

**Central Administrative Tribunal
Principal Bench**

OA No. 2247/2017

This the 17th day of July, 2017

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

Farrha Khan,
Aged about 29 years
Group 'C' Nurse,
D/o Mr. A.R.Khan,
Working under Medical Superintendent,
Directorate, (Medical) Noida
ESIC Model Hospital
Sector-24,
Noida, U.P.
Resident of
House No. 56 (Ground Floor)
Ward No.4,
Mehrauli,
New Delhi-110030.

- Applicant

(By Advocate: Mr. K.K.Patel)

Versus

1. Union of India
Through Secretary,
Ministry of Labour & Employment,
Govt. of India (Social Security Division),
Shram Shakti Bhawan,
Rafi Marg,
New Delhi-110001.
2. The Director General,
Headquarters Office,
Employees' State Insurance Corporation (ESIC),
Panchdeep Bhawan, CIG Marg,
New Delhi-110002.
3. The Medical Commissioner,
Headquarters Office,

Employees' State Insurance Corporation (ESIC),
Panchdeep Bhawan, CIG Marg,
New Delhi-110002.

4. The Director,
Directorate, (Medical) Noida
ESIC Model Hospital,
Sector-24,
Noida, U.P.-201301.
5. The Principal
Raj Kumari Amrit Kaur College of Nursing,
Lajpat Nagar,
New Delhi-110024.

- Respondents

(By Advocate: Mr. Shailendra Tiwary for respondent no.1 and
Ms. Punam Singh for respondents no.2,3 & 4)

ORDER (ORAL)

The applicant is presently working as a Staff Nurse at ESI Model Hospital, Sector-24, Noida. She intended to appear in the entrance exam for M.Sc. (Nursing) which was to be conducted by respondent no.5, Raj Kumari Amrit Kaur College of Nursing. The applicant vide her Annexure A-1 letter dated 25.02.2017 requested respondent no.4 to issue work experience certificate and character certificate, which was issued to her by respondent no.4 vide Annexure A-2 order dated 06.06.2017. The applicant appeared in the entrance examination which was conducted on 30.04.2017. She secured first position in the General category candidates. Thereafter, she applied for grant of study leave of two years vide her Annexure A-5 letter dated 26.05.2017 to respondent no.4. Her request, however, has been rejected by the

respondents vide letter dated 14.07.2017 issued by the Headquarters Office of ESIC. This letter is addressed by the Headquarters Office to Director (Medical) Noida, ESIC Model Hospital. The letter reads as under:

“I am directed to refer to your office letter no.211-A-18/13/1342/NH-2104 dated 31.05.2017 on the captioned subject. In this connection, it is informed that as per existing Recruitment Regulations of ESI Corporation, essential qualification required for the post of Staff Nurse is Diploma in General Nursing Midwifery and no post in the Nursing cadre requires M.Sc. as an essential qualification. Thus, candidates with M.Sc. (Nursing) are not required for imparting services in the hospitals.

Further, provision Study Leave also stipulates for “Higher studies or specialized training in a professional or technical subject having a direct and close connection with the sphere of his/her duties.”

Based on the above, the request of the official for Study Leave to pursue M.Sc. (Nursing) has not been acceded to by the Competent Authority. Official may be informed accordingly.”

2. Heard learned counsel for the parties.
3. Sh. K.K.Patel, learned counsel for the applicant besides reiterating the averments made in the OA submitted that the respondents while processing the application of the applicant for grant of study leave had prepared a check list, a copy of which is at Annexure A-6. He submitted that in this check list, respondent no.4 had indicated at column 8 that the study leave application was recommended and at column 9 had indicated that the course which the applicant was going to pursue, i.e., M.Sc. (Nursing) would be in public interest and helpful to the Corporation

hospital. Sh. Patel further drew my attention to Annexure A-8 study leave guidelines of ESIC which would indicate that an employee having put in five years of regular service is entitled for grant of study leave, the employee concerned, however, has to furnish a bond. Sh. Patel further submitted that applicant had sought some information under RTI from the respondents which have since been provided to her (Annexure A-9). According to the information furnished by the respondents, the Standing Committee of ESIC, in its meeting held on 09.06.2016, had decided that at any given point of time not more than 4% medical officers of effective strength may be granted permission for higher studies. This 4% limit is also applicable to nursing personnel as well. Sh. Patel further argued that quite a number of employees have been granted study leave in the past in terms of study leave guidelines dated 13.03.2011. He, thus, submitted that the respondents are not justified in denying study leave to the applicant and as such prayed for allowing the OA.

4. Ms. Punam Singh, learned counsel for the respondents drew my attention to the letter dated 14.07.2017 issued by the Headquarters Office of ESIC whereby the applicant has been denied study leave. She said that Headquarters Office, after taking into consideration the functional requirements of the ESIC Hospital, has done so.

5. I have considered the arguments of the learned counsel for the parties and have also perused the pleadings. Admittedly, the applicant had intimated to the respondents that she was

intending to take up M.Sc. (Nursing) entrance exam which was to be conducted by respondent no.5 on 30.04.2017. In response to her intimation, as required by her, respondents have also issued to her work experience certificate and also character certificate which were required for her participating in the entrance exam. The applicant has not only been successful in the entrance exam but has also secured first position in the General category candidates for which ESIC should feel proud of. I have also gone through the study leave guidelines of the respondents (Annexure A-8) which lay down the eligibility criteria for the sanction of study leave which *inter alia* stipulates five years of regular service and execution of a bond. Applicant is fully eligible in terms of these guidelines. The letter dated 14.07.2017 of the respondents denying her the study leave is not at all a speaking order. A similar matter had already been adjudicated by a coordinate bench of this Tribunal, i.e. Ahmedabad Bench in OA No.432/2016 dated 15.07.2016. Considering the fact that the applicant had not concealed any fact from the respondents while appearing in the entrance exam and that she had obtained requisite certificates from the respondents at the time of participating in the exam, I am of the view that the respondents have illegally denied her permission for the study leave. As noticed hereinabove, the applicant is fully eligible for the grant of study leave in terms of the guidelines of the respondents.

6. In the conspectus of the discussion in the foregoing paras, the Original Application is allowed. The respondents are directed

to sanction study leave to the applicant within two days i.e. by 19.07.2017 and facilitate her to join the M.Sc. (Nursing) course starting from 20.07.2017.

Order **DASTI.**

(K.N. Shrivastava)
Member (A)

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