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CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated : This the 26th day of April 2007

Original Application No. 105 of ~~2006~~²⁰⁰⁷

Hon'ble Mr. P.K. Chatterji, Member (A)
Hon'ble Mr. S.K. Dhal, Member (J)

Kapil Chaudhary, Ss/o Sri D.S. Chaudhary, Permanent residence of 6, Subhash Colony, Nai Ki Mandi, M.G. Road Agra. Presently posted as Assistant Works Manager/Ord. in Ordnance Factory, and residing at E-20, Armapur Estate, Kalpi Road, Kanpur.

. . . Applicant

By Adv: Sri S. Narain

V E R S U S

1. The Union of India through Secretary, Department of Defence production, Ministry of Defence, Govt. of India, New Delhi.
2. The Chairman and Director General, Ordnance Factories Ordnance Factory Board, 10-A, Shaheed Khudi Ram Bose Road, Kolkata-1. (West Bengal).
3. The Senior General Manager, Ordnance Factory Kanpur UP.
4. The Union Public Service Commission, through the Secretary, Dholpur House, Shahjahan Road, New Delhi.

. . . Respondents

By Adv: Sri S. Singh

O R D E R

By Hon'ble Mr. P.K. Chatterji, Member (A)

The applicant who is a civil engineer by education was inducted into the Indian Ordnance Factory service in the Civil Engineer discipline in the year 2003. He underwent training for two years and in the year 2005 his training was completed. On

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completion of his training a formal order regarding his posting was issued by the respondents. He was posted in Indian Ordnance Factory Kanpur and he was posted for duty in the office of Divisional Officer, Gun 'C' Gun 'D' (production section of the factory). It has been stated by the applicant that the job requires the knowledge and expertise of mechanical engineer and these were not meant to be manned by Civil Engineers.

2. The applicant was selected through a competitive examination by the UPSC in the civil engineering stream. The selection was made in the year 2003 under a notification for holding a competitive examination for Indian Engineering Service. It was laid down that for India Ordnance Factories engineers would be selected from different disciplines such as Mechanical, Civil, Electrical and so on. After the examination the applicant was declared selected for the Civil Engineering Branch and, thereafter, he underwent training in different units under the Indian Ordnance Factories. The applicant, after his posting in Gun C and Gun D sections worked for a while and then started making representations for posting him on a suitable post for which he would be able to use his knowledge in the civil engineering discipline. In the representation he had stated that he was ill at ease in working in the division in which the knowledge

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of civil engineering was not as much required as mechanical engineering. He felt that he was not able to work upto his full potential and, therefore apprehended that if his performance was not according to his potential, it might jeopardize prospects of his career.

3. The respondents on considering his representation did not accede to his request but informed him that he was placed in the Gun 'C' and Gun 'D' section in the larger interest of the factory to achieve the target, goals and objectives depending upon the recourses available. Being aggrieved by the rejection of his representation the applicant filed this OA for intervention of the Tribunal in the matter of his posting. The relief that he has prayed for is that respondents be directed to post him at a section which would required knowledge of civil engineering on the ordnance Factory Kanpur and not to compel him to work in an area which is not related to the Branch of Civil Engineering.

4. It has also been stated by the applicant that after his recruitment in the year 2003 he did not object to his training in different units requiring knowledge and expertise related to discipline other than civil engineering. This was for initial exposure and familiarization. Such

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interdisciplinary attachments was usual for the probationers before they were finally posted on completion of the probation. But the respondents did not post him in a section relating to civil engineering discipline even after his probation was completed and he was confirmed in service. The applicant has furnished the letter of his confirmation dated 24.10.2005 in which it was stated that on 01.01.2005 he had been confirmed in his service. However, on completion of probation he was compelled to continue to work in production units of Gun 'C' and Gun 'D' divisions which required skill and knowledge in Mechanical Engineering. The applicant also cited two examples of two other probationers who were appointed with him namely Sri Vijay Kumar Bhartiya and Sri Kamal Singh Meena. They were both posted in their own discipline that is Civil Engineering at the Ordnance Factory at Bhandara and Khamariya respectively.

5. After preliminary hearing of the matter on 22.2.2007 the Tribunal had directed that the respondents would provide answer to the following points before further orders were issued:

- a. It is granted that during the probation period the probationers are rotated amongst the various divisions for familiarization, but it is expected that after completion of probation period, the officers should be posted in a division which he belongs and way this has not happened in the case of the

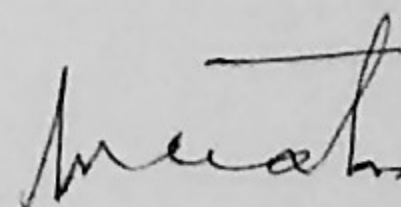
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applicant, whereas this happened in the case of other two probationers whose names have been given above.

- b. In the order of posting in Gun 'C' and Gun 'D' Sections (Production Section), it was stated that he was on probation. Even if it is granted that the respondents can post him in the same division till the completion of his probation why this order was not subsequently modified for posting him at a division pertaining to his discipline even after on completion of probation of confirmation on 1.1.2005.
- c. If post in the Civil Engineer discipline is available at Kanpur, as stated by the applicant why is it not possible to post him at Kanpur under Civil Engineering Discipline.

6. In the counter affidavit the respondents have stated that the Indian Ordnance Factory Service is a multi disciplinary composite cadre consisting of Engineers, Metallurgists, Chemists, Physicists, Textile and leather technologies and administrative officers. The Group 'A' service of Indian Ordnance Service is a managerial cadre which is responsible for management of the services. The applicant was initially posted as Assistant Works Manager (Probe) engineer (Civil) in the IOFS Cadre. However, it was never intended that the selected candidate would work only as civil engineers and would not discharge any other responsibility through out his service

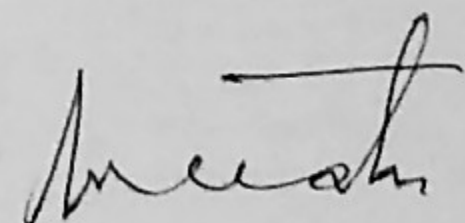


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career. It has been further stated by the respondents that as a Group A officer belonging to IOFS the applicant is supposed to shoulder divergent managerial responsibilities in addition to his areas of specialization to enable him to have wider experience in managerial factions to facilitate the smooth career progression to higher post in the IOFS cadre. This was the corner stone of personnel policy of Group A officers where career aspirations and job expectations of an officer are harmonized and integrated with the functional requirement of the organization.

7. Instead of understanding the positive aspects of such policy the applicant was demanding that he be posted to areas requiring Civil Engineering skill only. The respondents have also stated that in the era of liberalization, privatization and globalization when the economies world over were opening up and cementing with each other such parochial thinking of division of labour was not inconformity with the requirements of the hours.

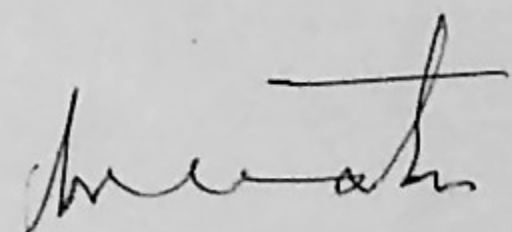
8. The respondents have emphasized that it was categorically stated in the offer of appointment letter dated 27.11.2002 that on confirmations the terms and conditions of the service would be the same as applicable to the permanent officers in the IOFS. Therefore, at this stage the applicant could



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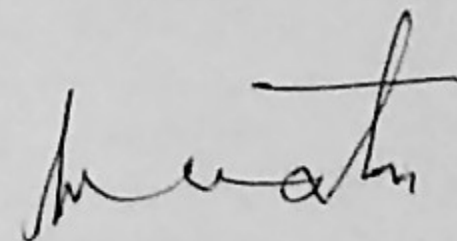
not quarrel with the decision of the respondents in placing him in Gun C and Gun D divisions. The respondents have also stated that there were several engineers from different disciplines such as civil, mechanical, electrical etc who appeared in the Civil Services examinations and opted for IAS. Posting of such engineers in administrative matters are not considered inconsistent with the educational background of the officers. Instead of understanding the broad objectives of multidisciplinary exposure the applicant in a very narrow minded view insisting on his posting in Civil Engineering discipline. The respondents have cited several examples in which officers belonging to different disciplines are posted interchangeably cutting across the areas of specialization.

9. The learned counsel for the applicant Sri S. Narain has rebutted all these points. Firstly he has stated that the percentage of the officers who are posted in disciplines other than their own, are still negligible. The learned counsel has used the information given by the respondents to say that such postings are an exception and not the rule. He has also reminded us of the two examples as already stated above, of batch mates of the applicant who were posted in their own respective disciplines.



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10. The learned counsel for the applicant has also wondered as to how posting of an officer in his own discipline is inimical to the concepts of globalization, liberalization etc. He has also stated that specialization and globalization are not contradictory terms and the confusion that the respondents raised was their own making. The learned counsel has also wondered as to how the respondents thought the request of the applicant a reflection parochial thinking. The applicant he says, was asking for nothing that is inconsistent with the recruitment policy and the terms of appointment. He has taken us through the terms of the notification of recruitment in which it was clearly stated that engineers of several disciplines would be recruited for the IOFS. If the idea was that immediately after the probation the distinction amongst the discipline would be obliterated and the engineers would be posted interchangeably amongst the various disciplines, the scheme of the recruitment would have been different. The learned counsel has also stated that perhaps the respondents were making a confusion by giving the examples of engineers selected in the IAS and being engaged in administrative works. In their case the officers came on their own option. There was no compulsion as in the present case.



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11. The learned counsel has also drawn our attention to the language used by the respondents in their submissions, particularly wherein it was stated that if the applicant did not like his posting, he was free to leave the service and go elsewhere. The learned counsel has stated that this language was not only intemperate, but also reeked of vengeance. He also expressed apprehension that the respondents might become more vindictive upon the applicant for seeking the remedy through the Tribunal. We wish this does not happen.

12. We have gone through the pleadings and also applied our mind to the oral submissions made by the counsel for the parties at the time of hearing. We have also gone through the submission made by the respondents with regard to query raised by us dated 22.2.2007. Regarding the answer to the query we are constrained to observe that they are not clear cut and categorical. The learned counsel for the respondents has questioned whether the Tribunal had any jurisdiction over the posting order which is purely an executive domain. The question is no doubt very pertinent, but we think that it would suffice to say at this point what the learned counsel for the applicant had stated. If any executives order is challenged on the ground of arbitrariness it would be open to examination by the Tribunal.

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13. The learned counsel for the applicant have argued exhaustively to say that it was arbitrary. Firstly, the applicant was one among the very few exceptions for whom posting was in an area other than the discipline to which he belong. The statistical data which the respondents have given about postings other than the discipline in which the officer was recruited do not help the respondents to strongly establish the so called policy of interchangeability of disciplines. This is the reason, the learned counsel for the applicant says, why he is constrained to say that the decision of the respondents was arbitrary and capricious. Not only that the respondents have also shown a closed mind by doggedly sticking to their order turning a deaf ear to the requests made by the applicant.

14. The applicant says that the posting order was inconsistent with the letter of appointment as well as the notification for recruitment. The notification of recruitment clearly spells out that recruitment will be in different disciplines Civil, Electrical etc. It was not the intention therein that after recruitment the distinction will efface and all will be merged into a common pool for deployment in different areas of management

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according to administrative requirement and potential and aptitude of recruits.

15. The respondents have asserted their right to this discretion. They have also said that competent authority has always followed this system which has become a convention and this is the first occasion that authority/discretion of the respondents has been questioned. We are of the view that the fact that so far such discretion has never been challenged/questioned will not validate it. Its validity has to be tested by seeing whether such ^{discretion} ~~distinction~~ is consistent with the terms of the appointment.

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16. It is not in dispute that the rules provide for recruiting engineers in four disciplines namely Civil, Mechanical, Electrical etc. Needless to say that Ordinance Factory needs specialized services in all the disciplines. The specialized services are distinct from the managerial services in general administration for which there is separate scheme of recruitment. It is not unreasonable to expect that after recruitment the engineers would be deployed in their respective areas of specialization so that the organization derives maximum benefit from their specialized knowledge/expertise unless there are compelling reasons. This would be mutually beneficial to the engineers as they will have the

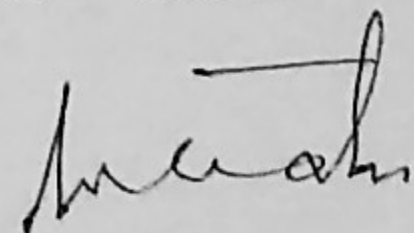
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satisfaction of giving their best to the organization.

17. The respondent stated in their pleading in the CA that posting is made according to their knowledge expertise, experience etc. This argument is self defeating. If this is the stand their would be more justification for posting the applicant in civil engineering discipline. The respondents have not stated that there were ^{other} compelling reasons for not posting the applicant in his own discipline.

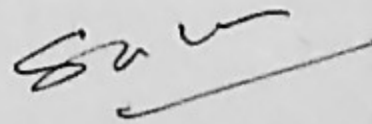
18. From the above observations it would be clear that what the applicant has been praying for is not unreasonable. His prayer is modest and he is not asking for the sky. He is only praying that he should be posted in an area where he would be able to work to his full potential. It would also be clear from the above observation that acceding to the request of the applicant would not require any overhauling of the policy which the respondents have adopted. As a matter of fact posting the applicant in a discipline in winch he has been trained would be quite in consonance with the scheme of recruitmnt. From the factual position furnished by the respondents it is clear that posting an officer after probation in an area other than his own discipline is rather an exception to the rule whereby majority are posted in their own



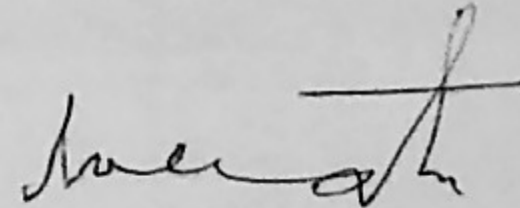
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disciplines. If the applicant feels that his posting in an area of his own discipline would enable him to be more fruitful and more effective that will further the interest of both the organization as well as the individual. We do not think that the respondents had to seriously compromise their own stand by acceding to the request of the applicant.

19. There is no intricate legal question involved in this dispute but an interpretation of the terms of the recruitment and appointment which would show that the applicant is not unjustified in making this request. We are aware that posting of the applicant has to be an executive decision. However, noting the peculiar circumstances of this case and based on our above observation we quash the impugned decision at annexure 1 and direct that the respondents would consider his request for posting in an area of his own discipline i.e. Civil Engineering after reconsidering their posting order. If such a post is vacant at the Factory in Kanpur, well and good, otherwise the applicant may be posted at any other Factory in his own discipline. With these direction the OA is disposed of. No cost.



Member (J)



Member (A)

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