

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

OA/310/00133/2019

Dated Wednesday the 6th day of February Two Thousand Nineteen

**CORAM : HON'BLE MR. R. RAMANUJAM, Member (A)
HON'BLE MR. P. MADHAVAN, Member (J)**

Dr. N. Srinivasa Ragavan. M. D,
3-E, Block 11, Asvini Amarisa Phase II,
77, Kalasathaman Koil Street,
Ramapuram, Chennai 600089.Applicant

By Advocate M/s. L. Chandrakumar

Vs

1. The Director General,
Employees' State Insurance Corporation,
Panchdeep Bhawan,
Comrade Inderjeet Gupta (CIG) Marg,
New Delhi 110002.

2. The Joint Director (Recruitment),
Employees State Insurance Corporation,
Panchdeep Bhawan,
Comrade Inderjeet Gupta (CIG) Marg,
New Delhi 110002.Respondents

ORAL ORDER**(Pronounced by Hon'ble Mr. R. Ramanujam, Member(A))**

Heard. The applicant has filed this OA seeking the following relief :

"To call for records in relation to the selection and recruitment of Teaching Faculty on regular basis for ESIC, PGIMSR and Medical College, KK Nagar, Chennai and to consequently direct the respondents to consider the claim of the applicant for appointment as Professor (Forensic Medicine) in any of the existing or vacancy cause due to non-joining and not reporting for duty by the selected incumbent and to extend all accrued service benefits thereto from the date of initial appointment of the applicant and to pass such further or other order as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case and thus render justice."

2. It is submitted that the applicant was eligible to be considered for the post of Professor (Forensic Medicine) on which he was already working on contractual basis. When Annexure A1 notification was issued for filling up of various posts, one Unreserved post of Professor was sought to be filled in Forensic Medicine in PGIMSR, Chennai. The applicant was allowed to participate in the selection process, the results of which are available in Annexure A4 notification dt. 21.09.2016. One Pradeep Kumar M.V had been selected in the General category for the said post. However, it is understood that the said Pradeep Kumar has not joined and, therefore, the post is lying vacant.

3. Learned counsel for applicant would submit that the applicant had earlier approached the Hon'ble Madras High Court in WP No. 41083/2016 regarding his grievance on which an interim order was passed by the Hon'ble High Court on 23.11.2018 directing the respondents to permit the petitioner to continue his services until further orders. However, subsequently by Annexure A6 order dt.

23.01.2019 wherein the Hon'ble High Court noted that the petitioner ought to have approached this Tribunal u/s 3(q) of the Administrative Tribunals Act, the WP was dismissed granting liberty to the petitioner to approach this Tribunal within a period of two weeks. It was also directed that the interim order granted by the Court dt. 23.11.2018 would continue for a period of two weeks. Accordingly, the applicant is before this Tribunal in this OA.

4. Learned counsel for the applicant would also produce a copy of the intimation received by him from Dean, Medical College, ESIC & PGIMSR to the effect that the applicant's contractual engagement as Professor in the Forensic department 'stands terminated' on 06.02.2019 in terms of the judgment of the Hon'ble Madras High Court in WMP No. 35073/2016 & 25251/2018. Accordingly, the applicant seeks immediate intervention of this Tribunal for his continuation on the said post.

5. Learned Counsel for the applicants would contend that the ESIC Medical College & PGIMSR had no authority to issue a termination order even before the expiry of the two weeks' time granted by the Hon'ble High Court.

6. We have considered the matter at the admission stage. The applicant has not attached a copy of his appointment order under contractual engagement. It is, therefore, not clear what the terms and conditions of the appointment were, whether any violation of the terms & conditions had occurred and whether any injustice has been caused to the applicant in terms of such terms & conditions. On the applicant's own admission, he participated in the selection process but

had not been selected. There is no allegation of any malpractice, bias or legal infirmity in the selection process on account of which the said Pradeep Kumar M. V was selected in preference to the applicant. No material is available to us to direct the continuation of the applicant's appointment, except for the statement that the selected candidate has not joined.

7. It is also seen that whereas the applicant had impleaded the selected candidate as 4th respondent in the WP before the Hon'ble Madras High Court, he has not been impleaded in this OA. Further, ESIC Medical College & PGIMSR which has issued the termination order has also not been impleaded in this case.

8. We also note that although the ESIC Medical College & PGIMSR has issued the termination notice dt. 04.02.2019, it clearly states that the applicant's appointment would stand terminated w.e.f. 06.02.2019. As such, we see no *prima facie* violation of the direction of the Hon'ble High Court in their final order dt. 23.01.2019 allowing two more weeks for their interim order to continue.

9. Under the above circumstances, in the absence of minimum essential facts and impleadment of necessary parties, we are of the view that this is not a fit case for the Tribunal to interfere. Accordingly, OA is dismissed.

(P. Madhavan)
Member(J)

(R. Ramanujam)
Member(A)

06.02.2019

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