



Central Administrative Tribunal Principal Bench, New Delhi

O.A. No.748/2021
M.A.No.2535/2021
M.A. No.2223/2021

This the 21st day of September, 2021

Through video conferencing

**Hon'ble Ms. Manjula Das, Chairman
Hon'ble Mr. Mohd. Jamshed , Member (A)**

Ashish Ku. Dhakad,
s/o Sh. Hari Singh,
r/o 47, Purani Aabadi, Vill. Belari,
Post Jawasiya Kumar,
Distt. Ujjain (MP) - Applicant

(By Advocate: Mr. Yogesh Sharma)

Versus

1. Union of India through
The Secretary,
Ministry of Housing & Urban Affairs,
Govt. of India, Nirman Bhawan,
New Delhi
2. The Director General,
Central Public Works Department,
Nirman Bhawan, New Delhi
3. The Secretary,
Ministry of Railway,
Railway Board, Rail Bhawan,
New Delhi - Respondents

(By Advocate: Mr. Indra Pratap Singh)

O R D E R (Oral)

Hon'ble Ms. Manjula Das:

This OA is filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985, seeking the following reliefs:-



“(i). That the Hon’ble Tribunal may graciously be pleased to pass an order of quashing the impugned order dated 4.3.2021 (Annex. A/1) and consequently, pass an order directing the respondents to appoint the applicant in CPWD as per his rank immediately with all the consequential benefits including seniority and notional fixation of pay from the date of appointment of junior and similarly situated persons.

(ii) Any other relief which the Hon’ble Tribunal deem fit and proper may also be granted to the applicant along with the costs of litigation.”

2. The brief facts of the case are that in response to the examination notice dated 26.09.2018 issued by the Union Public Service Commission, inviting applications for Engineering Service Examination, 2019, the applicant applied and qualified the same with rank at SI.No..223. Thereafter, the medical examination was conducted on 21.11.2019 wherein the applicant was declared unfit. Accordingly, on an appeal submitted by him for re-examination, he was allowed to undergo 2nd medical examination on 20.01.2020 in which he was declared fit. The applicant contends that during the pendency of the result of the second medical examination, the respondent no.3 allotted the CPWD department to his next junior person, namely Sh. Alok Kumar, who got the Rank No.225. The applicant submitted his request vide order dated 11.01.2021 for issuance of offer of appointment from CPWD, which was rejected by the respondent no.2 vide impugned order



dated 04.03.2021 by informing that since all the vacancies of ESE-2019 were filled up, his dossier had been returned to Railway Board. Being aggrieved with the said order, the applicant has filed the present OA.

3. Mr. Yogesh Sharma, learned counsel for the applicant submitted that the applicant ought to have been allotted the CWPB as per his rank, and the person, who is junior to him and has been allotted the CPWD, should be re-allotted to some other department.

4. On the other hand, Mr. Indra Pratap Singh, learned counsel for the respondent no.3 submitted that since there is no vacancy in CPWD, his dossier has been sent back to the respondents. He further submits that the applicant has already been allotted the department of Border Roads Organization. He also adds that the Tribunal may direct the CPWD to accommodate the applicant as and when vacancy arises there.

5. We heard Mr. Yogesh Sharma, learned counsel for the applicant and Mr. Indra Pratap Singh, learned counsel for the respondents and perused the record.

6. From perusal of the record, it is clear that there is no vacancy available in the CPWD. Moreover, an incumbent has already joined the CPWD. It is also not disputed that the applicant has already been posted in the Border Roads



Organization. In these peculiar facts and circumstances, we cannot direct the respondents to displace the person, who has already joined the CPWD, as it is an administrative matter.

7. As agreed to by the learned counsel for the applicant, we deem it fit and proper to direct the respondent no.2, i.e., CPWD to accommodate the applicant as and when a vacancy arises in CPWD.

8. With the above direction, we dispose of the OA. Consequently, MA No. 2535/2021 becomes infructuous and is accordingly, disposed of. MA No. 2222/2021 also stands disposed of.

There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Manjula Das)
Chairman

/lg/jyoti/akshaya