

.1.

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00201/2019

Friday, this the 12th day of April , 2019

CORAM:

HON'BLE Mr.E.K.BHARAT BHUSHAN, ...ADMINISTRATIVE MEMBER
HON'BLE MR.ASHISH KALIA, ...JUDICIAL MEMBER

Cdr. Padmanabhan E.P. (Retd),
No.89108T of Indian Navy,
4F, NJK Nandanam,
Chakola Colony,
Perumanur, Thevara,
Kochi, Kerala – 682 015.Applicant

(By Advocate Mr..Sathyanathan)

Versus

1. Union of India,
Represented by Secretary,
Ministry of Defence,
South Block,
New Delhi – 110 011.
2. The Managing Director,
Ex-Servicemen Contributory Health Scheme,
Central Organisation,
Adjutant General's Branch Integrated HQ of
MoD (ARMY) Thimayya Marg,
Near Gopinath Circle, Delhi Cantt-110 010.
3. The Regional Director,
Regional Centre ECHS Kochi,
Naval Base, P.O.,
Kochi-682 004.
4. Shri General Office Commanding
HQ K&K Sub Area,

.2.

Cubbon Road, Bangalore – 560 001.

5. Station Commander,
Station Cell (ECHS),
C/o DSC Centre,
District Hospital,
P.O., Kannur – 670 017.Respondents

(By Mr. Brijesh A.S., ACGSC for Respondents)

This application having been heard on 10th April, 2019, the Tribunal on 12th April, 2019 delivered the following :

ORDER

HON'BLE MR.E.K.BHARAT BHUSHAN,ADMINISTRATIVE MEMBER

The applicant is a retired Commander of Indian Navy. He superannuated from service on 30.09.2012 and after re-employment, was finally released on 03.09.2015. Retired Commissioned Officers of the Armed Forces of India are eligible for consideration for appointment to the post of Officer-in-Charge (OIC) of Ex-Servicemen Contributory Health Scheme (ECHS) Polyclinics. Out of 14 ECHS Polyclinic under the Kerala Regional Centre, there is one at Kalpetta. In response to an advertisement of a vacancy of Officer-in-Charge, ECHS , Kalpetta in 2018, the applicant had applied and was called for an interview on 19.05.2018.

2. The applicant received an offer letter dated 14.02.2019, a copy of which is at Annexure A4, directing him to submit his willingness to be appointed as OIC at Kalpetta Polyclinic. The applicant submitted his willingness on the

.3.

same day as per Annexure A5.

3. The applicant was surprised to receive a letter dated 22.02.2019, copy of which is at Annexure A6, which mentioned that as directed by higher authorities a fresh interview is proposed to be conducted in the month of March, 2019 for the post. When he represented to the Officer-in-Charge at Kannur, he was told that further instructions on the subject are awaited. Subsequently it came to the applicant's notice that Station Cell, ECHS had published an advertisement in newspapers calling for applications for appointment to the post of Officer-in-Charge, Kalpetta Polyclinic and interview was scheduled to take place some time in 3rd week of March, 2019. The applicant is aggrieved by the action on the part of the respondents to go for a fresh selection after he had expressed his willingness to join the post that was offered to him. He seeks the following reliefs through the OA.

- (i) to call the records and quash Annexure A6.
- (ii) issue a direction to the respondents to appoint the applicant as the Officer-in-Charge, Kalpetta ECHS Polyclinic with effect from 1-4-2019.
- (iii) to issue such other further reliefs as this Hon'ble Tribunal may deemed fit and proper in the facts and circumstances of the case.

And

- (iv) award costs of this proceedings.

4. In the reply statement filed on behalf of the respondents, it is stated

.4.

that the selection for which the applicant had been interviewed was meant for financial year 2018-19 and he is not entitled to a selection scheduled for a subsequent year. The posts are being offered on contractual basis and the period of contract is one year. In respect of Kalpetta Polyclinic, the applicant had been selected and is placed in the reserve panel as 'Reserve-3' in order of merit for the year 2018-19, beyond which he has no vested right.

5. As per the extract of ECHS letter dated 22.12.2017, copy at Annexure R5(a) the following is stated:

"All employees earmarked as 'reserve' under the AOR of sanctioning authority for all ECHS establishments will be part of common pool and can be employed on choice cum merit (to be decided by Board on marks obtained out of 100) to any PC/ECHS est within AOR of sanctioning authority subject to his willingness. If person with higher merit does not take up the assignment, the same can be passed to next person 'on merit'. Reserve list will deem to be over by end of the financial year for which the vacancy was advertised. For example, if an advertisement has been made for vacancies commencing wef 01 Apr 2018 & beyond, reserve list will be valid till FY 2018-19 (till 31 Mar 2019). If a person has given willingness for working in certain ECHS establishments but does not take up assignment on 'offer' he/she will be ineligible for next Three years (Gap between offer is made and first of next month in which advertisement is published). This will not apply to reserve category."

In accordance with the above, the panel of reserve comprising the applicant's name was valid only till 31.03.2019.

6. Annexure A4 had been issued due to "clerical oversight" and similar letters had been given to similarly placed persons. This was due to an inadvertent error. In respect of 2019-2020 a fresh notification has been issued and selection was over on 23.03.2019. The applicant had not applied

.5.

for selection during 2019-2020 and can claim no right for appointment.

7. Heard Shri V.K.Sathyananthan, learned Counsel for the applicant and Shri Brijesh A.S., learned ACGSC for the respondents. All the pleadings were examined. The selection has been for a contract post of Officer-in-Charge, ECHS, Kalpetta. The applicant was served with a letter at Annexure A4 informing him that "he has been selected for employment" on the basis of the interview held and that he has been placed in the merit as 'Reserve'. The same communication wanted him to confirm whether he is willing to accept the employment. This communication dated 14.02.2019 was responded to by the applicant on the same date. Although it is claimed that this letter is due to a clerical error, the respondents did not bother to cancel the same and had entered into yet another recruitment process as is seen at Annexure R5(e) notification which appeared in Press on 26.02.2019. We are astonished by the negligence and lack of application of mind on the part of the respondents as less than two weeks separate the offer of appointment given to the applicant and the publication of the employment notice for fresh selection. The respondents did not even care to cancel the selection and inform the applicant of the same. A valued veteran like the applicant ought not to have been treated in such a desultory manner. The fact that they have repeated this error with other candidates also does not take anything away from the callous approach of the respondents.

.6.

8. Having been offered the post and having communicated his willingness to the respondents, the latter ought to have acted in a responsible manner. We have no disagreement with the respondents limiting the period of contract to one year, but having advertised for persons to apply on contract basis in May, 2018, then offering them employment and seeking their willingness to accept the same in February, 2019, the respondents were clearly wrong in launching another recruitment drive less than two weeks from issuance of Annexure A4.

9. Under the circumstances, we are of the view that the OA has merit on its side. The respondents are directed to appoint the most suitable candidate from the list of candidates who appeared for the interview on 19.05.2018. Whether the applicant is eligible for appointment would depend on whether he is the most meritorious candidate as per the merit list. As the year 2018-2019 is now over, the one year contract shall be for 2019-2020. OA is disposed of with the direction as above. Consequent to the disposal of OA, MA No.403/2019 is dismissed. No costs.

**(ASHISH KALIA)
JUDICIAL MEMBER**

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

sd

List of Annexures in O.A. No.180/00201/2019

1. **Annexure A1** – True copy of the Commendation Card dated 4.12.1997 by the F.O.C-in-C SNC.
2. **Annexure A2** - True copy of the Commendation Card dated 15.8.2000 by the CNS.
3. **Annexure A3** - True copy of the Certificate of Service issued by the Indian Navy.
4. **Annexure A4** - True copy of the letter No.2008/ECHS/Emp/KPTA dated 14.2.2019
5. **Annexure A5** - True copy of the willingness dated 14.2.2019 submitted by the applicant.
6. **Annexure A6** - True copy of the letter No.2008/ECHS/Emp/KPTA dated 22.02.2019.
7. **Annexure R5(a)** - True copy of the letter of Extract of Central Org ECHS letter No.B/49760/AG/ECHS(R)/2017 dated 22.12.2017.
8. **Annexure R5(b)** - True copy of the willingness letter issued to Reserve 1 candidate, Col RK Nair (Rtd).
9. **Annexure R5(c)** - True copy of the willingness letter issued to Reserve 2 candidate, Lt Col N.B.Chinnappa (Rtd).
10. **Annexure R5(d)** - True copy of the extract of advertisement published in The Hindu news paper.
11. **Annexure R5(e)** - True copy of the extract of advertisement published in Mathrubhumi news paper.
