

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A./100/3523/2019

New Delhi, this the 10th day of February, 2020



**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. A.K. Bishnoi, Member (A)**

Shri Vinay Kulkarni
Son of Shri V.P. Kulkarni
Resident of P-58/1, MES Officers Enclave,
Lucknow Cantt.,
Lucknow-226002
Age 59 yrs., Group `A', Designation Chief Engineer ...Applicant

(Through Shri Vikas Aggarwal, Shri Anshu and Shri Lakshay Sharma,
Advocates)

Versus

1. Union of India,
Service through the Secretary,
Ministry of Defence, Govt. of India,
South Block, New Delhi-110011
2. Joint Secretary to the Govt. of India
Ministry of Defence, South Block,
New Delhi-110011
3. Engineer-in-Chief, IHQ
Ministry of Defence, (Army) Kashmir House
Rajaji Marg, New Delhi-110011
4. Mahesh Kumar Gupta,
Joint Director General (Disc. & Vig.),
E-in-C's Branch, IHQ of MoD (Army)
Kashmir House, Rajaji Marg,
DHQ PO, New Delhi-110011 ... Respondents

(Through Shri Manish Kumar, Advocate)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman



The applicant was working as Chief Engineer in the Military Engineering Service of the Ministry of Defence. He has also functioned as Arbitrator in certain matters entrusted to him. Through letter dated 2.01.2019, the Office of Engineer-in-Chief proposed to conduct an inquiry into various aspects such as framing of tender, execution and/or administration of contract agreement, defence of arbitration cases, and conduct of Arbitrator in exercise of quasi-judicial power in respect of the works mentioned therein. Similar letter was issued on 1.03.2019 in respect of certain other works.

2. The applicant contends that on account of the two letters referred to above, his vigilance clearance in the context of promotion to the post of Chief Engineer was withheld. This OA is filed with a prayer to set aside the orders dated 2.01.2019 and 1.03.019 and for a direction to issue vigilance clearance to the applicant for promotion to the post of Chief Engineer for which the DPC was held on 13.11.2019 and for further promotion to the post of Additional Director General (ADG). Certain other ancillary reliefs are also claimed.



3. The applicant contends that he functioned as Arbitrator on being nominated by the department and discharged quasi-judicial functions in that capacity. He contends that it is for the parties to the Arbitration whether or not to challenge the Award, and on the basis of inquiry proposed to be conducted, his vigilance clearance cannot be withheld.

4. The respondents filed counter affidavit, stating that the vigilance clearance was given for promotion to the post of ADG and, in view of this development, nothing remains to be decided in the OA.

5. We heard Shri Vikas Aggarwal, for the applicant and Shri Manish Kumar, for the respondents.

6. The prayer for quashing of letters dated 2.01.2019 and 1.03.019 is in the context of vigilance clearance for promotion to the post of ADG. During the pendency of the OA, respondents granted vigilance clearance and that enabled the applicant to be promoted to the post of ADG. With that, the grievance of the applicant stands redressed.

7. The question as to whether pendency of the proceedings contemplated in the two impugned letters dated 2.01.2019 and 1.03.019 would come in the way of his further promotion to the post of ADG, is too premature to be considered at this stage.

8. We, therefore, close the OA taking note of the development that has taken place during the pendency of the OA. There shall be no order as to costs.



(A.K. Bishnoi)
Member (A)

/dkm/

(Justice L. Narasimha Reddy)
Chairman