

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/020/01455/2014

HYDERABAD, this the 21st day of December, 2020.

**Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member**



Taritla Kalyani D/o T.Kameshwara Rao,
Age 27 yrs, Occ – female Nurse,
R/o H.No.60-33-30, Ambedkar Colony,
Malkapuram, Visakhapatnam-530011.

...Applicant

(By Advocate : Mrs.Anita Swain)

Vs.

1. The Union of India, Rep by its Secretary,
Ministry of Defence, South Block,
New Delhi 110011.
2. The Chief of Naval Staff,
Integrated Headquarters, Minstry of Defence,
Sena Bhavan, PO, DHQ, South Block,
New Delhi – 110011.
3. Flag Officer-Commanding-in-Chief (For CRC),
Headquarter Eastern Naval Command,
Naval Base, Arjun block, 2nd Floor,
Visakhapatnam, A.P.530014.
4. The Admiral Superintendent,
Naval Dockyard, Visakhapatnam,
A.P. 530014.Respondents

(By Advocate: Mrs.K.Rajitha, Sr.CGSC)

ORAL ORDER
(As per Hon'ble Mr.B.V.Sudhakar, Administrative Member)

Through Video Conferencing:

2. OA is filed in regard to grant of temporary status to the applicant.
3. Brief facts of the case are that the applicant was appointed on 05.04.2012 as Nurse/ Civilian Sister after being subjected to a regular selection process against a notification and as proof, she has enclosed the experience certificate issued by the respondents. Applicant claims that she has the requisite qualification and based on the same, represented on 30.06.2013 when the respondents issued a notification for filling up 3 posts of Civilian Sister in June 2013. There is no response from the respondents and hence, the OA.
4. The contentions of the applicant are that she is eligible to be conferred temporary status as per DOPT OM dt. 10.09.1993 and concurrent orders of the respondents vide Letter dt. 14.10.1993. Similarly situated employees have been granted temporary status in many cases by the respondents and in some cases, when ordered by the Tribunal. In respect of OA 4/1995 dealing with an identical issue, the order of the Tribunal dt. 22.08.1997 was upheld by the Hon'ble High Court and the Hon'ble Supreme court.
5. The respondents, in their reply, state that the applicant was engaged on daily wage basis for a period of 9 months from 23.04.2012 as Civilian Sister and thereafter, private firms were shortlisted which engaged the applicant to provide Civilian Sister services on outsourcing basis. The



applicant was engaged by the private enterprises and she was paid wages by them. Thus, the applicant was not engaged against a sanctioned post nor was she a regular employee of the respondent organization. There are many other employees in the respondent organization, who have been engaged on contract basis like the applicant.



6. Heard both the counsel and perused the pleadings on record.
7. The dispute is about granting of temporary status to the applicant as per the DOPT OM dt. 10.09.1993 and respondents order dt. 14.10.1993 issued pursuant to the DOPT OM cited. As can be seen from the records on file, applicant was engaged as Civilian Sister on 23.04.2012 on daily wage basis for a period of 9 months and the same was accepted by the applicant on 23.04.2012. Applicant was not appointed against a sanctioned post. Therefore, respondents outsourced the services of Civilian Sister to private firm and the applicant was engaged by them. Therefore, there is no employee- employer relationship between the applicant and the respondents. Wages were paid to the applicant by the outsourced contractor and not directly by the respondents. DOPT OM relied upon by the applicant would come to her rescue if she was selected against a sanctioned vacancy through a regular selection process and she had worked for 240 days in a year. As is evident from the facts, the applicant does not satisfy the condition stipulated. She was appointed only for 9 months and thereafter, she was engaged by outsourced contractor. The order in OA 4/1995 would also not come to the rescue of the applicant for similar reasons. It was also stated that with framing of

new Recruitment Rules, respondents have advertised for filling up the posts on a regular basis, for which the applicant can compete. Besides, respondents have engaged many others on contract basis and they have not been granted temporary status, since there is no such provision to do so based on rules and law. Applicant can be no exception to the same.



Therefore, finding no merit in the OA, we dismiss it, with no order as to costs.

(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

/evr/