

Central Administrative Tribunal
Principal Bench, New Delhi.

(5)

CA No. 947/91

New Delhi, this the 9th day of October, 1995.

Hon'ble Shri A.V. Maridasan, Vice-Chairman (J)
Hon'ble Shri R.K. Ahooja, Member (A)

Amar Singh
S/o Late Sh. Nikka Ram
r/o C-40, Mir Dard Lane
MAMC Campus
New Delhi.

Applicant

(None)

Versus

Delhi Administration : through

1. Secretary (Medical & Health)
Delhi Administration
Delhi.

2. The Chief Secretary
Delhi Administration
Delhi.

3. The Medical Superintendent ..

Respondents

G.B. Pant Hospital
New Delhi.

(By Sh. R.K. Thakur Proxy of
Mrs. Avniash Ahlawat, Adv.)

ORDER (Oral)

Hon'ble Shri A.V. Maridasan, Vice-Chairman (J)

The applicant was recruited as Nursing Ciderly in L.N.J.P. Hospital New Delhi on 19.12.1956 and was later pro-moted as Technical Asstt. (Gr.II) w.e.f. 1.7.1970 but according to respondents on 2.7.1970. When the applicant was transferred from G.B. Pant Hospital there was a representation against the transfer and therefore for want of a vacancy of Technical Asstt. in G.B. Pant Hospital, the applicant was retained against the existing vacancy of Sr. Technical Asstt. but drawing pay in his own scale by Order dated 1.2.89.

Stating that the applicant having 16 years experience as Technical Asstt. should be promoted as Sr. Technical Asstt. and adjusted against the existing vacancy, the applicant made representation. Finding no response, the applicant has filed the application praying that the respondents may be directed to pay the applicant pay attached to Sr. Technical Asstt. from 1.2.89 onwards as he has been performing the duties attached to that post. The applicant has further prayed that the respondents may also be directed to promote and adjust the applicant against the post of Sr. Tech. Asstt. after due formalities on a regular basis.

2. The respondents in their reply have stated that the applicant was retained in G.B. Pant Hospital on his representation as Technical Asstt. against the post of Sr. Technical Asstt. since the post of Technical Asstt. was not available in that hospital. Since the applicant has not been promoted to the post of Sr. Technical Asstt. and as he has been performing the duties attached to the post of a Tech. Asstt. only according to the respondents, the applicant is not entitle to get the pay of Sr. Tech. Asstt. w.e.f. 1.2.89 as prayed by him.

3. When the application came up for final hearing none appeared for the applicant though taken up twice. Shri R.K. Thakur, Proxy counsel appeared on behalf of the respondents. On a careful scrutiny of the pleadings and on hearing the learned proxy counsel of the respondents, we find that the applicant does not have a legitimate grievances to be redressed. He was not appointed as Sr. Technical Asstt. on 1.2.89. His own allegation is that he was 'retained' against the post of Sr. Technical Asstt. allowing him to draw the pay

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only in his post and scale. The allegation in the application that the applicant has been performing the duties attached to the post of Sr. Technical Asstt. has been emphatically denied by the respondents. Since the applicant has not been either appointed or even asked to perform the duties of Sr. Technical Asstt. we do not find any reason to allow the applicant to draw the pay attached to that post. As far as the claim of the applicant for promotion to the post of Sr. Tech. Asstt. the Department is ^{well} directed to consider the applicant also on his turn while considering all those ~~persons~~ ^{persons} eligible to be considered for promotion. There is no case for the applicant that he has been superseded in the matter of promotion.

In the light of what has been stated above, ~~amount on his application which is also mentioned~~ we do not find any material leaving the parties to bear their own cost.

R.K. Ahreja
(R.K. Ahreja)
Member (A)

(A.V. Haridasan)
(A.V. Haridasan)
Vice-Chairman (J)