

Central Administrative Tribunal  
Principal Bench  
New Delhi

C.P.No.562/2017  
in  
O.A.No.3681/2011

Order Reserved on: 30.08.2017  
Order pronounced on 05.09.2017

Hon'ble Shri V. Ajay Kumar, Member (J)  
Hon'ble Ms. Nita Chowdhury, Member (A)

Chandresh Kumar (SC)  
(Marks secured 348)  
Junior Engineer in CPWD  
s/o Sh. Gyan Singh  
Aged about 43 years,  
r/o 229/104, Ambedkar Colony,  
Krishna Nagar, Mathura (UP). ..Applicant.

(By Advocate : Shri Anil Singal)

versus

1. Sh. Abhay Sinha  
Director General  
CPWD, "A" Wing,  
Nirman Bhawan,  
New Delhi.
2. Sh. Ramesh Chandra  
Special Director General (HQ)  
CPWD, "E" Wing,  
Nirman Bhawan, New Delhi. ... Respondents

## **ORDER**

### **By V. Ajay Kumar, Member (J):**

The applicant, filed OA No.3681/2011, seeking the following reliefs:

“1. To quash the impugned Order dt. 29.7.2010.

2. To direct the CPWD/declare that the AEs (Civil) who stand selected for the previous years vacancies than 1998-99 to be treated, selected and readjusted against those years' vacancies as per the Result prepared by the applicant that was required to be prepared by the CPWD as per the law.

3. To direct the respondents to fill up another 66 (Total 78 out of 156 vacancies for the year 1998-99 in which 12 has already been filled) vacancies of Assistant Engineer (Civil) out of total 156 vacancies for the year 1998-99 to be filled up through Limited Departmental Competitive Examination – 99 already conducted.

4. To direct the CPWD to appoint/promote the applicant to the post of AE (who stands selected if the result is prepared in accordance with law as prepared by the applicant) w.e.f. the date her immediate junior in the select list were so appointed/promoted with all consequential benefits.

5. To award costs in favor of the applicant and pass any order or orders, which this Hon'ble Tribunal may deem just and equitable in the facts & circumstances of the case.”

2. The aforesaid OA of the applicant was disposed of along with OA No.882/2011 and batch, by a common Order, dated 04.01.2013, of this Tribunal, and the relevant parts of the said Order read as under:

“3. Shri Anil Singal, learned counsel for the applicants stated that applicants are interested in seeking relief rather than being bogged down by technicalities. If the respondents are inclined to take necessary action, he is willing to withdraw these applications. He, however, urged that the respondents be directed to take necessary action in a fixed time frame. He further supplemented that though the respondents have taken note of 11 OAs in their note referred to above, there are three more which have been filed during the intervening period and the cases of the applicants in these Applications filed subsequently may also be taken up along with 11 OAs.

4. Since the Applications are being withdrawn, we do not find any warrant for issuing any specific directions to the respondents as to the time frame. Suffice it to say that the respondents shall in all probability will take expeditious action in the matter.

5. In view of the aforesaid, Applications are dismissed as withdrawn with liberty to the applicants to seek redressal in case any further grievance survives in accordance with law."

3. One of the applicants i.e., Shri Daulat Ram Verma in OA No.3683/2011, in the aforesaid batch of OAs, filed MA No.1961/2013, seeking execution of the aforesaid common Order dated 04.01.2013 and the said MA was disposed of by this Tribunal on 25.10.2013, as under:

"MA No.1961/2013 is filed seeking execution of the orders of this Tribunal dated 04.01.2013 in OA 882/2011 and batch, including the OA No.3683/2011 against which the present MA is filed.

2. The learned counsel for the applicant submits that basing on the submissions made on behalf of the respondents, the applicants had withdrawn the OAs, and accordingly, this Tribunal dismissed the same as withdrawn. Though the respondents in the said OA stated that they are under the process of filling up of additional vacancies in respect of the claim of the applicants, and though sufficient time has elapsed after the disposal of these OAs, nothing materialized till date.

3. Shri D.S. Mahendru, the learned counsel for the respondents, submits that they have filed an Action Taken Report vide Diary No.11352 dated 24.10.2013 and placed a copy of the same, wherein it is mentioned that after the disposal of the OAs, they have verified the vacancies from record and they have found some discrepancies. They have rectified the same, and while making a proposal for considering for filling up the additional vacancies of the year 1998-99, some supernumerary posts are required to be created, for which they have initiated the action on 26.02.2013. Since the issue requires approval of Ministry of Urban Development, Department of Personnel & Training, and it may also require approval of Ministry of Finance, and this is a lengthy process and it will take sometime to take a final decision on the issue, and on instructions, he submits that they may be able to pass orders on the claim of the applicants within four months.

4. In the circumstances, we dispose of the present MA, by recording the submissions of the learned counsel for the respondents, and by directing the respondents to pass appropriate reasoned and speaking orders on the claim of the applicants within four months from the receipt of a copy of this order. Accordingly the MA is disposed of."

4. The respondents in purported compliance of the aforesaid orders issued Office Order dated 07.07.2015 (**Annexure C-4**), whereunder

they have declared the results of the Limited Departmental Competitive Examination (in short, LDCE) conducted for filling up of 55 vacancies of AE(Civil) for the year 1998-1999. The names of the applicant in the instant CP and also the applicant in the aforesaid MA 1961/2013 in OA 3683/2011 were also shown in the said order dated 07.07.2015, along with others.

5. The petitioner, who was the applicant in OA No.3681/2011, filed the instant Contempt Petition alleging violation and non-implementation of the orders of this Tribunal, dated 04.01.2013. A perusal of the said order dated 04.01.2013, indicates that the OA of the applicant along with other OAs was dismissed as withdrawn with liberty to the applicants to seek redressal in case any further grievance survives in accordance with law, though the said withdrawal of the OAs was basing on the acceptance of the applicants in respect of certain averments made by the respondents. Admittedly, this Tribunal in its common Order, dated 04.01.2013, has not issued any directions to the respondents to act in any particular manner. Hence, the action of the respondents in issuing **Annexure C4** - Office Order, dated 07.07.2015 and in not promoting the applicant to the post of AE, cannot be said to be contumacious and a deliberate and willful disobedience of the orders of this Tribunal. The situation does not change, even if the Order dated 25.10.2013 in MA No.1961/2013 in OA No.3683/2011 is considered to be applicable to the Petitioner in the instant CP.

6. In the circumstances and for the aforesaid reasons, we do not find any merit in the instant Contempt Petition and, accordingly, the same is dismissed. No costs.

(Nita Chowdhury)  
Member (A)

(V. Ajay Kumar)  
Member (J)

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