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Central Administrative Tribunal, Principal Bench, New Delhi

O.A.No.2953/2004
M.A.No.308/2005

New Delhi, this the 4th day of July, 2005

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. S.K. Naik, Member(A)

Shri Gurudutt Ranga,
R/o H.No.41, Sultan Puri Dabbas,
P.O. Pooth Khurd,
Delhi-39

... Applicant

(By Advocate: Shri Harpreet Singh)

Versus

1. Government of NCT of Delhi
Through the Secretary (Health),
Delhi Secretariat, I.P. Estate,
Delhi-2
2. Lok Nayak Hospital,
2, Jawahar Lal Nehru Marg,
Delhi-2
3. The Medical Superintendent,
Lok Nayak Hospital,
2, Jawahar Lal Nehru Marg,
Delhi-2

.... Respondents

(By Advocate: Shri Ajesh Luthra)

Order(Oral)

Justice V.S. Aggarwal, Chairman

The applicant by virtue of the present application seeks to quash
the order of 6.12.2004 passed by respondent no.2 whereby he has been

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directed not to mark the attendance in the respondents' office till the receipt of clarification from the Services Department.

2.The relevant facts are within a short compass and can be delineated. The applicant was appointed as Grade-II (DASS)/Head Clerk in the respondents' office on 19.8.2004. He is stated to have joined the duty on the said date and has been serving the respondents. It is stated that by virtue of the impugned order, the applicant has been directed not to mark his presence and he has not even been paid for the period he has served the respondents.

3.The petition is being opposed and according to the respondents, the ~~order~~^{offer} of appointment has been issued clearly mentioning that the appointment would be subject to fulfillment of certain conditions. Respondents' learned counsel points out that it was disclosed subsequently that the applicant was involved in a criminal case which was pending against him and that fact had been concealed and, therefore, the impugned order was justified.

4.The fact that clearly emerges is that the applicant had submitted the joining report as is apparent from the order of 6.12.004 which reads as under:

"Reference to his joining report dated 19.8.2004 and subsequent receipt of adverse character and antecedent report from police authority vide their letter dated 27.09.200, it has been decided by the competent authority that Shri Guru Dutta Ranga may not be allowed to mark the attendance in the office till the receipt of clarification from the Services Department on the matter.

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Further the attention is drawn to the condition stipulated in the offer of appointment at Col. No. d whereby it was clearly intimated that appointment would be subject to satisfactory character and antecedent report from the concerned police authority.

Hence by virtue of the condition stipulated in the offer of appointment issued by this office, he is hereby directed not to mark the attendance in the office till further orders."

5. Once the applicant had joined and served, indeed it is in the fitness of things that if any action is to be taken, it should so taken in accordance with law regarding which we are not expressing any opinion. The order by virtue of which it had been directed that the applicant should not be allowed to mark the attendance in the office, cannot be sustained.

6. Resultantly, we dispose of the petition holding -

- (a) the impugned order whereby it has been directed that the applicant shall not be allowed to mark the attendance in the office, is quashed;
- (b) nothing said herein however would not restrain the respondents from taking action against the applicant as deemed fit; and
- (c) for the period the applicant has served, the respondents should consider and make the payment to him.

S.K. Naik
(S.K. Naik)
Member(A)

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V.S. Aggarwal
(V.S. Aggarwal)
Chairman