

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Dated: This the 26<sup>th</sup> day of July 2018.

Original Application No. 1642 of 2013

PRESENT:

HON'BLE MR. GOKUL CHANDRA PATI, MEMBER -A  
HON'BLE MR. RAKESH SAGAR JAIN, MEMBER -J

Naveen Mishra, S/o Late Sri Uma Kant Mishra,  
Deputy General Manager (Technical), National  
Highways Authority of India, Kanpur U.P.

.....Applicant

By Adv: Shri Shyamal Narain

V E R S U S

1. The Union of India through the Secretary, Ministry of Road Transport and Highways, Government of India, New Delhi.
2. The National Highways Authority of India, (Ministry of Road Transport and Highways), through its Chairman, G-5 & 6, Sector 10 Dwarka, New Delhi 110075.
3. The Manager (HR/Admn), National Highways Authority of India, (Ministry of Road Transport and Highways) G-5 & 6 Sector 10, Dwarka, New Delhi 110075.
4. The DGM (HR-III) National Highways Authority of India, (Ministry of Road Transport and Highways), G-5 & 6, Sector-10, Dwarka, New Delhi 110075.

..... Respondents

By Adv: Mohd. Ali/Shri L.P Tiwari  
/Shri Dharmendra Kumar/Shri R.K. Rai

O R D E R

BY HON'BLE MR. RAKESH SAGAR JAIN, MEMBER -J

The present Original Application has been filed by the applicant under section 19 of Administrative Tribunals Act, 1985 seeking following relief (s):-

*"(a) That this Hon'ble Tribunal be pleased to quash and set aside the impugned order dated 11.12.2013 (Annexure No. A-1 to Compilation No.1).*

*(b) That this Hon'ble Tribunal be pleased to direct the respondents not to interfere with the functioning of the applicant on his post at the NHAI, and to permit him to discharge his duties as he was doing prior to the issuance of the impugned order.*

*(c) That this Hon'ble Tribunal be pleased to award the costs of this Original Application in favour of the applicant, throughout".*

2. The facts of instant O.A filed by applicant Naveen Mishra are that in 1995, the applicant was appointed as Assistant Executive Engineer in Border Roads Development Organization (BRO). Pursuant to an advertisement issued by National Highways Authority of India (NHAI) inviting

applications from officers under Central/State Government departments for the post of appointment on deputation basis to the post of Deputy General Manager (Technical), applicant applied for the post and consequently appointed for the said post on deputation basis. Applicant was relieved from BRO for onward joining in the NHAI on 21.4.2010. A request was made by the NHAI to BRO for extension of deputation period which was not accepted by the BRO.

2. Further case of applicant is that the NHAI took a policy decision to absorb him on condition of his making an application and a 'No objection certificate' from BRO. The applicant filed application for absorption in NHAI, which was accepted by NHAI. The applicant submitted a technical resignation letter to BRO which was not accepted and BRO requested NHAI to repatriate the applicant immediately which communication was challenged by applicant by filing a writ petition in Hon'ble Allahabad High Court. That despite knowledge of writ petition, respondent No.2 passed the impugned order dated 11.12.2013 of repatriation and also cancelled offer of appointment made to applicant as far back as 30.7.2013. Hence the O.A. seeking direction for cancellation of impugned order.

3. During the pendency of the O.A., the writ petition No. 64447 of 2013 filed by applicant in Hon'ble High Court at Allahabad was disposed vide order dated 28.4.2017 directing the respondents (BRO) to issue the 'No Objection Certificate' in favour of applicant. (Copy of order of Hon'ble High Court filed by learned counsel for applicant placed on record for which there has been no objection from the respondents).
4. Learned counsel for applicant had placed on record a copy of communication dated 2.5.2018 addressed by BRO to NHAI wherein it is mentioned that in compliance to the direction of Hon'ble High Court in writ petition No. 64447/2013, a copy of communication of Government of India, Ministry of Defence, BRO dated 2.4.2018 regarding acceptance of technical resignation of applicant from GREF with immediate effect is being forwarded.
5. Learned counsel for applicant submitted that in view of the aforementioned communication dated 2.5.2018, there can be no hindrance in allowing the O.A.
6. We have heard and considered the arguments of learned counsels for the parties and gone through the material on record.

7. Learned counsel for respondents has not disputed the genuineness of the documents placed on record by applicant. In fact, the position seems to have been accepted by the respondents in view of the submission of Learned counsel for respondents that the OA has become infructuous (Order dated 13.07.2018).

8. In these circumstances, the instant original application is allowed and letter No.11012/191/2013-HR.III dated 11.12.2013 issued by DGM (HR-III) of NHAI is quashed and we direct that necessary administrative action be taken by the respondents in the present matter. In circumstances of the case, parties are left to bear their own costs.

(Rakesh Sagar Jain) (Gokul Chandra Pati)  
Member (J) Member (A)

Manish/-