

3

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

O. A. NO. 260/00422 OF 2014
Cuttack the 4th day of June, 2014

**CORAM
HON'BLE MR. R.C. MISRA, MEMBER (ADMN.)**

Namita Barik,
aged about 25 years,
D/o: Niranjan Barik,
At: Fakirabad,
Via: Thakurpatna, Dist: Kendrapara,
PIN-754 250,
Odisha.

...Applicant
(Advocates: M/s - G.M. Rath, S. Mishra)

VERSUS

Union of India Represented through

1. The Secretary to the Government of India,
Ministry of Health & Family Welfare,
Nirman Bhawan,
New Delhi-110 001.
2. The Director,
All India Institute of Medical Science,
Bhubaneswar,
At:Sijua, Patrapada,
P.O: Dumu Dum,
Bhubaneswar,
PIN-751019, Dist-Khurda,
Odisha.
3. The Administrative Officer,
All India Institute of Medical Science,
Bhubaneswar,
At:Sijua, Patrapada,
P.O: Dumu Dum,
Bhubaneswar,
PIN-751019, Dist-Khurda,
Odisha.

(Advocate: M/s. S.B. Jena)

... Respondents

ORDER(Oral)R.C.MISRA, MEMBER(A):

1. Heard Shri G.M.Rath, learned counsel for the applicant and Shri S.B.Jena, learned ACGSC on whom copy of this O.A. has been served, appearing for the Respondent-AIIMS on the question of admission of this O.A..
2. Facts of this matter are that applicant in pursuance of an advertisement issued by the All India Institute of Medical Sciences (AIIMS), Bhubaneswar, appeared in a walk-in-interview on 27.6.2013 followed by a written test on the same date and came out successful for engagement as Sister, Gr.II on contractual basis. After the publication of the result, she was issued with an offer dated 26.09.2013 on contractual engagement as Sister, Gr.II in the AIIMS, Bhubaneswar. Since then applicant has been working diligently in this post. However, on 8.5.2014, the Administrative Officer of the AIIMS served a notice on the applicant mentioning that as decided by the Management of AIIMS, Bhubaneswar and as per the terms and conditions of contractual engagement, contractual service of the applicant is discontinued by giving one months' notice period with effect from the date of issue of this letter. This is the reason why the applicant has approached this Tribunal making a prayer for direction to be issued to Respondent-AIIMS to regularize her services by quashing the notice of termination dated 8.5.2014 (Annexure-A/5). According to applicant, since the date of termination will be effective from 8.6.2014 after one month's notice period, the Tribunal should step in immediately to give the required direction to the Respondents.



3. Shri S.B.Jena, learned ACGSC representing the AIIMS has, however, submitted that the applicant was purely working on contractual terms and the notice of termination is in strict conformity with the contractual terms between the employer and the employee. Applicant is not the holder of any civil post and therefore, she cannot approach the Tribunal for any relief. Shri Jena has relied on the decision of this Tribunal dated 3.4.2014 in O.A.No.260/00182/14, in which, prayer of the applicant therein who was a Female Warden contractually appointed had been dismissed on the ground of maintainability. On the point of facts of this case, Shri Jena further submitted that the applicant along with others participated in a walk-in-interview in which 30 such Sisters were appointed on contractual basis. This was only a temporary arrangement till vacancies were to be filled up in a regular manner. In the meantime, regular selection has been made wherein 20 out of 30 candidates have already obtained regular appointment in the AIIMS. 10 such candidates including the applicant, who could not qualify in the regular selection process have approached the Tribunal since their contractual appointments are going to be terminated after giving one months' notice. Shri Jena's contention was that applicant herein is not entitled to any relief because, in the regular process of selection, 20 out of 30 candidates have already been selected and appointed on regular basis having been found eligible. Shri Jena also submitted that all vacancies have been filled up by the AIIMS authorities in the meantime. On both questions of facts and law, Shri Jena opposed the prayer made by the applicant.



6
4. On the other hand, Shri Rath submitted that still AIMS has got un-filled vacancies to be filled up and the applicant should be considered against the said *IR* ~~the~~ vacancy because of her track record and work in the Institute.

5. I have considered the submissions made by the learned counsels for both the sides. Admittedly, applicant was engaged as Sister, Gr.II in the AIIMS purely on contractual basis. It appears that notice of termination has been issued strictly in conformity with this contract. Therefore, applicant cannot challenge this termination notice on the ground that the same is bad in law. This apart, since the applicant is not the holder of any civil post in the Institute, the Tribunal lacks jurisdiction to entertain this O.A. It is also to be noted that in the regular process of selection 20 out of 30 posts have been filled up wherein the applicant has not come out successful. It has also been submitted by Shri Jena, learned ACGSC that in the meantime, all the posts in the AIIMS have been filled up. This being the situation, I do not feel inclined to admit this O.A.

6. However, learned counsel for the applicant has made another submission that the applicant has submitted a representation to the Administrative Officer, AIIMS, Bhubaneswar after the receipt of the termination notice. He, therefore, prayed for direction to be issued to the Administrative Officer to dispose of the said representation. It reveals from the record that applicant has preferred a representation to the Administrative Officer very recently, i.e., on 20.5.2014 and simultaneously has moved this Tribunal. Therefore, the said representation must be under consideration of the concerned authorities. I do not find any ground for issuing direction to the authorities for the disposal of the said representation. However, since representation stated to have been filed is pending, I hope and

Rao

trust that the concerned authorities should consider and dispose of the same in accordance with rules.

With the above observation, O.A. is rejected not being admitted. No costs.

(R.C.MISRA)
MEMBER(A)

BKS