ORDER SHEET.
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT

W.P. No.1760 of 2017
Naeem Ashraf
Versus
Federation of Pakistan, Ministry of Health Services Regulation and Coordination, Islamabad and others

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	23.05.2017	**Mr. Muhammad Shahid Kamal Khan, Advocate for the petitioner,** **Ms. Sitwat Jehangir, learned Assistant Attorney-General,** **M/s Nauman Munir Peracha, and Saadia Noreen, Advocates for respondents No.2 and 3.**

Through the instant writ petition, the petitioner, Naeem Ashraf, who is presently working as a Charge Nurse at the Pakistan Institute of Medical Sciences, Islamabad ("P.I.M.S."), seeks s direction to respondents No.2 and 3 to admit the petitioner in the 02 Years Post RN B.Sc. Nursing Programme 2017-18, ("B.Sc Nursing Programme").

2. Learned counsel for the petitioner submitted that the petitioner has been working as Charge Nurse at P.I.M.S. since 15.12.2004; that the petitioner has successfully completed one-year specialization course in the 2013-14 session; that respondent No.2 (Shaheed Zulfiqar Ali Bhutto Medical University/P.I.M.S.) offered the B.Sc Nursing Programme; that eligibility criteria for the said post is set out in the advertisement issued by respondent No.2; that the petitioner appeared in the admission test held on 04.12.2016 through the National Testing Service ("N.T.S.") and got 67% marks; that despite having obtained the said marks, the petitioner has not been admitted to the B.Sc Nursing Programme; that in 2015 the petitioner had applied for the said nursing programme and was one of the top ten eligible candidates, but he was unlawfully denied

admission in the said nursing programme; that two other persons similarly placed as the petitioner were admitted in the said nursing programme in compliance with the orders passed by this Court in W.P. No.265/2016; that respondent No.2 has granted study leave for two years to two other employees in order to complete their Masters of Science in nursing programme; that respondent No.2 has granted admission to those employees who had not even fulfilled the eligibility criteria; that the petitioner is qualified under the Rules of Pakistan Nursing Council for admission in the B.Sc Nursing Programme; and that the petitioner's fundamental right has been denied by not admitting him in the said nursing programme.

3. On the other hand, learned counsel for respondents No.2 and 3 submitted that the petitioner had not obtained a No Objection Certificate ("N.O.C.") from his parent department for the said nursing programme; that the petitioner did not have three years of clinical experience, which was a mandatory requirement for the said nursing programme; that the petitioner had passed his fourth-year/specialization from P.I.M.S. in Anesthesia Nursing in parts; that the petitioner's final exam was held in September 2015, after which he was awarded Specialized Nursing Diploma; that at the time when the petitioner sought admission in the said nursing programme, he had only two and half years of experience to his credit, which was below the requirement set out in the advertisement; and that the classes for the said nursing program had already started on 04.04.2017, and there are no further seats vacant for the said nursing programme. Learned counsel prayed for the writ petition to be dismissed.

4. I have heard the contentions of the learned counsel for the contesting parties, and have perused the record with their able assistance.

5. The record shows that respondent No.2, through an advertisement, issued an admission notice for 02 Years Post RN B.Sc. Nursing Program 2017-18. All the candidates who had passed and obtained 50 marks or above in the N.T.S. entry test conducted on 04.12.2016 for the said nursing programme, were directed to submit copies of their professional documents listed in the said advertisement. As per the said advertisement, the criteria for selection was as follows:-

> ***"Bsc Nursing Post RN***
> *(02 year Programme)*
> *Eligibility Criteria*
> - *Diploma in Nursing, Registered with Nursing Council, Islamabad*
> - *Diploma in Midwifery/ for male nurses specialize course.*
> - *Valid registration with Pakistan Nursing and at least 03 years Clinical Experience*
> - *50% marks in NAT (to be conducted by NTS."*

6. The total number of seats available for the said nursing program were 50. The total number of applicants that passed the test conducted by N.T.S. were 176, out of which 120 candidates submitted their applications. 18 candidates were selected against the quota seats, whereas 32 candidates were selected on merit. As per the list of candidates selected on merit, several candidates had obtained less mark than the petitioner. The petitioner had got 67% marks in the said test.

7. As per Circular dated 25.06.2014 issued by respondent No.2, study leave could not be granted to a candidates/employees whose service was less than five years. Furthermore, the approval for a study leave was subject to the issuance of an N.O.C. for obtaining admission or joining any training programme. The applicants for study leave were

required to intimate respondent No.2 at least four weeks prior to appearing in the admission test or commencement of the training/study leave to enable respondent No.2 to make necessary arrangements for substitution of services.

8. The petitioner had brought on record his application dated 29.11.2016 for the issuance of N.O.C. for admission in B.Sc. Nursing Programme 2017-18 in the College of Nursing at P.I.M.S. On 14.02.2017, the petitioner informed respondent No.2 that he had obtained 67% marks in the test for the B.Sc. Nursing Program conducted by N.T.S. On 23.02.2017, the petitioner again sought admission in the B.Sc. Nursing Programme.

9. Now, the N.O.C. for admission in the B.Sc. Nursing Programme is to be given by respondent No.2. The petitioner's applications for the issuance of the N.O.C. have not been responded to. Had the petitioner been granted the required N.O.C. he would have (subject to the fulfillment of the eligibility criteria) participated in the B.Sc. Nursing Program. Respondents No.2 and 3's objection that the petitioner did not have three years of clinical experience in a recognized hospital, has been denied by the petitioner, who asserts that he had been working as a Charge Nurse at P.I.M.S. since 15.12.2004. The minutes of the meeting dated 06.12.2014 filed along with respondents No.2 and 3's written comments are with respect to the policy for M.Sc. nursing and not B.Sc. nursing. Furthermore, the Note on the back of the minutes of the meeting of the Selection Committee for the B.Sc. Nursing Programme 2017-18 show that there was a recommendation that due to the shortage of nursing staff in P.I.M.S., the selected candidates from P.I.M.S. will be relieved only for the morning sessions for the B.Sc. Nursing Programme till the joining of

new nurses. This shows that nurses/employees of respondent No.2 were granted permission to gain admission in the B.Sc. Nursing Programme. Such admission could only have been granted if an N.O.C. had been issued to such candidates. Respondent No.2 is yet to decide how the petitioner's case is different from those employees of respondent No.2 who were issued N.O.Cs. for admission in the nursing programme for which the petitioner had also applied for.

10. As the petitioner's applications for the issuance of the N.O.C. for admission in the B.Sc. nursing program, had not been considered or responded to by respondent No.2, and since the contesting parties are at variance on whether the petitioner had the requisite clinical experience of three years, I am inclined to dispose of this petition with the direction to respondent No.2 to consider and decide the petitioner's applications for the issuance of N.O.C., and admission in the B.Sc. Nursing Programme, within a period of two weeks of the receipt of this order, strictly in accordance with the law and the judgment dated 22.03.2016, passed by this court in W.P.No.265/2016. A right of hearing shall be afforded to the petitioner before deciding the said applications.

11. Disposed of in the above terms.

(MIANGUL HASSAN AURANGZEB)
JUDGE

Sultan*

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