

**Central Administrative Tribunal
Principal Bench, New Delhi**

OA No. 4062/2014

This the 26th day of April, 2019

**Hon'ble Ms. Nita Chowdhury, Member (A)
Hon'ble Mr. S.N. Terdal, Member (J)**

Sumith P., Aged 26 years,
S/o Sh. Surendran P.
Koyamb, Rondavidanitumbram,
PO Chokli, Thalassery, Kannur, Kerala-72
Presently working
Sister Grade II (Male Nurse), New Emergency Ward,
AIIMS, Ansari Nagar, New Delhi-29 - Applicant

(None)

VERSUS

1. Union of India
Rep. By Secretary, Ministry of Health,
Nirman Bhawan, New Delhi
2. Medical Superintendent,
All India Institute of Medical Sciences,
Ansari Nagar, New Delhi – 29
3. Administrative Officer (H)
All India Institute of Medical Sciences,
Ansari Nagar, New Delhi – 29 - Respondents

(By Advocate: Dr. Ch. Shamsuddin Khan for respondent no.1
Mr. Jagdish Kumar for respondents 2 and 3)

ORDER (Oral)

Ms. Nita Chowdhury:

This Original Application has been filed by the applicant seeking the following reliefs:-

- “i. set aside the impugned order dt. 01.05.2014 and 30.05.2014 passed by the Respondents as arbitrary and illegal;

- ii. direct the Respondents herein to declare that the Applicant had completed his period of probation of 2 years from the date of his appointment/joining;
- iii. direct the Respondents herein to restore the seniority of the Applicant;
- iv. award the cost of the litigation to the Applicant; and
- v. pass any such other or further order or orders as may be deemed fit and proper under the facts and circumstances of the case.”

2. When the matter is taken, it is noticed that nobody had appeared for the applicant even on many previous occasions and on the last occasion, i.e. 24.04.2019 as well. Hence, we proceed with the OA under Rule 15 of the CAT (Procedure) Rules, 1987.

3. It is the case of the applicant that his probation was incorrectly extended and he should be given a seniority and confirmation from a date when it became due to him. He was, vide order dated 01.05.2014, issued a Show Cause Notice in which he was asked to explain as to why disciplinary action should not be taken against him for not performing his duties and for committing dereliction of duty under CCS (CCA) Conduct Rules. The applicant has replied to the aforesaid show cause notice on 04.05.2014. After considering the reply of the applicant, it was found that he has committed gross negligence, non performance of assigned duties coupled with

arrogance, his probation was extended for one year upto 08.02.2015 vide impugned order dated 30.05.2014.

4. Counsel for the respondents, in his reply to this OA, has stated that the probation of the applicant was extended due to non-performance of duties assigned to him as per rules. They have also pointed out that the applicant refused to do the shifting duty as assigned to him and did not exhibit the required devotion to duty and hence, his period of probation was extended. The applicant, as part of his duties, refused to burn the needle which were kept near dustbin, which is one of the safety requirements and one of the necessary requirements for those who work in hospitals so that patient care is not prejudiced. They have totally denied any harassment to the applicant.

5. We also note from the file that the applicant of this OA has not filed any rejoinder in this matter. Further, we note that earlier the Tribunal, vide its order dated 06.09.2016, dismissed the OA in default since none appeared on behalf of the applicant on 14.07.2016. After getting the OA restored through an MA, nobody is appearing for the applicant. We also find merit in the submissions of the respondents that extension of probation was done as per rules and subsequent to completion of the extended period of probation, the applicant has been confirmed to the post w.e.f. 08.02.2015 vide Order No. F 23-

1/2007 Estt.(H) dated 05.05.2016 and is still working as Nursing Officer.

6. In view of the above factual position, nothing remains to be adjudicated in this OA and the same is dismissed as infructuous. No costs.

(S.N. Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

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