

Central Administrative Tribunal  
Jaipur Bench, JAIPUR

ORDERS OF THE BENCH


29th July, 2009


OA. 402/2008

Present: Shri Manohar Lal Meena proxy for Sh.Rajeev Surana,  
counsel for applicant.  
Ms. Kavita Bhati proxy for Sh.Kunal Rawat counsel for  
Respondents

Heard counsel for the parties.

For the reasons to be dictated separately, the OA shall  
stands dispose of.

  
( B.L. Khatri)  
Member (Administrative)

  
(M.L. Chauhan)  
Member (Judicial)

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Central Administrative Tribunal  
Jaipur Bench, JAIPUR

OA. 402/2008

This the 29th day of July, 2009

**Hon'ble Shri M.L. Chauhan, Member (Judicial)**  
**Hon'ble Shri B.L. Khatri, Member (Administrative)**

Bodu Ram Meena S/o Shri Ganga Ram Meena  
Aged about 45 years  
MES No. 196463 now Mason and R/o  
Village & Post Sakat Tehsil Rajgarh, Distt. Alwar

.....Applicant

(By Advocate Shri Manohar Lal Meena proxy for Sh.Rajeev  
Surana)

- **V e r s u s** -

1. Union of India through Defence Secretary, Govt. of India,  
101, South Block New Delhi.
2. Garrison Engineer, Alwar, Commander Works Engineers,  
Military Engineer Services Alwar,
3. Commander Works Engineer, Military Engineer Services,  
Kalya Marg, Jaipur -302006.

..... Respondents

(By Advocate: Ms. Kavita Bhati proxy for Sh.Kunal Rawat,  
Sr.Standing Counsel.)

**O R D E R (ORAL)**

Applicant has filed this OA thereby praying for the  
following reliefs:-

- a) By an appropriate writ, order or direction the  
impugned order dated 16.4.2008 may kindly be  
quashed and set aside and consequently all  
consequential benefits including refund of the already  
recovered amount be directed paid to the applicant.
- b) By an appropriate writ, order or direction the  
impugned order the reversion and recovery of the  
applicant be declared to be illegal, malafide, arbitrary,  
unjustified, unconstitutional and violation of  
Constitution of India. Consequently all consequential  
benefits be awarded to the applicant forthwith.
- c) By an appropriate writ, order or direction in the  
peculiar facts and circumstances of the present case  
any other relief to which the applicant is found entitled  
to may also be granted in favour of the applicant.

d) By an appropriate writ, order or direction the cost of the litigation may also be awarded to the applicant recoverable from the respondents.

2. Briefly stated, facts of the case are that the applicant was appointed as Mason HS in the respondents department. Subsequently, he was promoted to the post of MCM in the pay scale of Rs. 4500-7000/- w.e.f. 20.5.2003 in the year 2005 and his pay was fixed at Rs.5000/-. However, by the impugned order dated 16.4.2008 Annexure A/1 pursuant to review the DPC which was held on 31.10.2007 in accordance with the judgment rendered by the Ernakulam Bench and the order issued by the authorities, the applicant was reverted to the lower post of Mason w.e.f. 20.5.2003. It was further ordered that recovery shall be effected in respect of those individuals who have been wrongly promoted including the applicant who stands reverted to their lower post of Mason in pursuant to the review DPC .

3. Notice of this application was given to the respondents and respondents have filed their reply thereby justifying their action. In the reply it has been stated that the review DPC was held on 31.10.2007 in which the applicant did not come under the zone of consideration due to limited vacancy as on 20.5.2003. Therefore, the applicant has been reverted to the lower post vide order dated 16.4.2008. It is further stated that promotion of MCM was challenged before C.A.T., Ernakulam Bench in the OA No. 882/2003 and pursuant to the judgment rendered as said OA and GOI, MOD New Delhi letter No. 11(1)/2002-D(Civ) dated 27.3.2006 review DPC has been conducted and promotion order was issued vide this HQ letter No. 13140/762/EIB dated 26.2.2008.


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4. Learned counsel of the respondents has also filed MA enclosing the order dated 19.5.2009 which is taken on record. Registry is directed to register the MA. In the MA, it has been stated that recovery as ordered vide order dated 16.4.2008 may not be effected now however notional pay fixation may be done taking into consideration; revised date of promotion and payment after 16.4.2008 may be regularized.

5. In view this subsequent development the present OA does not survive and the same is disposed of with no order as to the costs.

6. In view of order passed in the aforesaid OA, no order is required to be passed in the MA and the same shall also be disposed of accordingly.

  
( B.L. Khatri)  
Member (Administrative)

  
(M.L. Chauhan)  
Member (Judicial)

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