

+ W.P.(C)No.8657/2010Date of Decision : 20th October, 2011

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PARDEEP KUMAR

..... Petitioner

Through : Mr. Avadh Bihari Kaushik, Adv.

versus

ESI CORPORATION AND ANR

..... Respondents

Through : Mr. Yakesh Anand and

Mr. Murari Kumar, Adv.

CORAM :-**HON'BLE MS. JUSTICE GITA MITTAL****HON'BLE MR. JUSTICE J.R. MIDHA**

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| 1. | Whether Reporters of Local papers may be allowed to see the Judgment? | NO |
| 2. | To be referred to the Reporter or not? | NO |
| 3. | Whether the judgment should be reported in the Digest? | NO |

GITA MITTAL, J. (Oral)

1. Heard. The present writ petition relates to selection in 2009 to the post of Nursing Orderly with Employees State Insurance Corporation. It is also not disputed that the selection process commenced in the year 2009. The selection process with regard to the post of Nursing Orderly was a subject matter of challenge before this Court which writ petition was transferred to the Central Administrative Tribunal and culminated in the judgment dated 6th December, 2010. Nine persons challenged the orders passed by the Tribunal by way of different writ petitions.

2. This writ petition has been filed by the petitioner seeking entitlement to the benefit given in the decision dated 14th July, 2010 by this Court in W.P.(C)No.4255/2010 titled ESI Corporation

vs. Shri Surender Kumar along with other writ petitions.

3. The petitioner points out that his writ petition being W.P.(C)No.13572/2009 was also pending before this Court but was not listed when the aforementioned bunch of writ petitions came up for consideration on 14th July, 2010. As a result the petitioner was denied the benefit which has been given to identically placed persons (in WP(C)No.4255/2010).

This position is undisputed.

4. It appears that by the order dated 14th July, 2010, the statement of the respondent was recorded to the effect that an equitable solution to the problem at hand could be found which would not create any administrative chaos and would preserve the rights of the candidate who had been empanelled, without going into the merits of the impugned order dated 6th December, 2010 passed by the Central Administrative Tribunal. The respondents had agreed to offer letters of appointment to the writ petitioners in the petitions take up on 14th July, 2010 for the reason that they had scored reasonably high in the order of merit. Learned counsel for the respondent has handed over today in Court a copy of the letter dated 12th October, 2011 submitting that as a result of resignation of Shri Manish Kumar Bhadola, a candidate in the unreserved category, who had joined as a Nursing Orderly on 8th June, 2009 but resigned from service on 11th August, 2011, one vacancy in the unreserved category is available.

5. In view of the above position, there remains no difficulty for appointing the petitioner, who is a candidate in the unreserved

category, against the available vacancy.

6. Given the facts and circumstances of this case, it is obvious that the petitioner would not be entitled to any consequential benefits in the nature of seniority or back wages. The entitlements shall follow in accordance with law from the date of the petitioner's appointment.

7. It is directed that the respondents shall proceed with the appointment of the petitioner to the post of Nursing Orderly and ensure that the appropriate orders in this behalf are communicated to the petitioner within a period of four weeks from today. The petitioner shall be entitled to the benefits of service only with effect from the date of appointment as per the rules. It is made clear that this order shall not be treated as precedent.

This writ petition is disposed of in the above terms

CM No.22014/2010

In view of the order passed in the writ petition, this application does not survive for adjudication any further and is accordingly disposed of.

Dasti to the parties.

GITA MITTAL, J

J.R. MIDHA, J

OCTOBER 20, 2011
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