

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **WP(C) No. 3443/2008**

Reserved on: 8th July, 2008

%Date of Decision: 3rd September, 2008

1. Shri Daya Ram
S/o Late Kali Ram
R/o 72, Barwala Village,
Delhi-110039

2. Shri Jitendar
S/o Shri Haribansh
R/o Gali No.12,
Wazirabad Village,
Delhi-110084

...Petitioners

Through: Ms. Babita Puniya, Adv. for

versus

1. Govt. of NCT of Delhi
Through its Chief Secretary
New Sachivalaya
ITO, New Delhi-110002.

2. Secretary (Health)
Govt. of NCT of Delhi
New Sachivalaya
ITO, New Delhi-110002.

3. Medical Superintendent
Aruna Asaf Ali Govt. Hospital
Rajpur Road,
Delhi-110054.

4. Head of Office
Aruna Asaf Ali Govt. Hospital
Rajpur Road,
Delhi-110054

5. Deputy Medical Superintendent
Aruna Asaf Ali Govt. Hospital
Rajpur Road,
Delhi-110054

...Respondents

Through: Mr. S.P. Sharma, Adv.

CORAM:

HON'BLE MR. JUSTICE MADAN B. LOKUR

HON'BLE MR. JUSTICE J.R. MIDHA

1. Whether Reporters of Local papers may be allowed to see the Judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

J.R. Midha, J.

The Petitioner has assailed the order dated 27th November 2007 passed by the learned Central Administrative Tribunal whereby the Tribunal has dismissed the OA.

The Respondents invited applications for four posts of Nursing Orderly in July, 1999. More than 1500 candidates including the Petitioners applied for the same. The

selection process took place in December, 1999/January, 2000. In the meantime, eleven more posts were created, making the total posts as fifteen. The merit list of 20 candidates was declared which was challenged by one of the candidates, namely, Pramod Kumar whose name appeared at Sl. No. 15 in the merit list. Vide order dated 24th October 2003 in O.A. 782/2000 filed by Pramod Kumar, the learned Tribunal directed the Respondent to consider the applicant against one of the vacancies. The Respondent challenged the said order before this Court by WP(C) No. 7458/2004 which was dismissed in limini on 14th May, 2004 in pursuance to which, the said Pramod Kumar was appointed.

The Petitioners filed OA No. 2678/06 before the learned Tribunal in 2006 claiming parity with Pramod Kumar. The Petitioners are at Serial No. 16 and 20 in the merit list in which Pramod Kumar's name was at Serial No.15. The cause of action in favour of the Petitioners arose in the year 2000 when the merit list was prepared and the Petitioners were not selected. The Petitioners filed the OA

in the year 2006 which was beyond the period of limitation and, therefore, the Tribunal has rightly dismissed the OA. Even on merits, there were initially four posts of Nursing Orderly. Later on, eleven more posts were added. As such, fifteen persons were to be appointed. Pramod Kumar was at Serial No. 15 and, therefore, he was the last one to be selected pursuant to the OA filed by him before the learned Tribunal. All the vacancies have been filled up and there is no vacancy available. The Petitioners who were at Serial No. 16 and 20 have no parity with Pramod Kumar who was at Serial No. 15 and was the last one to be appointed. No case is made out on merits also.

We do not find any infirmity in the order of the learned Tribunal and, therefore, dismiss this petition.

(J.R. MIDHA)
JUDGE

(MADAN B. LOKUR)
JUDGE

September 3, 2008
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