

OA No. 291/73/2017

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 291/73/2017

Order reserved on 22.01.2021

DATE OF ORDER: 27.01.2021

CORAM

HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER
HON'BLE MRS. HINA P. SHAH, JUDICIAL MEMBER

Praveen Pathak S/o Shri S.P. Pathak, aged-52 years,
By caste-Brahmin, R/o L-96, Sushant City-1st,
Machwa, Kalwar Road, Jaipur. Applicant had retired
from the post of Ex-Sub Major/JE Civil, Indian Army,
GE-Alwar.

....Applicant

Shri Punit Singhvi, counsel for applicant (through
Video Conferencing).

VERSUS

1. Military Engineering Services through its Engineer-in-Chief, Kashmir House, Rajajji Marg, New Delhi.
2. The Chief Engineer, Military Engineering Services, Southern Command, Pune-411001.

....Respondents

Shri Lalit Mohan Bhardwaj, counsel for respondents
(through Video Conferencing).

ORDER**Per: Hina P. Shah, Judicial Member**

The present Original Application has been filed by the applicant with a prayer for quashing and setting aside the impugned order dated 11.11.2016 (Annexure A/1) whereby his appointment has been cancelled and that the respondents be directed to give the applicant posting in the Northern Command or any place in Southern Command which has direct connectivity to Jaipur City.

2. It is the case of the applicant that after his retirement from the post of Junior Engineer, his candidature was approved for civil appointment under DCRE in MES for the post of JE (Civil) on certain terms and conditions. He was served with an appointment order dated 29.06.2016 (Annexure A/2) which would be treated as his fresh appointment. As per the said appointment, he was supposed to join duties at GE (I) (P) Central, Port Blair on or before 30.07.2016. He made a representation on 13.07.2016 requesting the respondents to change the posting place on medical grounds as he was suffering from M.S Multiple Sclerosis which is a neurological problem and his wife

had also suffered from a Brain Hemorrhage and had undergone Open Head Surgery in August 2015. Since his place of posting was far and had no direct connectivity to Jaipur, therefore he requested the Respondents to accommodate him suitably. The respondents had vide their letter dated 21.07.2016 (Annexure A/4) turned down his request stating that all the appointments under DCRE have been done in compliance of the policy on the subject, which mandates a tenure posting of 2 years to Chief Engineer Northern Command or Chief Engineer Eastern Command or CE A&N Zone (Southern Command). It was further stated that, however, he will be eligible to be posted back to his parent Command on completion of the mandatory tenure and, therefore, it was not feasible to change his posting due to policy constraints. Thereafter, the applicant again represented vide letter dated 19.09.2016 pointing out his personal difficulties, which request was again rejected by respondents vide their letter dated 05.10.2016 wherein it was clarified by respondents that the applicant was required to report latest by 20.10.2016. Due to his family constraints, the applicant could not join within the time limit

extended and finally the respondents vide letter dated 11.11.2016 (Annexure A/1) cancelled the appointment of the applicant. Therefore, the applicant was constrained to approach this Tribunal for quashing and setting aside the impugned order dated 11.11.2016 (Annexure A/1) as the impugned action on the part of the respondents was a non-reasoned and non-speaking order.

3. The respondents after issue of notices have filed their reply justifying their stand. It is stated by them that keeping in mind the peculiar organizational requirement of HQ Chief Engineers Northern Command, Eastern Command & Andaman and Nicobar Zone in organizational interest and persons of critical trades like Draftsman, etc. are posted to one such command for tenure posting of 02 years. It is further stated that the applicant had given an undertaking that he is willing to serve anywhere in India on deputation cum re-employment. Owing to increased workload and deficiency of staff at such commands mentioned above, the applicant was given an appointment. The applicant was given sufficient time to join, which not only delayed the appointment of

deserving candidates but also affected the progress of work at the recipient station. Therefore, the appointment order issued to the applicant on 29.06.2016 was cancelled vide letter dated 11.11.2016 in compliance of the policy on the subject. Moreover, applicant cannot be given a choice posting as a matter of right as he himself had given an undertaking to serve anywhere in India. Therefore, the action of the respondents is just, proper and the same is in consonance with the relevant rules and instructions. Accordingly, the present Original Application deserves to be rejected.

4. Heard learned counsels for the parties through Video Conferencing and perused the material available on record.

5. The applicant and respondents have reiterated their stand taken earlier.

6. The factual matrix of the case is that the applicant has retired from his Active Service as Junior Engineer and after his retirement, he was selected for the post of JE (Civil) as civil appointment under DCRE in MES

subject to certain conditions. The applicant after having agreed to all such conditions was served with an appointment order dated 29.06.2016 (Annexure A/2). Accordingly, he was supposed to join duties at GE (I) (P) Central, Port Blair on or before 30.07.2016. Prior to his joining the said organization, he made a representation mentioning his personal and medical problems and requested the respondents to change his place of posting at Jaipur, Rajasthan or near to Jaipur, Rajasthan. The said request was turned down by the respondents vide their letter dated 21.07.2016 (Annexure A/4) stating that it was not feasible to change his posting due to policy constraints and that he was offered DCRE appointment on the basis of the undertaking that he is willing to serve anywhere in India. The applicant again made a request for changing his posting to Southern Western Command keeping in mind Jaipur as he is settled here. Again the respondents vide letter dated 05.10.2016 (Annexure A/6) extended his time period to join by 20.10.2016. It is seen that the applicant wants his employment either in Jaipur and or near to Jaipur as his family is settled in Jaipur. The post which has been offered to him is after his retirement from active

service. He was, thereafter, selected for the post of JE (Civil) as civil appointment under DCRE in MES subject to certain conditions. It is also to be noted that the applicant has given an undertaking that he is ready to serve anywhere in India. Due to the peculiar organizational requirement of HQ Chief Engineers Northern Command, Eastern Command & Andaman and Nicobar Zone in organizational interest, increased workload and deficiency of staff at these commands, certain candidates were appointed including the applicant. It is seen that sufficient time was granted to the applicant to join which not only delayed the appointment of deserving candidates but also affected the progress of work at the recipient station. The applicant was aware about his personal and medical problems prior to his joining and accepting the said post, yet he failed to join. It is made clear that a person cannot demand choice posting and indefinite time also cannot be granted as it affects the work of the organization. Therefore, as seen the impugned action taken by the respondents in cancelling the appointment of the applicant is just and legal and does not deserve any interference.

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7. In view of the discussions made above, we are of the considered view that the relief sought by the applicant deserves no merit and, accordingly, the Original Application filed by the applicant is thereby rejected. No costs.

(HINA P. SHAH)
JUDICIAL MEMBER

(DINESH SHARMA)
ADMINISTRATIVE MEMBER

Kumawat