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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 11848/2022**

MANDAN KUMAR MISHRA

.....Petitioner

Through: Mr. Rohit Singh, Mr. Vipin Kumar
Yadav, Mr. Ashish Rohilla, Mr. Varun Joshi and
Mr. Sandeep Kaushik, Advocates.

versus

**NATIONAL INSTITUTE FOR TB AND RESPIRATORY
DISEASES AND ANR**

.....Respondents

Through: Mr. Jasbir Bidhuri, Advocate.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

16.08.2024

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1. This writ petition has been preferred on behalf of the Petitioner under Article 226 of the Constitution of India, seeking the following reliefs:

“(i) This Hon’ble Court may graciously issue an appropriate order or orders or directions thereby quashing the appointment of Respondent No.2 to the post of housekeeper and also issuing a Writ of mandamus directing the Respondent No.1 to appoint the Petitioner in place of respondent no.2 on the post of Housekeeper at the earliest and without delay, in terms of the notification of January-2021 with all service benefits that will be due to the petitioner from the date of scheduled appointment, and

(ii) This Hon’ble Court may award the costs, damages and litigation expenses to the Petitioner”

2. A bare reading of the writ petition and the prayer clause shows that Petitioner lays a challenge to the appointment of Respondent No.2 to the post of House Keeper and also seeks a writ of *Mandamus* directing Respondent No.1 to appoint the Petitioner on the said post with all consequential service benefits. The reliefs sought are in the nature of



‘service matter’ and since Respondent No.1 is notified under Section 14 of the Administrative Tribunals Act, 1985 (Act of 1985), the Central Administrative Tribunal will have jurisdiction to adjudicate the issues raised by the Petitioner, as the Court of first instance in view of the judgment of the Supreme Court in ***L. Chandra Kumar v. Union of India and Others, (1997) 3 SCC 261.***

3. Learned counsel for the Petitioner, however, submits that Petitioner had earlier approached the Central Administrative Tribunal but had to withdraw the O.A. bearing No.1303/2022, as according to the learned Tribunal, Respondent No.1 was not notified under the Act of 1985. This position is clarified by learned counsel for the Respondents who submits that the confusion has arisen on account of the fact that National Institute of Tuberculosis and Respiratory Diseases/Respondent No.1 herein was earlier named as ‘Lal Ram Sarup Institute of Tuberculosis and Respiratory Diseases’ and was notified at Serial No.53 under the Act of 1985, falling under the Ministry of Health and Family Welfare, Government of India. Subsequently, though the name has changed, the notification stands in the earlier name and which is why the Tribunal was of the view that the Institute was not notified under Section 14 of the Act of 1985.

4. In view of the aforesaid clarification by Respondent No.1, which is brought forth in the short affidavit dated 09.10.2023, there is no merit in the submission of the Petitioner and this petition cannot be entertained. Accordingly, this writ petition is dismissed with liberty to Petitioner to approach the appropriate Forum in accordance with law. If the Petitioner approaches the Tribunal within 06 weeks from today, the Tribunal shall consider the delay in filing the Original Application taking into account the



fact that Petitioner had earlier approached the Tribunal in O.A. 1303/2022 and had withdrawn the same on account of a confusion in the name of Respondent No.1 and had immediately filed this writ petition as well as applying the principle underlying Section 14 of the Limitation Act, 1963.

JYOTI SINGH, J

AUGUST 16, 2024/DU