

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

O.A.NO.2803/2002

Friday, this the 10th day of July, 2003

Hon'ble Shri Govindan S. Tampi, Member (A)

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1. Kanchedmal
2. Puran Chand
3. Pawan Kumar
4. Rajendra Singh
5. Rakesh Kumar Beniwal
6. Dinesh Kumar
7. Rohtas Kumar
8. Jitendra Kumar
9. Rakesh Kumar
10. Mohammad Jahangir Alam

All C/o Kanchedmal  
S/o Sh Sumer Singh  
R/o 9/141, Khichripur Delhi-91. ..Applicants

(By Advocate: S/Shri <sup>Sunder</sup> ~~Sunder~~ Singh & Arun Rathi proxy  
for Dr. Surat Singh)

Versus

1. Govt. of NCT of Delhi through its  
Secretary (Health),  
I.P.Estate,  
Delhi Secretariat,  
Delhi.
2. Director of Health Services,  
Govt. of NCT of Delhi,  
F-17, Kakardooma, Delhi.
3. Medical Superintendent,  
Baba Saheb Ambedkar Hospital,  
Rohini Sector 6, Delhi-110085.

..Respondents

(By Advocate: Shri Vijay Pandita)

O R D E R (ORAL)

Heard S/Shri Arun Rathi and Vijay Pandita, learned  
counsel respectively for the applicants and the  
respondents.

2. MA 2404/2002 for joining allowed.

3. Kanchedmal and 9 others, who are applicants in this  
OA, have been appointed as Nursing Orderlies (N.O.) at the  
Lal Bahadur Shastri Hospital, Khichripur, Delhi in  
June-August, 1999 following their response to

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advertisement dated 9.5.1999. Their services were dispensed with in February, 2001. They have been re-engaged since 22.9.2001 in Dr. Baba Saheb Ambedkar Hospital where they are still continuing. Following advertisement issued on 16.9.2002 inviting applications for filling up more than 300 posts of N.O. in various Delhi Government hospitals, applicants in this OA have filed their representations requesting that their services be regularised keeping in mind their experience. However, instead of doing the above, the applicants are being threatened with termination of their services on account of which they have filed this OA.

4. The grounds raised by them in the OA are that the applicants, who have been working since June-August, 1999, have not been considered for being regularised even though adequate number of vacancies - more than 300 of N.O.- are present in Delhi Hospitals. The applicants, who have already gained experience as N.O. can be better utilised instead of engaging freshers and juniors. The applicants also rely upon the decision of Hon'ble Supreme Court in Piara Singh Vs. State of Haryana [JT 1992 (5) SC 179] to the effect that those employees working for a longer period of two to three years would have the right for consideration or regularisation. It is also pointed out that in the earlier OA filed by them, direction issued was to treat them as Daily Wagers in preference over their juniors. The above direction was forcefully reiterated by the learned counsel for applicants.

5. Opposing the above, Shri Vijay Pandita states that the applicants were appointed originally as workers on daily wage basis initially for 44 days with a specific condition that " the order is valid for the period mentioned above and shall stand automatically terminated

or till regular appointment of Nursery Orderly is made or whichever is the earliest". The applicants are continuing since 2001 as Daily Wagers in Baba Saheb Ambedkar Hospital and no action has been contemplated to terminate their services," as is being alleged by them". Shri Pandita also states that the advertisement for recruitment of N.Os/Ward Boys was issued in order to fill up the vacancies in various Hospitals of Delhi Government in the pay scale of Rs. 2500-3200 on regular basis. These applicants, who are only Daily Wage-earners have no right for claiming regularisation in accordance with the rules. There is no move to have them replaced by similarly placed individuals. As and when regularly appointed individuals become available, these applicants would have to vacate as prescribed in law. Any further relief being claimed by the applicants is misplaced, pleads Shri Pandita.

6. I have carefully considered the matter. It is not disputed that the applicants have been performing the functions of N.O., first in Lal Bahadur Shastri Hospital and thereafter in Dr. Baba Saheb Ambedkar Hospital. They have gained experience of more than two years in the profession though they are only engaged on daily wage basis. It is also not disputed by the respondents that they have vacancies, more than 300 in number of N.O. in various Hospitals of Delhi, the applicants have also applied for appointment against those posts. Keeping in mind the experience gained by them by working in the Hospitals for nearly two years their case would also merit consideration for appointment/regularisation in accordance with rules.

7. Therefore, I dispose of this OA with the direction that respondents may favourably consider the case of

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these ten applicants only for being regularised against the available vacancies, for filling up the posts for which advertisement has already been issued in accordance with rules. It also made clear that in the event of such regularisation, <sup>in accordance with law</sup> they are only be treated as fresh appointees like others who would have responded to the advertisement. This order is being issued keeping in mind the special circumstances of the applicants only and the fact that they have been working with the Hospitals for nearly two years. No costs.

(GOVINDAN S. TAMPI)  
MEMBER (A)

/kdr/