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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No. DA-2987/91

Date of decision: 4.3.1992

Shri Rakesh Kumar Applicant

Versus

Medical Supdt., ESI Respondents
Hospital & Others

For the Applicant Shri V.P. Trikha, Advocate

For the Respondents Shri G.R. Nayyar, Advocate

CORAM:

The Hon'ble Mr. P.K. Kartha, Vice Chairman(J)

The Hon'ble Mr. B.N. Dhoundiyal, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgment? *yes*
2. To be referred to the Reporters or not? *No*

JUDGMENT

(of the Bench delivered by Hon'ble Mr. P.K. Kartha,
Vice Chairman(J))

The applicant has worked as a daily-wage Nursing Orderly and is claiming regularisation in the said post. He has sought for a direction to the respondents not to recruit new incumbents as Nursing Orderlies till he is absorbed on regular basis and allow him to perform duty.

2. On 16.12.1991, when the application was admitted, an interim order was passed directing that the respondents

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shall maintain status quo as of that date as regards the continuance of the applicant as casual labourer, and that he shall be allowed to enter the office premises to perform duty.

3. We have gone through the records of the case and have heard the learned counsel for both the parties. The applicant has worked as a Nursing Orderly on daily-wage basis from 9.7.1990 to 4.1.1991 and again from 14.8.1991 to 14.11.1991. His services were dispensed with from 15.11.1991. He had filed the present application after about one month thereafter. The applicant has claimed that he has worked for more than 240 days, while the respondents have disputed this.

4. The applicant has also alleged that after terminating his services, the respondents have engaged many persons as Nursing Orderlies. He has not, however, given the names and other particulars of those who have been so engaged.

5. The engagement of Nursing Orderlies on a regular basis is in accordance with the provisions of the relevant recruitment rules and subject to the availability of vacancies. In our opinion, the applicant has preferential claims over other persons with lesser length of service and outsiders in the matter of engagement as

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Nursing Orderlies on daily-wage basis.

6. In the facts and circumstances of the case, the application is disposed of with the direction to the respondents to consider engaging the applicant as Nursing Orderly on daily-rated basis so long as there is need for engaging such persons in preference to persons with lesser length of service and outsiders. They shall also consider his case for regularisation as Nursing Orderly in accordance with the relevant recruitment rules and subject to the availability of vacancies. For such regularisation, the respondents shall waive the age requirement to the extent of the service already rendered by the applicant. The application is disposed of on the above lines. The interim order passed on 16.12.1991, as modified on the above lines, is hereby made absolute.

7. There will be no order as to costs.

B. N. Dhoundiyal
(B.N. Dhoundiyal)
Administrative Member

overruled
4/3/92
(P.K. Kartha)
Vice-Chairman(Judl.)