

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

OA No. 2478/96

NEW DELHI THIS THE 3<sup>rd</sup> DAY OF FEBRUARY, 1997.

HON'BLE SHRI JUSTICE B.C.SAKSENA, ACTING CHAIRMAN  
HON'BLE SHRI K.MUTHUKUMAR, MEMBER(A)

Shri Gainda Singh  
S/o Shri Ram Charan  
R/o House No.16,  
Sector 11, near W/9  
Noida(U.P.))

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Applicant

(BY ADVOCATE MRS.NARESH BAKSHI)

vs.

1. Director General, Employees' State Insurance Corporation, Kotla Road New Delhi-110002.
2. Director Medical, Employees' State Insurance Hospital Complex, Basai Darapur Ring Road Delhi-110015.
3. Medical Superintendent, E.S.I.Hospital E.S.I.Hospital Complex Basai Darapur Ring Road, Delhi-110015.
4. Director, Employees State Insurance Corporation Hospital, Sector 24, Noida U.P.

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Respondents

ORDER

JUSTICE B.C.SAKSENA:

We have heard the learned counsel for the applicant when the case came up for orders as regards admission.

2. The applicant through this OA seeks a direction to be issued to the respondents to consider his recruitment to the post of Nursing Orderly in view of the E.S.I.C. recruitment regulations and Government of India's instructions issued from time to time. The other relief prayed for is

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for restraining the respondents from recruiting Nursing Orderlies from outsiders and freshers and for a direction that the applicant be allowed to appear before the Selection Board and be given preference over the freshers and outsiders. The applicant's services were terminated by an oral order. He along with others had filed OA No.442/92 praying for regularisation of their services. The said OA was decided by an order passed on 1.2.1993 with a direction to the respondents to regularise as many as applicants as possible in accordance with the vacancies available and in accordance with the merit as found by the Selection Board which interviewed them. This direction was given in view of the submission of the learned counsel for the applicants that all the candidates had been interviewed by the Selection Board and a panel has been drawn up for appointment against regular vacancies.

3. Thereafter the applicant was not found fit by the Selection Board. He along with others again filed another OA No.1032/94. Along with the present OA, a copy of the order dated 25.8.1994 passed on MA Nos.2204 and 1507 of 1994 in the aforesaid OA has been filed as Annexure 'B'. A perusal of the said order goes to show that two contentions were advanced. One was that the order of oral termination had been passed without complying with the provisions of Section 25 of the Industrial Disputes Act, 1947. While deciding OA No.1032/94, the Division Bench took the view that the applicants were barred on the principle of constructive res judicata to raise this plea since they did not raise this question in OA No.442/92.

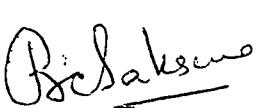
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4. The second contention was that the respondents had not considered the case of regularisation of the applicants in accordance with the direction given by the Tribunal in OA No.442/92. On the basis of the pleadings in the counter-affidavit, the Division Bench came to the conclusion that the Selection Board did not find the applicant fit for appointment. The Bench rejected the contention that the case of the applicants had not been considered in accordance with the directions given in OA No.442/92. However, the respondents were directed to give to the applicants a second chance to appear before the relevant Board and if the Board found them fit the services of the applicants shall be regularised in accordance with law.

5. Annexure 'C' to the present OA shows that in pursuance of the said directions, the applicants were called to appear for the interview before the Selection Committee on 26.8.1996. By a communication dated 20.9.1996 (Annexure 'D'), the applicant had been informed that he had not been found fit for appointment by the Selection Committee. The applicant has not challenged the order dated 20.9.1996.

6. In view of what has been indicated hereinabove, the applicant has been shown enough accommodation and was permitted to be considered twice by the Selection Board but he had not been found fit. The relief claimed for in the circumstances cannot be granted. The OA is dismissed.

  
(K. MUTHUKUMAR)  
MEMBER(A)

  
( B.C. SAKSENA)  
ACTING CHAIRMAN