

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.4279 of 2016
and WMP.No.3627 of 2016

Union of India
Rep. By the Administrative Officer
Department of Atomic Energy
General Services Organization
Kalpakkam, Kancheepuram District
Tamil Nadu-603 102 ...Petitioner

vs.

1.R.Senthilkumar
2.The Registrar
Tamil Nadu Nurses and Midwives Council
Jayaprakash Narayanan Maligai
140, Santhome High Road
Mylapore, Chennai-600 004
3.Kumari C.Kalpana
4.The Central Administrative Tribunal
Rep. By its Registrar
Madras Bench
Chennai-600 104 ...Respondents.

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records of the 4th respondent dated 09.10.2015 made in O.A.No.762 of 2013 and quash the same as illegal, unsustainable and arbitrary.

For Petitioner : Mr.V.P.Sengottuvel

For Respondents : Mr.P.T.Perumal for R1
Mr.A.R.Nixon for R2
R3-Not ready
R4-Tribunal

O R D E R

(Order of the Court was made by HULUVADI G. RAMESH, J.)

This Writ Petition is filed by the Union of India challenging the order passed in O.A.No.762 of 2013 by the Central Administrative Tribunal.

2. Heard the learned Standing counsel representing the Petitioner/Union of India and the learned counsel representing the respondents 1 and 2.

3. The first respondent possess Diploma in General Nursing and Psychiatric Nursing. In response to an advertisement in Notification No.1/2009 dated 08.12.2009 calling for applications for filling up the post of Nurse/A, the first respondent applied for the same and was called for interview on 18.07.2012 and was provisionally selected vide offer letter dated 13.02.2013. However, subsequently, the offer of appointment came to be cancelled vide letter dated 10.05.2013. The first respondent challenged the said letter dated 10.05.2013 before the Central Administrative Tribunal by filing O.A.No.762 of 2013, whereby, the Central Administrative Tribunal quashed the letter dated 10.05.2013 and directed the Union of India to accommodate the first respondent. The said order of the Central Administrative Tribunal is put to challenge in this Writ Petition.

4. The contention of the learned Standing counsel for the Petitioner/Union of India is that the 1st respondent has committed suppression of fact and furnished false information in the application, hence, the order dated May 10, 2013 cancelling the appointment of the 1st respondent for the post of Nurse/A is justifiable. He further contended that the prescribed advertisement does not indicate the "Principle of equivalency" in qualification.

5. Per contra, the learned counsel for the first respondent submits that the first respondent passed 12th Standard; possess Diploma in Nursing and and Psychiatry (3 years course) and Registration as 'A' Grade Nurse. He also contended that the qualification prescribed by the petitioner/Union of India and the qualification possessed by the first respondent are one and the same.

6. The second respondent-Registrar, Tami Nadu Nurses and Midwives Council, Chennai, also filed a counter affidavit dated 18th March, 2016, wherein, in paragraph No.7, it is stated as under:-

"7. I submit that the Indian Nursing Council has issued a circular dated 22.02.1996 equalizing Midwifery with approving 8 courses par with Midwifery namely:

1. Operation Theatre Technique
2. Ophthalmic Nursing
3. Leprosy Nursing
4. Tuberculosis and Tuberculosis Nursing
5. Psychiatric Nursing
6. Neurological and Neurosurgical Nursing
7. Occupational Health Nursing
8. Cancer Nursing.

The male Nurses may take up any one from the above in lieu of Midwifery."

7. We have considered the rival submissions and carefully perused the material papers.

8. In the light of the circular dated 22.02.1996, we are of the view that the first respondent has not provided any false information. Further, the argument of the petitioner/Union of India that the first respondent did not possess the qualification prescribed in the Notification dated 08.12.2009 is not at all tenable. In the absence of any prohibition or any embargo specifying that General Nursing and Psychiatry is not equivalent to General Nursing and Midwifery in the Notification No.1/2009 dated 08.12.2009, we are of the view that no patent illegality is committed by the first respondent.

9. The contention of the Petitioner/Union of India as regards the false information furnished by the first respondent in respect of his qualification as Diploma in General Nursing and Midwifery in the application form is concerned, it is seen that the certificates produced by the first respondent for verification indicate of his possessing qualification in General Nursing and Psychiatry and therefore there was no suppression of fact by the first respondent and he treated the Diploma in General Nursing and Midwifery as equivalent to General Nursing and Psychiatry as done in the earlier Nursing Selection.

10. The Central Administrative Tribunal, pointed out that the first respondent possessed the requisite qualification for being appointed to the post of Nurse as notified by the Union of India on 08.12.2009 and hence, there is no justification for the Union of India in recalling the offer of appointment given to the first respondent. Holding so, the Union of India was directed to accommodate the first respondent in one of the vacant posts of Nurse without disturbing the 3rd respondent. However, the Union of India, without carrying out the exercise as directed by the Central Administrative Tribunal, filed the present Writ Petition contending that the cancellation of the

offer of appointment was made only for the false information provided by the first respondent, which in our considered view, is absurd and unreasonable. Further, in our view, there is no violation of rules and conditions committed by the first respondent more particularly in view of the statement made by the Registrar, Tamil Nadu Nurses and Midwives council in counter affidavit stating that the qualification prescribed by the 1st respondent and the qualification possessed by the candidate are one and the same.

11. In view of the foregoing discussion, we are of the considered view that there is absolutely no deliberate suppression of the educational qualification in the application submitted by the first respondent and it cannot be found fault with and therefore, the order of the Central Administrative Tribunal quashing the order of cancellation of offer of appointment dated 10.05.2013 to the post of Nurse is perfectly well-founded and no interference is required. Accordingly, the Writ Petition is dismissed as devoid of merits. No costs. Consequently connected MP is closed.

-s/d-

Assistant Registrar(CSIV)

True Copy

Sub-Assistant Registrar

nvsri

To

1.The Administrative Officer
Union of India
Department of Atomic Energy
General Services Organization
Kalpakkam, Kancheepuram District
Tamil Nadu-603 102

2.The Registrar
Tamil Nadu Nurses and Midwives Council
Jayaprakash Narayanan Maligai
140, Santhome High Road
Mylapore, Chennai-600 004

WEB COPY

3.The Central Administrative Tribunal
Rep. By its Registrar
Madras Bench
Chennai-600 104

+1 cc to Mr.A.R.Nixon Advocate sr.26096
+1 cc to Mr.Perumal Associates sr.26265
+1 cc to mr.V.P.Sengottuvel Advocate sr.26701

W.P.No.4279 of 2016

pvr(co)
aa15/06/2016



WEB COPY