

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18476 of 2015

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Mohammad Awais, Service No.656331-L, sergeant, son of Late Md. Jamaluddin, resident of Village- Garhani, P.O.- Garhani, P.S.- Charpokhari, District- Bhojpur (Bihar).

.... Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Railway, New Delhi.
2. The Defence Secretary, Ministry of Defence, Army H.Q., Defence H.Q., New Delhi.
3. The Group Captain, Commanding Officer 12 AF Hospital Gorakhpur (U.P.)
4. The Director General of Employment and Training, Ministry of Labour, Government of India, New Delhi.
5. The Secretary, Ministry of Labour, Government of India, New Delhi.
6. The Secretary, Indian Nursing Council, New Delhi.
7. The Chairman, Railway Recruitment Board, Patna (Bihar).

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ful Man Singh, Advocate.

For the Respondent/s : Mr. Bijoy Kumar Sinha, Advocate.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 19-05-2016

The challenge in the present writ petition is to an order dated 09.09.2015 passed by the Central Administrative Tribunal, Patna Bench, Patna (hereinafter referred to as the 'Tribunal) whereby an Original Application No. 050/00883 of 2014 filed by the petitioner for appointment to the post of Staff Nurse was dismissed.

2. The petitioner applied for the post of Staff Nurse advertised by the Ministry of Railway reserved for ex-serviceman. The petitioner appeared for the written examination on 12.02.2012 and the result was published on 28.07.2012. He was declared successful, but no

appointment letter was issued. Being aggrieved, the petitioner invoked the jurisdiction of the Tribunal.

3. In reply, the stand of the respondents is that the minimum educational qualification for the post was "Certificate as registered Nurse and Midwife" having passed three years course in general nursing and midwifery from a school of nursing or other institutions recognized by the Nursing Council or B.Sc. (Nursing). Such is the condition mentioned in the advertisement (Annexure-2) against the post of Staff Nurse.

4. The petitioner relied upon a certificate issued by the Indian Air Force to the effect that the petitioner is educationally qualified for the post of Nurse General. It is on the strength of such certificate, the petitioner contends that he is qualified for the post particularly in view of Clause-5.10 of the recruitment process of the advertisement, which reads as under:

"5.10 Ex-serviceman candidates should submit self attested photostat copy of the discharge certificate. They should also enclose the appropriate certificate issued by the competent authority for the equivalence of their educational/technical qualifications."

5. We do not find any merit in the said argument. The minimum educational qualification, as prescribed against the post of Staff Nurse, and published in the Advertisement is as under:

"Minimum Educational Qualifications:- Certificate as registered Nurse and Midwife having passed three years course in General nursing and midwifery from a School of nursing or other institutions recognized by Indian Nursing Council or B.Sc. (Nursing).

Note: The Indian Nursing Council has also laid down

certain special concession for the above course in respect of auxiliary nurse-midwives, midwives and B-Grade nurses by way of reduced course period etc. Candidate obtaining the qualification prescribed above under this concession will also be eligible for recruitment (proof to be attached)”

6. The petitioner does not possess the said qualification.

Merely because the Air Force has issued certificate that the educational qualification of the Petitioner are that of Nurse General, it does not mean that he satisfies the requirement for holding such post as advertised. In the absence of requisite qualification as advertised, the petitioner has rightly not been offered appointment.

7. It may be noticed that a similar claim was raised by the petitioner for the post of Staff Nurse in C.W.J.C. No. 3971 of 2015 (***Md. Awais vs. The Union of India & Ors.***), the writ also remained unsuccessful.

8. In view thereof, we do not find any error in the order of the Tribunal, which may warrant interference in the present writ application. It is, accordingly, dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Sujit/P.Kumar

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