

Central Administrative Tribunal
Patna Bench, Patna.
[Circuit Court at Ranchi]

OA 51/00060/2017

Date of Order:- 22.10.2018

C O R A M

Hon'le Shri K.N. Shrivastava, Member A)
Hon'ble J. V. Bhairava, Member [J]

Smt. Nasima Parween, aged 37 yrs. D/o Shri Shamsuddin Ansari resident of Semartoli, P.O.- & P.s.- Kankey, District- Ranchi

....Applicant

By Advocate : M.A. Khan

Vs.

1. Union of India through Director, Central Institute of Psychiatry, Government of India, P.O. & P.S. Kankey, District- Ranchi-834006

..... Respondents.

By Advocate : Shri H.K. Mehta

O R D E R
(oral)

Per K.N. Shrivastava, M [A] :- The applicant was appointed as a Safaiwali by the respondents vide Annexure A/1, OM dated 07.08.2013. The applicant had applied for the said post pursuant to the Annexure R/1 advertisement dated 12.11.2010 issued by the respondents. One of the essential criteria prescribed therein was that the candidate should possess minimum 3 years of working experience.

2. The applicant, after appointment was put on probation for period of two years which she successfully completed. There has not been any complaint with regard to her performance as such. However, the respondents vide their impugned Annexure -3, order dated 18.08.2016, terminated her service on the ground that she had submitted a false experience certificate purporting to have been issued by Dr. Sarjoo Prasad, Sajoo Nursing Home, Ranchi.

3. Aggrieved by Annexure A/3 order, the applicant approached this Tribunal through instant OA praying for the following reliefs :-

"[8.i] To quash the order dated 18.08.2016 (Annexure -3)

[8.ii] To direct the respondents to allow the applicant to work as 'Safaiwala" under respondents with all consequential benefits."

4. Pursuant to the notice issued by the applicant, the respondents filed their written statement, to which rejoinder has been filed by the applicant. On completion of pleadings, argument of I/c for both parties was heard today.

5. Shri M.A. Khan, I/c for applicant submitted that the applicant was not indulged in any misrepresentation or false suit and that she indeed had worked at Sajoo Nursing Homes. He submitted that the Dr. Suresh Prasad disowned certificate issued by him to the applicant primarily on the ground of escaping from his liability of paying her PF, ESIC liabilities.

6. Shri H.K. Mehta, I/c for respondents submitted that the advertisement had itself made it clear that a candidate could be declared disqualified if he or she furnishes any false certificate for securing the appointment. He vehemently argued that the applicant had submitted a certificate purporting to have been issued by Dr. Suresh Prasad, Sarjoo Nursing Home but on verification Dr. Suresh Prasad had completely denied having issued such certificate. Shri Mehta has thus argued that the applicant has secured appointment on the basis of a false certificate which is not in terms of the advertisement therefore her appointment was liable to be cancelled and accordingly has been done vide Annexure A-3 order dated 18.08.2016.

7. We have considered the arguments submitted by the I/c for the parties also perused the pleadings . We would like to observe that the requirement of experience for the post of Safaiwali itself was somewhat bizarre. Be that as it may, the ground reality is that for getting such experience certificate for a period of three years could not have been easy for any candidate for the simple reason that the contracting agencies refrains from issuing such certificate for escaping their liabilities relating to contractual employee. In the instant case, the applicant has served the respondents organization more than three years as a Safaiwali and there is no any complaint or any adverse comment in regard to her performance. The experience of three years insisted the advertisement, as a matter of fact has been acquired by the applicant while in service under respondents itself. If at all the respondents were legally obliged to

complete verification of all the certificates submitted by the applicant during the two years of probation itself. After having declared successful of probation period, it was not proper on their part to terminate her services.

8. In that contest, we quash and set aside the Annxure-3 termination order dated 18.08.2016 and direct the respondents to reinstate the applicant in service with all consequential benefits. We however make it clear that the applicant will not be entitled for interest on any arrear of pay. The O.A, accordingly stands allowed.

[Jayesh V. Bhairavia] M [J]

[K.N. Shrivastava] M [A]

/mks/