

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 620 of 2012

Friday, this the 20th day of July, 2012

CORAM:

Hon'ble Mr. Justice P.R. Raman, Judicial Member
Hon'ble Mr. K. George Joseph, Administrative Member

Johnson Y., S/o. Late Sri M. Yohannan,
Vilayil Kizhakkethil, Mangad PO,
Kollam District, Pin – 691 015.

..... **Applicant**

(By Advocate – Mr. P.N. Sasidharan)

V e r s u s

1. The Medical Superintendent,
ESIC Hospital, Asramam,
Kollam-691 002.

2. Director of Insurance Medical Service,
Thiruvananthapuram-695 014.

3. The Director General,
Employees State Insurance Corporation,
Panchdeep Bhavan, C.I.G. Marg,
New Delhi-110 002.

4. Union of India, represented by its Secretary,
Government of India, Ministry of Health,
New Delhi – 110 001.

..... **Respondents**

[By Advocate – Mr. T.V. Ajayakumar (R1&3)]

This application having been heard on 20.07.2012, the Tribunal on the same day delivered the following:

ORDER

By Hon'ble Mr. Justice P.R. Raman, Judicial Member-

The applicant claims regularization of his services in the E.S.I. Corporation. According to him he was an employee in the ESI Hospital,



Asramam, Kollam which was taken over by the Corporation. All the employees who were working as on the date of taking over was taken over by the Corporation but the applicant was not taken over. Thus, he claims appropriate relief. He made a representation and a speaking order Annexure A7 was passed. It is mentioned in Annexure A7 as under:-

“Whereas Sh. Johnson Y. filed WPC No. 22864/2011 before the Hon'ble High Court, Kerala seeking direction to UOI & ESIC to consider his case of regularisation as plumber in ESI Hospital, Asramam, Kollam.

Whereas the Hon'ble Court vide its judgment dated 12.10.2011 directed the respondent -3 (Director General, ESIC) to consider the Ext. P-6 (petitioner's representation dated 29.6.11) in accordance with law and to pass appropriate orders thereon.

After having perused Ext. P-6 (petitioner's representation dated 29.6.11) and other relevant records, following facts emerged before the undersigned-

1- The ESI Corporation took over the ESI Hospital Asramam, Kollam from the State Government w.e.f. 1.1.2003. All officers and staff who were working in the said hospital as on 1.1.2003 were taken on deputation in the ESIC hospital, Asramam, Kollam and those deputationists who opted permanent absorption were absorbed in the ESIC, in accordance with the rules, regulations and guidelines on the subject. Neither in the list of employees seeking deputation in the ESIC hospital, Asramam nor in the list of employees seeking absorption thereafter, the name of Sh. Johnson Y. was there. Apparently Sh. Johnson Y. was not in ESI Hospital, Asramam, Kollam as on 1.1.2003 nor thereafter. The ESIC is neither aware of whether Sh. Johnson Y. had worked in ESI Hospital, Asramam, Kollam nor where was he working thereafter? Shri Johnson Y. could not produce any evidence regarding his working in ESIC Hospital, Asramam, Kollam after its taking over on 1.1.2003. Sh. Johnson Y. had not been a regular employee of the ESI Hospital, Asramam, Kollam when it was taken over by the ESIC. Also he was not in the list of employees who had sought deputation/absorption in the ESIC. ESIC has not engaged any plumber on contract basis in its hospital at Asramam, Kollam.

It is, thus, a false statement on the part of Sh. Johnson Y. that from September 2001 onwards he continued to work in the hospital as a contract worker (plumber) till date.

2) ESI Corporation is a statutory organization under the Ministry of



Labour, Govt. of India and is following laid down procedure for recruitment. Vacancies are filled by way of open advertisement, Competitive written examination and/or interview. Mere fact that the applicant has claimed to have worked in ESI Hospital, Asramam somewhere as early as 2000-2001 does not entail him any right for regular job/deputation/absorption in the ESIC.

For the above reasons, petitioner Sh. Johnson Y. is not entitled for absorption in ESIC. Petitioner's representation dated 29.6.11 is hereby disposed of rejecting the request made by him.

This Speaking Order is passed in compliance with the Hon'ble Court judgment dated 12.10.2011 on WP(C) No. 22864/2011."

2. In view of the above and in the absence of any material contra it is seen that the applicant is not an employee as on 1.1.2003 and it is not his case that he was a regular employee as on the roll on 1.1.2003 when the hospital was taken over by the Corporation. If so, the applicant cannot legally enforce any claim for regularization in the E.S.I. Corporation. We find no merits in this Original Application and it is accordingly, dismissed.


(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER


(JUSTICE P.R. RAMAN)
JUDICIAL MEMBER

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