

(17)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.No. 263/91

New Delhi this 30th Day of March, 1995.

HON'BLE SHRI J.P. SHARMA, MEMBER (J)
HON'BLE SHRI B.K. SINGH, MEMBER (A)

1. Miss Surjeet Kaur
D/o Shri Arjun Singh
aged 24 years,
L.D.C. ESI Corporation
Regional Office,
Rajindra Place,
New Delhi
R/o C-234 Netaji Nagar
New Delhi
2. Miss Anita Kaushal
D/o Shri Sham Lal
aged 28 years
LDC, ESI Corporation
Regional Office
Rajindra Place N.Delhi
R/o E-156 Kidwai Nagar
New Delhi
3. Miss Sangeeta Suneja
D/o Late Shri L.R. Suneja
aged 25 years
LDC ESI Corporation
Regional Office
Rajindra Place New Delhi
R/o K-IV-47 Old Double Storey
Lajpat Nagar
New Delhi - 24.
4. Miss Honey Bablani
D/o Shri S.S. Bablani
aged 24 years
LDC ESI Corporation
Regional Office
Rajindra Place New Delhi
R/o 388 DDA Flats
New Ranjit Nagar
New Delhi - 8.

... Contd... 2

5. Miss Neeru Dewan,
S/o Shri Dayanand Dewan,
aged 23 years,
LDC, ESI Corporation,
Regional Office
Rajindra Place, New Delhi
R/o Pocket A-1-B-187-C,
Paschim Vihar, New Delhi.
6. Miss Kulbeer Kaur,
D/o Late Shri Ajit Singh,
aged 25 years,
LDC, ESI Corporation,
Regional Office, New Delhi
D-142(B) Pateh Nagar,
Tilak Nagar, New Delhi-18.
7. Miss Sangita Grover
D/o Shri Jagan Nath Grover
LDC, ESI Corporation,
Rajindra Place, New Delhi.
6/5, Subhash Nagar,
New Delhi - 27.
8. Miss Usha Pawar,
W/o Shri J.S. Pawar,
LDC, ESI Corporation,
Regional Office, New Delhi
795/Sector-37, Arun Vihar,
NOIDA.
9. Miss Dayawati,
D/o Shri Banarsi Dass,
aged 26 years,
LDC, ESI Corporation,
Regional Office, New Delhi
315/25, Onkar Nagar B,
Tri Nagar, Delhi - 35.
10. Miss Nirmal Devi,
D/o Shri Ram Kishan,
aged 26 years,
LDC, ESI Corporation,
Regional Office, New Delhi
R/o Village Shahpur Garhi,
H.No.14 PO Narela,
Delhi - 40.
11. Miss P.R. Kumary,
D/o Shri P.K. Raghavan,
LDC, ESI Corporation,
Regional Office, New Delhi,
R/o WZ -861, Naraina Village,
New Delhi - 28.

12. Miss Kala Devi,
D/o Shri Jeet Singh,
LDC, ESI Corporation
Regional Office New Delhi
R/o H.No.3397/1 Reger Pura,
Karol Bagh, New Delhi - 5.
13. Shri Ravi Oberoi,
S/o Shri R.K. Oberoi,
aged 23 years,
LDC, Regional Office,
ESI Corporation, New Delhi
C-41, Manas Vihar, CGHS,
Mayur Vihar, Phase-I,
Delhi - 92.
14. Shri Sumer Singh,
S/o Shri Maha Singh,
aged 23 years,
LDC, ESI Corporation,
Regional Office, New Delhi
Village Sawda Post,
Nizampur, Delhi-81.
15. Shri Kanwaljeet Singh,
Shri Pritam Singh,
aged 29 years,
LDC, ESI Corporation,
Regional Office, New Delhi
R/o M-52, WZ-106, Hari Nagar
Clock Tower, New Delhi-64.
16. Mohd. Kamal Parvez
S/o Shri Wazir Ahmed
aged 24 years,
LDC ESI Corporation,
Regional Office, New Delhi
R/o 1845, Wazir Bagh Street,
Turkman Gate, Delhi-6.
17. Shri Ramesh Kumar Gupta,
S/o Shri Sita Ram Gupta,
aged 24 years
LDC, ESI Corporation,
Regional Office, New Delhi,
R/o H.No.3570-B, Gali No.4,
Narang Colony, Tri Nagar,
Delhi - 35.

.... Petitioners

(By Advocate: None)
-versus-

1. The Union of India
1. The ESI Corporation through
its Director General,
Panchdeep Bhawan,
Kotla Road, New Delhi - 2.
2. The Regional Director
Regional Office,
ESI Corporation,
Rajindra Place,
New Delhi.

... Respondents

(By Advocate: Sh. G.R. Nayar)

Judgement (Oral)

(By Hon'ble Shri J.P. Sharma, Member (J))

The above named applicants have filed this application ~~against~~ ESIC Corporation aggrieved by the decision of the respondents terminating the services of the applicants who have worked for more than 120 days in E.S.I. Corporation and the vacancies are also available in the post of L.D.C. The applicants have prayed for the grant of the following reliefs ;

1. Grant of orders striking down and quashing the decision and order on the file on the basis of the same decision to terminate/ terminating the service of the applicants;

(ii) Grant of orders directing the respondents to allow the applicant to continue to discharge the duties in the post of L.D.C. and to regularise the appointment of the applicants;

(iii) Grant of any other relief which this Hon'ble Tribunal deems appropriate and necessary in the facts of the case; and

(iv) Grant of cost of this Application to the Applicants.

2. A notice was issued to the respondents who contested this application and filed the reply.

3. None appears for the applicants. Shri G.R. Nayyar appears for the respondents and stated that earlier also certain applications were filed by the similar to the present applicants employees of E.S.I. Corporation and the Tribunal by the Order dated 15.2.1991 directed those employees

to be regularised in service. The Director General ESIC has filed Civil Appeal No.5302/92 Director General ESIC & Anr Vs Trilok Chand & Ors before the Hon'ble Supreme Court against the aforesaid judgement of the Tribunal, and the Supreme Court by its Order dated 10.12.1992 allowed appeal of the E.S.I.C. and the applications filed before the Tribunal were dismissed with the following observations :

"Since the process of selection could not be completed for some time, this appointment of the respondents was continued from time to time till candidates were available as a result of the regular selection made in accordance with the prescribed procedure. The respondents, however, claim that they should be regularised on the posts of L.D.C, notwithstanding, the availability of regularly selected candidates for these posts, the appointment of the respondents being made on the aforesaid express condition indicated to them at the time of their appointments."

4. It was also directed in the appeal by the Hon'ble Supreme Court that the respondents (employees) are requested to be paid by the appellants (ESIC) minimum of the pay scale of the post, duties of which they were discharging during the period, they continued to work on the post. Some other petitions came before the Principal Bench and these have also been disposed of in conformity with the judgement of the Hon'ble Supreme Court. It goes to show that the employees were not given benefit of regularisation and were to be replaced by newly selected candidates sponsored by the Staff Selection Commission after conducting selection according to the rules.

5. None appears on behalf of the applicants also to press this application obviously because the Hon'ble

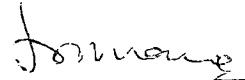
(22)

Supreme Court has in the earlier judgement referred to above declared that the employees engaged by E.S.I.C. were purely on casual basis, and waiting for the regular selection of the SSC candidates, could not be given regular appointment to the post.

6. We heard Shri G.R. Nayak, Counsel for the respondents and we waited for the Learned counsel Shri E.X. Joseph, for the applicant. The learned counsel for the respondents was informed that if the counsel for applicant appears and argued then the matter be listed for reply. Since none appeared on behalf of the applicant and the arguments of the learned counsel for the respondents Shri G.R. Nayak is only that the case is fully covered by the Judgement of the Hon'ble Supreme Court referred to above. So we have considered that aspect of the matter in the light of the above pleadings of the parties.

7. In the light of the above facts and circumstances of this case the application is dismissed, leaving the parties to bear their own costs.


(D.K. SINGH)
MEMBER (A)


(J.P. SHARMA)
MEMBER (J)