

Central Administrative Tribunal
Principal Bench: New Delhi

OA No.27/90

New Delhi this the 13th Day of July, 1994.

Sh. N.V. Krishnan, Vice-Chairman (A)
Smt. Lakshmi Swaminathan, Member (J)

Braham Singh S/o Sh. Balu Ram,
C/o Chowdhury Rohtas Singh,
R/o House No.113,
Nangloi Jatt, Delhi.

...Applicant

(None for the applicant)

Versus

1. Employees State Insurance
Corporation through
Smt. Kusam Prashad, its Director
General, E.S.I. Corporation,
4, Kotla Road, New Delhi.

2. Dr. (Mrs.) Helem Singh,
Director (Medical),
E.S.I. Scheme,
E.S.I. Hospital Complex,
Basai Darapur, Ring Road,
New Delhi.

...Respondents

(By Advocate Sh. G.R. Nayyar)

ORDER(ORAL)

Mr. N.V. Krishnan:-

The applicant, a Dresser, under the Employees State Insurance Corporation (ESIC) has filed this O.A. for a direction to the respondents to grant him selection grade from 1.11.77 and to allot him an official accommodation in the ESIC Complex, Basai Darapur or in the E.S.I. Dispensary, Mayapuri and to confirm the applicant as a Dresser w.e.f. December, 1958 and to quash the impugned Annexures A-1, A-2 and A-3 orders dated 27.9.89, 27.9.89 and 12.9.89 respectively.

2. The applicant was a Dresser in ESIC who was terminated from service under Rule 6 (3) of the E.S.I.C. (Staff and Conditions of Service) Regulations, 1959. This was challenged by him in Writ Petition

No.601/77 before the High Court of Delhi which was received on transfer and registered as T-489/86. The transferred application was disposed of on 28.4.87 by the Annexure P-5 judgement. The impugned order terminating the service was set aside and the respondents were directed to take over the applicant as a Dresser "w.e.f. the date of the termination of his services with all consequential benefits of pay and allowances".

3. In so far as the prayer of selection grade is concerned, the respondents have issued the Annexure P-1 order dated 27.9.89 which states that on the recommendation of the review DPC the case of the applicant for appointment to the post of selection grade Dresser was considered as on 1.11.77, 28.1.83, 8.12.83, 4.12.86 & 25.9.89 and it was found that the applicant was unfit for the post of selection grade Dresser.

4. The learned counsel for the respondents submits that the service of the applicant was terminated on account of his bad record and on the basis of the complaint of theft against them. After reinstatement, the review DPC considered his claims and naturally found him unfit for being given the selection grade on the various dates mentioned in the P-1 order when there was a vacancy. It is further submitted that on the recommendations of the Fourth Central Pay Commission the post of selection grade has since been abolished. In the circumstances, it is stated that the applicant was neither found fit for appointment to selection grade when such post existed, nor can he now have a claim to be considered for such post when such posts have been abolished.

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5. We are of the view that the respondents cannot be faulted in this regard.

6. The applicant has been confirmed as a Dresser w.e.f. 1.7.87 by the impugned order dated 27.9.89 (Annexure P-2). He claims that he should be confirmed w.e.f. 1.11.77. As mentioned above, the history of case reveals that he has an unsatisfactory service record ending with his termination from service. This, however, was set aside by the Tribunal. A DPC was held on 22.9.89 to review his case for confirmation and he was only recommended from 1.7.87. In the circumstances, this decision cannot be assailed on any ground.

7. In so far as the allotment of quarter is concerned, we notice that on 23.3.90 the learned counsel for the applicant stated that the applicant has already been allotted accommodation on 8.3.90 and therefore, he did not press his claim for interim relief. By the impugned order dated 12.9.89 (Annexure P-3) the applicant has been informed that the respondents intend to allot him a quarter at the E.S.I. Hospital Colony, Noida, subject to availability and he was asked to exercise an option in this regard. He failed to exercise such an option.

8. The learned counsel for the respondents states that the accommodation sought for by him is reserved for the hospital staff. The staff of the dispensary are given accommodation at Noida. The applicant was, therefore, offered an accommodation there and he has refused it.

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9. In our view, such accommodation cannot be claimed as a matter of right by any Government employee. Accommodation is given subject to exigencies and availability. If the respondents state that the dispensary staff are provided accommodation in Noida, the applicant cannot insist that he should be given accommodation at the place of his liking. In the circumstances, we find no merit in this claim that he should be given accommodation, as prayed for.

10. In the result, we find no merit in the O.A. which is dismissed. No costs.

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Member (J)

'Sanju'

N.V. Krishnan

(N.V. Krishnan)
Vice-Chairman(A)