

(2019) 10 DEL CK 0044

In the Delhi High Court

Case No : Civil Writ Petition No. 10808 Of 2019

Suresh Chand

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 10-10-2019

Acts Referred:

Citation : (2019) 10 DEL CK 0044

Hon'ble Judges : G.S.Sistani, J;Anup Jairam Bhambhani, J

Bench : Division Bench

Advocate : U. Srivastava, Anoop Kumar, M.K. Gaur, T.P. Singh

Final Decision : Disposed Of

Judgement

G.S. Sistani, J

CM APPL 44661/2019 (exemption)

1. Exemption is allowed subject to all just exceptions.

2. Application stands disposed of.

W.P.(C) 10808/2019

3. The present petition has been filed by the petitioner being aggrieved by two orders dated 11.09.2019 and 26.09.2019 passed by learned Central Administrative Tribunal ('Tribunal').

4. Mr. U. Srivastava, learned counsel appearing for the petitioner submits that the petitioner had laid challenge to an order dated 11.09.2019 passed by the respondents by which the services of the petitioner were terminated on account of his not fulfilling one of three essential conditions of recruitment, more particularly condition No.3, which read as under :

"As per Recruitment Notice of Paramedical and Nursing Staff for ESIC Medical College/Hospitals in Haryana Region advertised in December 2015, point C(a)

eligibility: Educational & Other Qualification and Age limit for the advertised posts, the following were the essential conditions for Ayurvedic Pharmacist (post code 7):

- 1) Matriculation or equivalent qualification from recognised Board.
- 2) Diploma in Ayurvedic from a recognised institution.
- 3) Three years' experience in Ayurvedic Pharmacy in a recognised institute/hospital after duly registered under pharmacy Act, 1948."

5. Learned counsel for the petitioner contends that three years' experience certificate was obtained by the petitioner from Patanjali Ayurved Hospital, a copy of which has been filed along with this petition. He further submits that the petitioner has also raised other grounds, which would show that the impugned order is liable to be set aside.

6. The grievance of the petitioner before us is firstly that when the matter was listed before the learned Tribunal, the following order was passed :

"CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH, NEW DELHI

ORDER SHEET

COURT NO. : 2

26/09/2019

O.A./100/2874/2019

No. Of Adjournment : 1

SURESH CHAND

-V/S-

EMPLOYEES STATE INSURANCE CORPORATION

ITEM NO:2

FOR APPLICANTS(S) Adv. : Dr. Swati Jindal Garg

FOR APPLICANTS(S) Adv. :

Notes of The Registry

Order of The Tribunal

Heard Learned counsel for the applicant. Issue notice to the Respondents. List the matter before Principal Registrar's Court for completion of pleadings on 06.12.2019.

(ARADHANA JOHRI)

(R.N. SINGH)

MEMBER (A)

MEMBER (J)

whereby, on the last date i.e. 26.09.2019, only notice was issued and the prayer for interim relief was not considered nor was an early date prior to the completion of one month granted and the matter was simply placed before the Principal Registrar for completion of pleadings on 06.12.2019.

7. Mr. Srivastava further submits that the petitioner thereafter filed an M.A., which was listed on 07.10.2019 and without even issuing notice, the same was adjourned to 08.11.2019 with the following order :

"CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH, NEW DELHI

ORDER SHEET

COURT NO. : 2 No. Of Adjournment : 2

07/10/2019

M.A./100/3254/2019

O.A./100/2874/2019

SURESH CHAND

-V/S-

EMPLOYEES STATE INSURANCE CORPORATION

ITEM NO:101

FOR APPLICANTS(S) Adv. : Dr. Swati Jindal Garg along with Mr. Mahavir Singh

FOR RESPONDENTS(S) Adv. : Mr. Shobhit Kumar

for Mr. Murari Kumar

Notes of The Registry

Order of The Tribunal

Learned proxy counsel for the respondents prays for time.

Call on 08.11.2019.

(PRADEEP KUMAR) (SN TERDAL)

MEMBER (A) MEMBER (J)

8. Learned counsel for the petitioner contends that the learned Tribunal has not allowed the petitioner to address arguments and bring to the notice of the Tribunal that by not granting any interim relief, the O.A. would be rendered infructuous. In these circumstances learned counsel seeks a direction to the Tribunal for expeditious hearing of the application seeking interim relief. Learned counsel submits that the petitioner has no other source of livelihood and he is the only bread winner of his family.

9. We have heard learned counsels for the parties. Having regard to the submissions so made, we find it somewhat strange that the learned Tribunal has on the first date of hearing simply adjourned the matter to a date beyond the one month period contained in the order of termination, when the termination would become effective. The M.A. seeking urgent relief was also not entertained, which is evident from the fact that even notice has not been issued and simply at the asking of the proxy counsel for the respondent, the matter has been adjourned to 08.11.2019.

10. Accordingly, we direct the respondents to file reply to the M.A. before the next date of hearing. The Tribunal will hear the application seeking interim relief on 08.11.2019, the date already fixed.

11. Copy of this order will be served upon all the respondents for filing reply.

12. We make it clear that in case no reply is filed, the matter would be heard in the absence of reply.

13. Record will be produced before the Tribunal on 08.11.2019.

14. With these directions, the writ petition stands disposed of.

CM APPL44660/2019 (stay)

15. Parties are directed to maintain status-quo in the meantime.

16. The application stands disposed of.

17. Copy of order be given dasti to the parties under signature of the Court Master.