
(2021) 11 CAT CK 0037
In the Central Administrative Tribunal
Case No : Original Application No. 2094 Of 2019

Kedar Lal Mahawar

APPELLANT

Vs

Employees State Insurance Corporation (ESIC) & Others

RESPONDENT

Date of Decision : 24-11-2021

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19

Citation : (2021) 11 CAT CK 0037

Hon'ble Judges : A.K. Bishnoi, Member (A); R.N. Singh, Member (J)

Bench : Division Bench

Advocate : Yogesh Kumar Mahur, Murari Kumar

Final Decision : Disposed Of

Judgement

R.N. Singh, Member (J)

1. Heard learned counsels for the parties.

2. The applicant has filed the present OA under Section 19 of the Administrative Tribunals Act, 1985, being aggrieved of the action/inaction of the respondents whereby the joining of the applicant has not been given effect to despite issuance of the appointment letter without any reason communicated to the applicant, which is not only illegal and arbitrary but also against the very essence of natural justice.

3. The applicant has sought the following reliefs:-

"(I) Call for the records of the case.

(II) Direct the Respondents to dispose off the Representation made by the applicant by passing a reasoned and speaking order in a time bound manner.

(III) Direct the respondents give joining as Staff Nurse to Applicant on immediate basis with all consequential benefits.

(V) Any other relief, which this Hon'ble Tribunal may deem fit and proper in the

circumstances of the case, may also be passed in favour of the applicant.

(VI) Cost of the proceedings be awarded in favour of the applicant and against the respondents."

4. As per the assertions made on behalf of the applicant, brief facts leading to filing of the present case are that pursuant to advertisement issued in the year 2012 by the ESIC for conducting the exam for recruitment to the post of Nursing/ Paramedical Staff, the applicant, being SC category candidate, applied for the post of Staff Nurse and appeared in the said examination vide roll No.1123010673 on 19.3.2016. The result of the said examination was published on 17.2.2017. However, the said result was challenged before the Principal Bench and other Benches of this Tribunal and the process of the said recruitment was stayed as per the Courts' order(s). The final result was declared after the Court modified the aforesaid stay order(s). The applicant was shortlisted as per the merit list of Delhi Region, which was declared on 11.10.2017 and his documents verification was done on 18.10.2017. On 16.11.2017, the applicant was also given the appointment letter and was asked to appear for the medical examination. The applicant was medically examination and found to be fit in all aspects but after the eyes testing, he was told that a medical board would be constituted to take a decision on the partial blindness in the right eye. The applicant was asked to appear again in the medical examination but no decision was taken on his joining. The applicant visited personally to the office of the respondents for redressal of his grievance but his all efforts were in vain, as the applicant was verbally told that there was some technical issue and he shall be given joining soon. Thereafter, the applicant had filed applications under Right to Information Act to which no concrete reply has been given by the respondents. The applicant has also made numerous representations from 2017 to 2019 but to no avail. Hence, he has filed the present OA for redressal of his grievances.

5. Pursuant to notice from this Tribunal, the respondents have filed their reply. Although they have refuted the contentions of the applicant, however, in para 4 of the preliminary submissions of their reply, they have stated as under:-

"The answering respondents submit that the matter is under consideration due to the fact that the classification of the post as "technical or non-technical".

In para 4.7 of the reply, the respondents have stated as under:-

"4.7 It is further submitted that the matter is under consideration as same is still awaited from ESIC Hqrs' office, New Delhi."

6. Having regard to the above submissions in the reply filed by the respondents, we dispose of this OA with direction to the respondents to consider the applicant's case for appointment to the post of Staff Nurse in ESIC and, if on such consideration, the applicant is found fit for appointment to the said post, he be appointed as expeditiously as possible and preferably within a period of four weeks from the date of receipt of a copy of this Order. In case of appointment,

he shall be entitled to notional fixation of pay and seniority keeping in view his merit position in the said selection process.

7. In the facts and circumstances, there shall be no order as to costs.