

CENTRAL ADMINISTRATIVE TRIBUNAL CHANDIGARH BENCH

Order Sheet

Item no.: 8
O.A./234/2023 (CHANDIGARH)
[SELECTION]
Court No.: 1

No of Adjournment:

Order Dated: 10/03/2023

**DEV KISHAN TOLAMBIA
Vs
GOVT. MEDICAL COLLEGE, CHANDIGARH**

For Applicant(s) Advocate : SH. SUMIT DUA

For Respondent(s) Advocate :

Order of The Tribunal

Heard.

Issue notice to all the respondents.

Sh. Sanjay Goyal, learned Sr. Central Govt. Standing Counsel accepts notice on behalf of respondent No.1 and Sh. Arvind Moudgil, Standing Counsel for Chandigarh Administration accepts notices on behalf of respondents No.2 and 3.

This O.A. is directed against the order dated 21.02.2023 passed by respondent No.3 whereby candidature of the applicant has been declined to be considered under OBC category for the post of Staff Nurse.

The applicant has sought for following interim relief:

“1. Pass an interim order to call the applicant provisionally for counselling as OBC candidate or staying on further selection of candidate under OBC Category against the vacant post.

II. Pass an interim order to reserve the one seat for the applicant under reserved category OBC during the pendency of the original application.”

From the pleadings, the case of the applicant is that applicant is resident of Bilwara (Rajasthan) and belongs to caste of other backward class “Darzi”. On 09.11.2021, respondent No.3 issued an advertisement/public notice for Group ‘C’ post of Staff Nurse (Nursing Officer) on temporary basis. Being fully eligible, the applicant applied for the same under OBC category. Respondent No.3 conducted written examination on 28.08.2022 and 08.09.2022. Applicant secured 81.50 marks but he was considered under general category. Against this action of the respondents, the applicant preferred O.A. No.1352/2022, which was disposed of on 22.12.2022. In pursuance to order of the Tribunal, the applicant made a detailed representation Annexure A-13 which has been decided by the respondents vide Annexure A-15 that has been impugned in the present O.A.

Learned counsel for the applicant has relied upon the judgment passed by the Hon’ble Punjab and Haryana High Court in CWP No.26092/2012 decided on 25.10.2013 whereby while deciding the issue of the word “Nai (Nais) has been discussed. Hon’ble High Court has allowed the petition and observed as under:

“5. The UT Administration has apparently applied the principle of strict interpretation by way of abundant caution in rejecting the case of the petitioners for appointment by restricting the word "Nais" to its literal meaning by exclusion of plurality, since the word is not mentioned in the Caste Certificates relied upon by the petitioners in both the writ petitions to claim OBC reservation in direct recruitment to public posts in the UT Administration. However, that will not change the factual position which has to commensurate with the notification dated 11.12.1997 and plain common sense. Resultantly, the caste certificates relied upon by the petitioners to establish the eligibility and candidature in the reservation category of OBCS is legal and valid. The Caste

Certificates are declared to be dependable and in accordance with the Central List of OBC for UT Administration, Chandigarh.”

This Tribunal has considered the matter and is of the view that prima facie, applicant has been able to made out case in his favour for grant of interim relief.

Accordingly, the respondents are directed to keep one post of Staff Nurse in the category of OBC vacant till the next date of hearing.

List on 29.03.2023.

The respondents may file reply by the next date.

Ramesh Singh Thakur
Member (J)

/kr/