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Central Administrative Tribunal, Principal Bench, New Delhi

O.A.No.1937/2004

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

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

Shri Govind Chand Behera,
S/o late Shri Chintamani Behera,
R/o D-1A/123, Janakpuri,
New Delhi-58

.....Applicant

(By Advocate: Ms. Jasvinder Kaur)

Versus

1. Govt. of NCT of Delhi, through
The Secretary,
Ministry of Health & Family Welfare,
Old Secretariat,
Delhi
2. Medical Superintendent,
G.B. Pant Hospital, Delhi

.....Respondents

(By Advocate: Mrs. P.K. Gupta, proxy for Shri Harvir Singh)

Order(Oral)

Justice V.S. Aggarwal, Chairman

The applicant joined as a casual labour. On an earlier occasion, he had filed O.A. No.1662/97. This Tribunal on 19.3.98 had disposed of the same with the following directions:

"4. I dispose of this OA with a direction to the respondents that in the event the applicant appears before the Administrative Officer, G.B. Pant Hospital, on any working day within the next two weeks from today, alongwith such documents as he has in

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support of his claim to be covered by the Scheme for the grant of temporary status, the Administrative Officer of the G.B. Pant Hospital will examine the same with reference to the records maintained in his office, and thereafter pass a reasoned order, in regard to the applicant's prayer for grant of temporary status, under intimation to him within one month thereafter.

5.As there is no doubt that the applicant has put in a certain number of days of service with the respondents, I also direct that if and when respondents are engaging fresh casual labourers, then subject to the availability of work they should consider the case of the applicant in preference to juniors and outsiders."

2. Thereafter, it is contended that the respondents had advertised the post of Nursing Orderly. Copy of the advertisement appears as Annexure A-1. Applicant's grievance is that he had applied for the post but has not been considered.


3. Respondents' reply is on the record and the same indicates that "it is not clear if the applicant has applied against the said advertisement or not." In such a situation when respondents are not sure, it is obvious that fundamental right of the applicant for being considered for the post was denied in terms that respondents are not even emphatic that they had considered the applicant.


4. We are conscious of the fact that the applicant only has a fundamental right to be considered and not to be appointed.

5. In this backdrop, we dispose of the present application directing the respondents to check up their record and thereafter pass an appropriate speaking order as to if the applicant has been considered for the post of Nursing Orderly and thereupon, the applicant will have a right to seek remedy in

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accordance with law. With these directions, the O.A. is disposed of.


(S.K. Naik)
Member(A)


(V.S. Aggarwal)
Chairman

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