

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Original Application No.180/00199/2018

Monday, this the 26th day of February, 2018

CORAM:

Hon'ble Mr.U.Sarathchandran, Judicial Member
Hon'ble Mr.E.K.Bharat Bhushan, Administrative Member

1. Benoy K.Paulose
S/o.K.K.Paulose
Staff Nurse, ESIC Hospital, Udyogamandal
Ernakulam – 683 501
Residing at Keerikkattil House, Airapuram P.O
Koozhoor – 683 541
2. Arun P.B
S/o.P.N.Balakrishna Pillai
Staff Nurse
ESIC Hospital, Udyogamandal, Ernakulam-683 501
Residing at Puthulokkil House, Muthalakodam P.O
Thodupuzha, Idukki, Pin – 685 605
3. Baburaj P.K
S/o.Krishnan Nair
Staff Nurse
ESIC Hospital, Udyogamandal
Ernakulam – 683 501
Residing at Vadakkedath House
Omasseri Via, Calicut – 673 582
4. Eldho.M.George
S/o.P.George
Staff Nurse
ESIC Hospital, Udyogamandal
Ernakulam – 683 501
Residing at Mukulath Hose
Valayanchirangara P.O
Perumbavoor – 683 556

. . . **Applicants**

(By Advocate – Mr.Elvin Peter P.J)

V e r s u s

<p>1. Union of India Represented by its Secretary Ministry of Labour & Employment Shram Shakthi Bhavan, Rafi Marg, New Delhi- 110 001</p> <p>2. Employees' State Insurance Corporation Represented by the Director General Employees' State Insurance Corporation Head Quarters Office, C.I.G Road, New Delhi -110 001</p> <p>3. The Director General Employees' State Insurance Corporation Head Quarters Office, C.I.G Road New Delhi -110 001</p> <p>4. The Medical Superintendent ESIC Hospital, Udyogamandal Ernakulam – 683 501</p>	<p style="margin-bottom: 10px;">. . .</p> <p style="margin-top: 10px;">Respondents</p>
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(By Advocate – Mr.S.Sreenath,ACGSC for R1, Mr.Sandesh Raja for R 2-4)

This Original Application having been heard on 21.02.2018, the Tribunal on 26.2.2018 day delivered the following:

OR D E R

Per: **HON'BLE MR.U.SARATHCHANDRAN, JUDICIAL MEMBER**

Applicants are working in the cadre of Staff Nurse in Group C under the Employees State Insurance Corporation (ESIC for short) Hospital, Udyogamandal. They contend that as per the 'Important Note' contained in Annexure A-1 notification for recruitment of staff in various para-medical cadres in the ESIC the candidates appointed shall be appointed in the State for which application is submitted and are liable to be transferred in any Medical Institution/Establishment/SSMC office in that State and are also liable to be transferred to any part of India on promotional posts. According

to them, being appointed as Staff Nurses under the ESIC in the State of Kerala where they are recruited, they are not liable to be transferred outside the State while continuing as Staff Nurse in the post. Applicants apprehend that by Annexure A-8 memorandum issued by the ESIC on 4.5.2017, proposing to amend the recruitment regulations for the post of Staff Nurse, Nursing Sister, Assistant Nursing Superintendent in ESIC for which objections have been invited from the stake holders, they would lose their right to remain in Kerala. Applicants state that they have submitted Annexure A-9 to Annexure A-12 representations expressing their concerns relating to the proposed amendment of the regulations. Applicants in this Original Application seek relief as under:

“a. To issue a direction to the 3rd respondent to consider and pass orders of Annexures A-9 to A-12 before finalizing Annexure A-8 proposed amendments.

b. To issue a direction to the respondents not to treat the post of staff nurse as on all India basis after the re-categorizing of the post as Group 'B' post.

And

c. Grant such other and further reliefs as this Tribunal may deem fit and proper in the facts and circumstances of the case.”

2. Applicants have also sought for an interim direction to consider and pass orders of Annexures A-9 to Annexure A-12 before finalising Annexure A-8 proposed amendments.

3. We have heard Advocate Shri.K.P.Ganesh representing Mr.Elvin Peter.P.J, learned counsel for the applicants and perused the records

produced by the applicants. Mr.Venu Menon, Advocate representing Mr.Sandesh Raja takes notice on behalf of respondent nos.2-4 and Mrs.Thanuja representing Mr.S.Sreenath,ACGSC takes notice on behalf of respondent no.1.

4. We note from Annexure A-8 memo circulated by the ESIC that the revision of recruitment regulations for the posts of Staff Nurse, Nursing Sister etc is under consideration and that it is only a **revised proposed draft** circulated in the official website for seeking comments / remarks of all stake holders. Since the grievance of the applicants is still in an inchoate state - pertaining to a proposed amendment, the draft of which has been circulated for inviting amendments of the stake holders - we are of the opinion that no adjudication can be made on such proposed drafts at this stage. Therefore, we feel that the Original Application is highly premature. Nevertheless, if the respondents have received Annexures A-9 to A-12 representations/amendments from the applicants, they are obliged to consider the same before finalisation of the revised recruitment regulations.

5. With the above observations, we dismiss the Original Application as being pre-mature. Applicants are at liberty to approach this Tribunal if they are aggrieved by the revised recruitment regulations, if any, notified by the ESIC. Parties are directed to suffer their own costs.

**(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER**

**(U.SARATHCHANDRAN)
JUDICIAL MEMBER**

List of Annexures

Annexure A-1 - True copy of the notification issued by the 2nd respondent

Annexure A-2 - True copy of the order No.542A.12.12 (R.ec.Cell) MHA 2011 Vol IV dated 5.9.2012 of the 4th respondent

Annexure A-3 - True copy of order No.542.12 (R.ec.Cell) MHA 2011 Vol IV dated 5.9.2012 of the 4th respondent

Annexure A-4 - True copy of order No.542.12 (R.ec.Cell) MHA 2011 Vol IV dated 5.9.2012 of the 4th respondent

Annexure A-5 - True copy of order No.542.12 (R.ec.Cell) MHA 2011 Vol IV dated 5.9.2012 of the 4th respondent

Annexure A-6 - True copy of Notification dated 1.1.2014 amended the Central Civil Services (Classification, Control and Appeal) Rules, 1965

Annexure A-7 - True copy of the order F.No.C-18/11/40/08-Med-IV Part I dated 12.1.2018

Annexure A-8 - True copy of Memorandum No.F.No.A-12/11/1/2017 – MED-VI dated 4.5.2017 issued by the 2nd respondent.

Annexure A-9 - True copy of objection submitted by the 1st applicant dated 7.2.2018

Annexure A-10 - True copy of objection submitted by the 2nd applicant dated 7.2.2018

Annexure A-11 - True copy of objection submitted by the 3rd applicant dated 7.2.2018

Annexure A-12 - True copy of objection submitted by the 4th applicant dated 7.2.2018.

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