

(2024) 10 CAT CK 0016

Central Administrative Tribunal Cuttack Bench, Cuttack

Case No: Original Application No. 260, 0001 Of 2018

Shashank Mahera

APPELLANT

Vs

Union Of India, Represented
Through Its Principal Secretary,
Ministry Of Health & Family
Welfare Department, New Delhi
& Ors.

RESPONDENT

Date of Decision: Oct. 30, 2024

Acts Referred:

- Central Administrative Tribunal (Procedure), Rules, 1987 - Rule 15, 16

Hon'ble Judges: Sudhi Ranjan Mishra, Member (J); Pramod Kumar Das, Member (A)

Bench: Division Bench

Advocate: J.K.Nayak, B.Nayak

Final Decision: Dismissed

Judgement

Sudhi Ranjan Mishra, Member (J)

1. None appeared for the Applicant despite specific order on the last date on 2.9.2024 that “since the matter relates to 2018, it is made clear that

the matter will be taken up for final Hearing under Rule 15 & 16 of CAT (Procedure), Rules, 1987 on the next date”. However, heard learned

counsel appearing for the Respondents, who is present in court, and with his aid and assistance perused the records.

2. According to Applicant, AIIMS, BBSR issued advertisement inviting applications for 33 posts (UR-18, OBC-5, SC-5 and ST-2) of Tutor/Clinical

Instructors in Nursing. He belongs to UR community and submitted his application pursuant to the said advertisement. It is submitted that he was

subjected to computer test, and, based on the result of the computer test, he was subjected to personal interview held on 22.03.2017. The Respondents published the final result of the selection on 01.08.2017 wherein his name was placed at Sl. No. 13 under UR category. Subsequently, vide notification dated 04.08.2017, Res.No.2 withdrawn the selection list without assigning any reason. However, after expiry of 7 months, the result of the said selection was published showing the name of Respondent No.4 in his place vide notification dated 26.12.2017, without giving him any opportunity of being heard. Hence, it is stated that, there being no other way out, he has approached this Tribunal challenging the notification dated 04.08.2017 and dated 26.12.2017 being highly illegal, arbitrary and mala fide exercise of power.

3. The Respondents/AIIMS filed their counter out-rightly denying the allegation of applicant that withdrawal and publication of fresh select list is actuated with any illegality, arbitrariness or malice and the reasons so furnished in the counter necessitating to do such exercise have been highlighted/reiterated by the learned Counsel for the Respondents in course of hearing. According to the Respondents/AIIMS, admittedly advertisement inviting applications for 33 posts of Tutor/Clinical Instructor in Nursing was published on 22.02.2016 giving the detailed breakup and modality of the selection. Written test was conducted followed by interview by a duly constituted selection committee. The selection committee recommended names of 32 candidates for selection to the post, in question, based on their marks secured on CBT (Written) and Personal Interview. The matter was placed before the Governing Body of AIIMS, containing a list of recommended as well as waitlisted candidates for appointment and, with the approval of Governing Body, result was published in their official website on 01.08.2017. It is stated that while processing for issuance of offer of appointment to the selected candidates, discrepancies/errors were detected in the matter of preparation of consolidated Interview mark sheet of 128 candidates, who were called for Interview, to the extent that in the excel sheet the mark awarded by the Seven selection Committee Members were entered for tabulation to work out the average mark and it was also found that one field containing marks of one of the Members was not added

in case of some candidates which was going to affect the merit position of some of the candidates and, thus, in order to avoid future complication, the select list published in the official website was immediately withdrawn. Thereafter, the Selection Committee checked up the whole tabulation process and rectified the mistake/error and fresh recommendation based on marks of CBT and Interview was placed before the Governing Body on whose approval final list was again published in which the name of applicant was placed in the wait listed candidate No.1 and Ms. Lopamudra Rout (Res.No.4) was placed at merit list No.11. Since Ms. Rout did not accept the offer of appointment, the same was subsequently cancelled. Hence, learned counsel for the respondents has prayed for dismissal of this OA.

4. It may be recorded that a candidate even after his selection has no right to claim appointment and the right of a waitlisted candidate became more worst. Further, trite is the law that after issue of appointment orders, if the candidate fails to join within the stipulated period, that vacancy should be notified again and that fall out vacancies due to relinquishment or non-joining of the selected candidates may be notified in the next recruitment.

5. Since none has been representing the Applicant in consecutive dates, it establishes the applicant is not interested to pursue this matter anymore.

Thus taking into consideration the facts and law discussed above, we find no merit in this OA, which is accordingly dismissed by leaving the parties to bear their own costs.