Flats
Vishal Kunj
Near Rajouri Garden Police station
New Delhi
2. Lincy Mathew
w/o Binoy Philip
aged 28 years, 9/347, Kamal Niwas
Lalita Park, Laxmi Marg
Delhi-92
3. Babita Sebastian
d/o Sebastian
aged 27 years
71-B, Gautam Nagar
New Delhi-49
4. Juby J. Malekkunnel
w/o Jose C. Joseph
aged 30 years
room No.37, 1st Wing, 1st Floor
New Nurses Hostel
LNJP Hospital, New Delhi

...Applicants

(By Advocate: Shri George Thomas)

Versus

1. Govt. of NCT of Delhi
through its Chief Secretary
5, Sham Nath Marg, Delhi
2. Govt. of NCT of Delhi
through its PHC cum Joint Secretary (Health)
Technical Recruitment Cell
1, Jawahar Lal Nehru Marg
New Delhi-2
3. Delhi Subordinate Services Selection Board
through its Secretary
3rd Floor, UTCS Building
Behind Karkardooma Court Complex
Vishwas Nagar, Shahdara
Delhi-32
4. The Medical Superintendent
GB Pant Hospital, New Delhi
5. The Medical Superintendent
LNJP Hospital, New Delhi

...Respondents

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ORDER (ORAL)

Justice V.S. Aggarwal:

-- The applicants, by virtue of the present application, seek a direction to grant them regular appointment as Staff Nurses taking into account all the relevant facts, including their experience of over five years, --and for quashing and setting aside the method of written test only as the method of selecting Staff Nurses.

2. -- Some of the relevant facts are that the applicants were engaged on contractual basis during the strike period from 9.5.1998. Admittedly, it was not a regular appointment. It appears that the interviews were held in the year 1998 in which the applicants had not been selected.

3. Subsequently, the applicants preferred OA-1920/2001 in this Tribunal. On 26.4.2002, this Tribunal had disposed of the said petition with the following directions:-

"5. Having regard to the rival contentions of both the parties, ends of justice would be met, if the present OA is disposed of with direction to the respondents to consider the case of the applicants also in the selection strictly on the basis of the criteria laid down under the extant rules and instructions. We find that the applicants, who have been continued for more than four years as Staff Nurse and have attained the experience, this experience should also be considered as one of the factor while considering their cases in the selection in accordance with extant rules and instructions on the subject. Applicant No.1, who is over aged by one month, her case should be treated sympathetically and be given age relaxation, keeping in view of her four years experience, and she should also be allowed to participate in

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the selection. Since the selection is under process and it is stated that this is likely to be concluded expeditiously, till then the respondents are restrained from terminating the services of the applicants."

4. After the decision of this Tribunal, there was a written test held in which the applicants took part but were not successful.

5. The grievance of the applicants is that this Tribunal had directed that the experience of the applicants should be taken into account and their case should be considered sympathetically for regular appointment. It is pointed that no such action has been taken but the applicants were made to take the test along with others.

6. We have carefully considered the said submissions. We have already reproduced above the order passed by this Tribunal in the earlier application, i.e., OA-1920/2001. Perusal of the same clearly shows that this Tribunal had firstly directed that the applicants, who had worked for more than four years, should be considered as one of the factors was in their favour but the rider was that it should be in accordance with rules and instructions on the subject. Our attention has not been drawn to any rules and instructions whereby some specific credit should be given in this regard. It was further held by this Tribunal that one of the applicants, who is over aged by one month, should be considered sympathetically. This also does not tantamount to giving a direction in this

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regard that any person should be appointed dehors the rules. —

7. ——The applicants had taken the test but unfortunately they did not succeed and, therefore, in this backdrop, we find precious little to grant the reliefs claimed by the applicants.

8. Learned counsel for applicants contends that simply allowing to take the test was not mentioned in the order passed by this Tribunal. We have already reproduced the Tribunal's order. It clearly shows that it has to be done in accordance with the rules and instructions. Necessarily, the rules have to prevail and, therefore, the plea must fail.

9. Resultantly, the OA must fail and is accordingly dismissed in limine.



(V.S. Aggarwal)
Chairman



(S. K. Naik)
Member (A)

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