

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL NEW DELHI

(6)

O.A. No. 2655/92
T.A. No.

199

DATE OF DECISION 29-07-93

Shri Parmod Kumar	Petitioner
Shri V.P.Trikha	Advocate for the Petitioner(s)
Versus	
Union of India	Respondent
Shri G.R.Nayyar	Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. J.P.Sharma, Member (J)

The Hon'ble Mr. N.K.Verma, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

JUDGEMENT (ORAL)

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

The applicant was engaged as a daily wager Nursing Orderly with the Respondent No.1. The grievance of the applicant is that inspite of having put the required number of days of service as daily wager, he was removed from service while other juniors to him and equally situated have been regularised. He has prayed for the grant of relief that the respondents be directed to absorb the applicant as Nursing Orderly on regular basis inspite of recruiting new incumbents as nursing orderly. The respondents in their counter reply have opposed the grant of relief on the ground that the total working days of the applicant commencing from 05-11-90 to 15-11-91 comes to 238 days. He has further stated that the service was of casual nature and in accordance with the recruitment rules, the applicant was interviewed

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by the Selection Committee on 10-12-91 but was not selected. The applicant has no case.

2. We have heard the learned counsel for the parties at length and have gone through the records of the case. The applicant was interviewed by the Selection Committee and in spite of the services of being satisfactory, he was not favoured in selection. But no reason of the rejection has been communicated to him. In fact, the Tribunal cannot interfere as an appellate authority with the findings of the selection body unless malice or malafide is alleged against the members of that body or the constitution of the selection committee is alleged to be illegal against the recruitment regulations. There is no allegation on malice in fact or law as well as no malafide against the selection body. We therefore do not find any fault with the findings of the selection body.

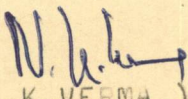
3. The contention of the learned counsel for the applicant is that his work and performance as daily wage nursing orderly during all these period with the respondent No.1 has been quite satisfactory and he should not have been rejected without giving reasons thereof. We are not persuaded by the argument as a selection body has to form the norm of a selection taking into account the suitability of the post a person is considered. The learned counsel for the applicant has also argued that there has been another selection of nursing orderly on casual basis for which interview is said to have been taken place in the year 1992. He has placed a decision of the Principal Bench in OA 2305/92 in the case of Ramesh Kumar Vs. Director, Medical ESI Corporation & Ors. decided on 06-11-92 where the Tribunal in its concluding paragraph of the judgement, ordered that the applicant in that case i.e. Ramesh Kumar be given at least three more chances to appear before the Selection Committee for regular recruitment. The judgement is per incurium and does not lay down a ratio nor it refers any rule, regulation or instructions

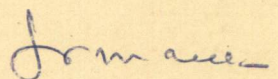
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under which chances after one rejection, should be given to unsuccessful persons. The judgement was interparties. It is passed in that particular case taking into account the circumstances attached to that case.

4. In view of this fact, the aforesaid judgement of Ramesh Kumar does not help the applicant. The application is, therefore, dismissed as devoid of merit.

No order as to costs.


(N.K. VERMA)
Member (A).


(J.P. SHARMA)
Member (J)