

December 9, 2025
Sl. No.24
Court No.1
s.biswas

WPCT 171 of 2025

The Union of India and others
vs.
Arpita Bhawmik and others

Mr. Narayan Chandra Mondal
Mr. Goutam Sardar
Mr. Goutam Malik

... for the petitioners

Per, Sujoy Paul, A.C.J.

1. Mr. Narayan Chandra Mondal, learned counsel for the petitioners, heard on admission. This petition assails the order of Central Administrative Tribunal passed on 21.01.2025 passed in O.A. 350/00511/2024.
2. Before the Tribunal, the applicants therein prayed for following reliefs:

“a) Liberty be granted to file and maintain the Original Application jointly under Rule 1(5)(a) of CAT (Procedure) Rules, 1987.

b) To set aside and quash impugned Notification No. E-5/Med/Chief Ma Matron dated 03.10.2023 2023 issued by the Sr. Divisional Personnel Officer, Eastern Railway, Howrah as regard expunging the name of applicant No.1 and incorporating the name of P. Respondent No. 6 is concerned.

c) To set aside and quash impugned 5/Med/Chief Matron dated 20.12.2023 issued by the Sr. Divisional impugned Notification No. E-Personnel Officer, Eastern Railway, Howrah has regard expunging the name of applicant No. 1 and 2 and incorporation of the name of P. Respondent No. 6 and 7 is concerned.

d) To aside set and quash impugned Letter No. E 5/Med/Suitability/NS/2019 dated 16.10.2023 issued by the Sr. Divisional Personnel Officer, Eastern Railway, Howrah.

e) To set aside and quash impugned Office Order No. E-5/MED/4/2024 dated 12.01.2024 issued by the Sr. Divisional Personnel Officer, Eastern Railway, Howrah.

f) To set aside and quash impugned letter No. 1285873/2024/O/o Sr. DPO/HWH/ER dated 27.02.2024 issued quash impugned letter by the Sr. Divisional Personnel Officer, Eastern Railway, Howrah.

g) To direct the respondents to publish a fresh panel declaring applicants eligible for promotion to the post of Chief Nursing Superintendent and hold a suitability test for the applicant and if found suitable promote the applicant to the post of Chief Nursing Superintendent with all consequential benefit.

h) To direct the respondents to produce the records relating to promotion of the P. Respondents to the post of Chief Nursing Superintendent before this Hon'ble Tribunal at the time of hearing for the ends of justice.

i) Any other order or orders as the Hon'ble Tribunal deems fit and proper.”

3. The Tribunal by impugned order granted the said benefit and came to hold that as per the official Notification dated 07.07.2023 which intended to fill up 4 posts with clear finding that posts are – UR-4, SC-NIL and ST-NIL. The said assessment of posts was based on post based roster by adjusting the excess reserved categories on the basis of different Railway Board Circulars. Thereafter, the Tribunal came to hold that in view of the judgment of Supreme Court and consequential orders issued by Railway Board, UR vacancies cannot be filled up by reserved candidates those who are junior in seniority list because the promotional post of Nursing Sister is to be filled up by criteria of “seniority-cum-suitability”. The Circular dated 17th August, 2023

issued by Senior Divisional Personnel Officer, Eastern Railway also suggests the same.

4. Learned counsel for the petitioners submits that the order of the Tribunal is bad in law. The Tribunal should not have interfered in the matter. The department rightly issued the impugned notification and no fault can be found in the said notification. No other point is pressed by the learned counsel for the petitioners.

5. The Tribunal in para 6, recorded as under:

“6. It is noted that it is an admitted fact that initially a Notification dated 07.07.2023 was issued for filling up of 04 posts with the clear indication of UR-4, SC-NIL and ST-NIL as has been assessed and prepared by following Post Based Roster by adjusting the excess reserved categories on the basis of RBE No. 19/2009. PCPOs circular dated 30.12.2009, RBE No. 53/2022, Board's letter dated 22.06.2022 wherein it has been categorically stated that since RBE No. 126/2010 has been kept in abeyance vide RBE No. 117/2016 with immediate effect till further advice and further promotion of reserved categories to unreserved posts will now be made ignoring RBE No. 126/2010.”

6. Thereafter in para 13, the Tribunal further recorded as under:

“13. From perusal of the above, it is clear that as per the direction of the Hon'ble Apex Court as well as the Railway Board's own order, UR vacancies cannot be filled up by reserved candidates those who are junior in seniority list as the post of Nursing Sister is a post to be filled up by seniority-cum-suitability and in the instant case admittedly, the applicants are senior than the private respondents, which according to RBE No. 19/2009 cannot be filled up by a junior candidate of reserved category.”

7. The Tribunal came to hold that actually assessed 4 vacancies as per roster were relating to unreserved vacancies, the same could not have been filled up by giving preferential right to reserved candidates despite the fact that they are junior in the seniority list. As per the criteria of “seniority-cum-suitability”, the senior has preferential right of consideration for promotion. Nothing could be pointed out to us to show that the finding of Tribunal in para 6 are factually incorrect or legally improper. In absence thereof, we find no reason to doubt the finding of fact given by the Tribunal that all the 4 vacancies were earmarked for unreserved category and applicants therein belonging to such category and being senior had a preferential right of consideration. This finding was rightly recorded in para 13 of the impugned order of the Tribunal. Since the department could not point out anything which creates doubt on the correctness of the findings mentioned hereinabove, we are not inclined to interfere in the matter. Admission is declined. Petition is **dismissed**.

(Sujoy Paul, A.C.J.)

(Partha Sarathi Sen, J.)

