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Court : Delhi

Decided On : May-26-2010

Judge : Anil Kumar and; Mool Chand Garg, JJ.

Acts : [Constitution of India](#) - Article 226

Appeal No. : W.P. (C.) No. 3603/2010

Appellant : Amit Singhal and ors.

Respondent : The Chairman, Dsssb and anr.

Advocate for Def. : Zubeida Begum, Adv.

Advocate for Pet/Ap. : Pawan Bahl, Adv.

Disposition : Petition dismissed

Judgement :

Anil Kumar, J.

1. The petitioners, who are working as a contractual staff nurses in Guru Teg Bahadur Hospital, Shahdara and Institute of Human Behaviour and Allied Sciences, Shahdara, have challenged the order dated 3rd May, 2010 passed by the Central Administrative Tribunal, Principal Bench in OA 1101/2010 titled Sh. Amit Singhal and Ors. v. Chairman Delhi Subordinate Services Selection Board

and Anr. dismissing their petition seeking direction to the respondents not to hold common examinations on 10th April, 2010 and 11th April, 2010 against all the five posts and to postpone the examinations and direction to the respondent to hold separate examination for the separate post code and to provide opportunity to the petitioners to appear in two examinations as some of them had applied for two posts.

2. Brief facts to comprehend the controversies are that the advertisements were given in 2008 for appointment of staff nurses in Maulana Azad Institute of Dental Sciences and in the Institute of Human Behavior and Allied Sciences. The advertisements were also issued for filling the vacancies by Delhi Jal Board and Health and Family Welfare, Govt. of NCT of Delhi in 2009. Consequently, different advertisements were given in different years for the posts of staff nurses having different code numbers.

3. According to the petitioners, who are staff nurses on contractual basis, they are eligible for these posts which have been advertised and therefore, they filled in the application forms separately for different vacancies and also deposited required documents along with necessary charges. The averment of the petitioners is that there are five hundred such other cases in which the candidates have applied for more than one post and since advertisements were different for different posts they expected that the examination shall be separate for different posts.

4. The respondents by a notification dated 26th February, 2010, however, informed that the examination for all posts having five codes shall be common and shall be held on 10th April, 2010 at 10:30 AM for those candidates whose names are from alphabets A to O and the common examination shall be conducted for remaining candidates having their names from other than alphabet A to O on 11th April, 2010.

5. The petitioners contended that petitioner No. 1 received the admit card for appearing in the examination on 10th April, 2010 and also received another admit card for the examination on the same date and time for selection to another post with a different code.

6. The petitioners also contended that in some of the cases, a candidate for the reserved category such as OBC category has received the admit card for general category candidates and vice versa. The grievance was also made regarding rejection of the candidature of Sh. Vijay Kumar Joshi on the ground that he was over age, though, a candidate is entitled for age relaxation and if age relaxation is given to Vijay Kumar Joshi, he would be eligible to appear in the examination. Aggrieved by the notification dated 26th February, 2010, notifying a common examination for all the posts for which different applications were invited, a representation dated 29th march, 2010 was made by the petitioners to cancel or postpone the examination and to hold separate examinations against separate vacancies in respect of five different posts for which applications were invited under different advertisements. The petitioners contended that since they had applied separately for different posts. Therefore, a common examination could not be conducted for all the posts specially when the advertisements No. post code no., examination code Nos. and the departments, where the candidates are to be employed are different and even the year of advertisements are different though all the posts are in different departments of Government of NCT.

7. The pleas and contentions of the petitioners were contested by the respondent contending that the original application was filed belatedly because the notification for common examination for different posts in different departments was published on 20-26th February, 2010, however, the petitioners approached the Tribunal just before the examination slated from 10th April, 2010. The respondents asserted that keeping in view the large number of candidates, the respondents decided to hold a common examination. The common examination according to the respondents is for employment as staff nurses in different departments which are as under:

S.No.	Name of Post	Department	Post Advt. No.	VacancyCode	Advt.01	Staff Nurse
	MAIDS	09/08	01/2008	1602	Nursing	MAIDS
					26/08	02/2008
					02	Sister
					03	Staff
						Nurse
	IHBAS	04/09	01/2009	10104	Staff Nurse	Delhi Jal
					75/09	04/2009
					4	Gr.B
						Board
					05	Staff Nurse
						H & FWD
					77/09	04/2009
					1862	

8. According to the respondents, the petitioners are liable to appear in the common examination and on the date of examination they are required to exercise their preferences for the post. It was also contended that as per instruction No. 3, in case the candidate has been issued more than one admit card on account of a candidate applying for more than one posts, since the examination is one, the candidate is entitled to appear at any of the Centers stipulated in any of the admit cards. The relevant instructions issued by the respondents is as under:

5. If a candidate receives more than one admit card for same post code, he/she should contact the office of the Board and get a single admit card issued. No later request after the above mentioned dates will be entertained. Therefore, the candidates are advised to come to the office of the Board on the above dates and time only for issue of duplicate admit cards.

9. The respondents also gave the reasons for issuing more than one admit cards which have been detailed by them in their counter affidavit which is as under:

Petitioner No. 01, Sh. Amit Singhal:

Petitioner was issued two admit cards as while generating data his name was not correctly feeded, which is apparent from the perusal of his admit card of post code 77/09 as his surname Singhal is written as Singh al, which resulted in issuance of more than one admit card. Copies of the application form and admit cards are annexed herewith as Annexure R-3.

Petitioner No. 02. Ms. Nengneilhing Singsit:

Petitioner was issued two admit cards as while generating data her name was not correctly feeded, which is apparent from the perusal of her admit cards of post code 04/09 her name is written as Nengneilhing Singsit. Further in both the admit cards in column for name of husband/father, in one is her husband name and in the other it is her father's name which resulted in issuance of more than one admit card. Copies of the application form and admit cards are annexed herewith as Annexure R-4.

Petitioner No. 03. Ms. Lhingnelan Haokip:

Petitioner was issued two admit cards as while generating data her name was not correctly feeded, which is apparent from the perusal of her admit cards of post code 04/09 as name is written as Ms. Lhi gnellan Haokip, which resulted in issuance of more than one admit card. Copies of the application form and admit cards are annexed herewith as Annexure R-4.

Petitioner No. 04. Sh. Vijender Kumar:

Petitioner had already been issued admit card bearing Roll No.004152772 for Post code 04/09 and 77/09. A copy of the application form and admit card is annexed herewith as Annexure R-6.

Petitioner No. 05. Sh. Om Prakash Jakha:

Petitioner had already been issued admit card bearing Roll No.00412688 for Post code 04/09 and 77/09. A copy of the application form and admit card is annexed herewith as Annexure R-7.

Petitioner No. 06. Sh. Chetan Kumar Soni:

Petitioner had already been issued admit card bearing Roll No.00411499 for Post code 04/09 and 77/09. A copy of the application form and admit card is annexed herewith as Annexure R-8.

Petitioner No. 07. Sh. kailash Chand Yadav:

Petitioner had already been issued admit card bearing Roll No. 00411144 for Post code 04/09 and 77/09. A copy of the application form and admit card is annexed herewith as Annexure R-9.

10. The respondents also gave explanations for issuance of three admit cards to Ms. Ruchi Sehgal who is, however, not a petitioner before this Court and who was not a party before the Tribunal also. It was also deposed that Ms. Ruchi Sehgal has visited the respondents on 8th April, 2010 and a common admit card has been issued to her.

11. The respondents also justified the common examination on the ground that for fewer vacancies the chances for the candidates to get selected will be less compared to more vacancies, and therefore, the petitioners should not have a grievance for having a common examination for different posts advertised in different notices.

12. Regarding the alleged age relaxation to be given, it was pleaded that no age relaxation is contemplated for those candidates who are working on contractual basis under Govt. of National Capital Territory of Delhi.

13. The Tribunal after hearing both the parties, had directed the respondents not to hold the examination for the post of staff nurses, on 10th April, 2010 and 11th April, 2010 as the time was short and the Tribunal was of the view that two different sets of paper could not have been prepared for the post of staff nurses on two different dates for preparing a common merit list as the common examination for selection was to be held on two days on 10th April, 2010 and 11th April, 2010.

14. Later on, the respondents issued a fresh advertisement on 20th April, 2010 for holding the examination for the post of staff nurses on 13th May, 2010 in one session only. The Tribunal, thus, held that anomaly of preparing a common merit list on the basis of two examination conducted on two different dates from different candidates having different names was sorted out.

15. The Tribunal, however, rejected the plea of the petitioners that they are entitled to have different examination for selection for different posts notified by different advertisements in different newspapers. The Tribunal held that the respondents decided to hold a common examination by asking preferences of the petitioners of their choices of hospital and departments and it would be sufficient protection to the candidates because ultimately, the candidates cannot take two appointments even if they are selected for two posts and in the circumstances, asking the petitioners at the time of examination to give their preferences could not be termed as illegal. It was also noticed that the posts would be allotted as per the preference given by the candidates and as per their merit and consequently, dismissed the petition which order is challenged by the petitioners in the present writ petition.

16. The learned Counsel for the petitioner has very vehemently contended that the posts for which different advertisements were given are different inasmuch as they carry different emoluments and were advertised by different advertisements. The learned Counsel has also contended that having a common examination will be prejudicial to the interest of the petitioners.

17. This has not been disputed and cannot be disputed by the petitioners that the posts in different departments advertised by different advertisements are for staff nurses. This is also not disputed that the eligibility for the post of staff nurses/nursing sister is same in different departments though as has been alleged by the petitioner, in some of the cases, emoluments payable may be different. However, the eligibility criteria for selection to posts of staff nurses in different hospitals and departments under the Government of NCT are same.

18. This also cannot be disputed by the petitioners that in case, more than one examination is conducted for different posts, all the candidates who are eligible would be entitled to appear in different examinations. In case, the candidates appear in the same examination, it cannot be inferred that their chance for selection will diminish or they will be prejudiced in any manner. In any case, the learned Counsel for the petitioner has failed to show that the petitioners have an indefeasible right to appear in different examination. How the candidates would be prejudiced in case they appear in common examination in place of different examination for same type of posts i.e. staff nurses in different departments/hospital under the Government of NCT of Delhi has not been explained satisfactorily by the petitioners'.

19. Hypothetically, if an examination is conducted for one post in one department and other departments want to follow the merit of the candidates in that examination and adopt the same, the petitioners cannot have a grievance about it. The only requirement can be that the petitioners have to be intimated in advance that there would be only one examination for a particular post in a particular department and all other departments shall follow the merit based on the examination conducted for a particular post in a particular department. If that be so, a fortiori, the respondents can conduct a common examination for all the posts

and select and allot the post according to the merit to the candidate in the common examination according to the preferences of the candidates.

20. Though, the learned Counsel for the petitioner repeatedly emphasized that the post were advertised by different departments, however, that does not give any such right to the petitioners that there should be separate examination for each post advertised separately. The examination body is the same and criteria for selection for post of staff nurses, though in different departments, is the same. In the circumstances, the petitioners cannot contend that different examinations should be conducted for selection to the posts of staff nurses in different departments of Government of NCT. The petitioners do not have such a right as has been claimed by them nor they have been able to show satisfactorily that they will be prejudiced in any manner, if common selection examination is conducted for selection to the posts of staff nurses in different departments and bodies under the Government of NCT.

21. In the totality of the facts and circumstances, therefore, the petitioners have failed to make out a case that they are entitled to have separate examination for the posts of staff nurses on the ground that those posts are in different department of the Government of NCT and that the selection cannot be made on the basis of a common examination. The nomenclature of the posts is same with similar eligibility condition and these posts are in different departments of Govt. of NCT of Delhi and the petitioners are working as contractual staff nurses. In the circumstances, the petitioners do not have any such rights as has been claimed by them and consequently they are also not entitled for any relief as they have failed to make out any ground showing any illegality or irregularity or perversity in the order of Tribunal dismissing their original application.

22. The learned Counsel for the petitioner has also failed to point out any prejudice, which will be caused to the petitioner in case of a common examination instead of different examinations on different dates. In the ultimate analyze therefore, this Court does not find any such illegality or irregularity or such perversity in the order of the Tribunal impugned before us, which will require any correction or interference by this Court in exercise of its jurisdiction under Article

226 of the [Constitution of India](#).

23. The writ petition, in the facts and circumstances, is without any merit and it is, therefore, dismissed. All the applications are also disposed of. Parties are, however, left to bear their own costs.

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