

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

**O.A No.1223/2015
M.A No.4277/2015 &
M.A No. 2717/2015**

New Delhi this the 8th day of February, 2016

Hon'ble Shri A. K. Bhardwaj, Member (J)

Vishnu Shankar Prasad, Aged 53
Chief Engineer (Standard & Research)
Ministry of Road Transport & Highways
Transport Bhawan

1. Parliament Street, New Delhi-110 001.

....Applicant

(Mr. Nidhesh Gupta, Senior Advocate (Mr. Tarun Gupta,
Advocate with him)

Versus

1. Ministry of Road Transport & Highways
Through its Secretary, Shri Vijay Chhibber
Transport Bhawan
1. Parliament Street
New Delhi-110 001.
2. Shri Vijay Chhibber
Secretary,
Ministry of Road Transport & Highways
Transport Bhawan
1. Parliament Street
New Delhi-110 001.
3. Shri Alkesh Kumar Sharma
Joint Secretary and CVO
Ministry of Road Transport & Highways
Transport Bhawan
1. Parliament Street
New Delhi-110 001.
4. Shri Neraj Verma
Joint Secretary (EIC)
Ministry of Road Transport & Highways
Transport Bhawan
1. Parliament Street
New Delhi-110 001.

5. Shri Harkesh Meena
 Director Establishment
 Ministry of Road Transport & Highways
 Transport Bhawan
 1. Parliament Street
 New Delhi-110 001.

6. Shri H. R. Meena
 Under Secretary (Establishment)
 Ministry of Road Transport & Highways
 Transport Bhawan
 1. Parliament Street
 New Delhi-110 001.

..... Respondents

(By Advocate: Mr. Hanu Bhaskar)

O R D E R (O R A L)

A. K. Bhardwaj, Member (J)

The prayer made in the present O.A filed under Section 19 of the AT Act, 1985 reads as under :-

"8. Reliefs Sought

In view of the above mentioned facts as set out in paras 4 and 5 of the application, the applicant herein prays for the following reliefs :-

- (a) Call for the records of the case;
- (b) Strike down order dated 26.03.2015 passed by the respondents ;
- (c) Strike down order dated 27.3.2015 passed by the respondents
- (d) Pass such other and further orders as this Hon'ble Commission may deem fit and proper in the facts and circumstances of this case.

2. Mr. Nidesh Gupta, learned senior advocate argued at length and espoused :-

(i) The impugned orders dated 26.03.2015 and 27.03.2015 (Annexure A/I) and A) are fall out of the objection raised by the applicant against the advance payment of Rs.10 crore to M/s. ISMCL in which the Joint Secretary concerned i.e., respondent no. 3, namely Alkesh Kr. Sharma was one of the Directors.

(ii) There is no P.M.U at Silchar thus the applicant cannot be posted to a unit which is not in existence.

(iii) There is no approval by the Cabinet for creation of any P.M.U. at Silchar. In the absence of such approval, the applicant could not have been posted there to establish the P.M.U.

(iv) Even the existing P.M.U., P.I.U, and P.U. have been withdrawn from different Stations in North East such as Guwahati, Etanagar and Agartala.

(v) The applicant is due for consideration to the next promotional post of ADG shortly and in terms of the extant rules and instructions, the employee who is due for promotion in the next higher scale and likely to be considered for promotion during the next one year should not be transferred out.

(vi) There are only 19 sanctioned posts of Chief Engineer including 3 posts of ADG in P.M.U at Guwahati and there is no post of Chief Engineer sanctioned for Silchar P.M.U.

3. Mr. Hanu Bhasker, learned counsel for respondents opposed the aforementioned arguments with aplomb, but also raised

a preliminary objection that before approaching the Tribunal the applicant did not comply with provisions of Section 20 of the A. T. Act, 1985, thus the O.A is pre-mature and is liable to be rejected on this ground alone.

4. I heard the learned counsels for the parties and perused the record.

5. There is sufficient force in the arguments put forth by Mr. Hanu Bhaskar that before approaching the Tribunal the applicant should have exhausted the departmental remedy available to him. Thus, I do not find it appropriate to delve into other issues and am of the view that the applicant may make a representation to the Secretary, Ministry of Road Transport and Highways raising all such grounds which have been espoused in the present O.A within one week from the date of receipt of a copy of this order, who should look into the same as expeditiously as possible, preferably within two weeks thereafter and pass a detailed, reasoned and speaking order commenting upon all the points raised by the applicant noted briefly hereinabove. Till the disposal of the representation, the Interim Order already passed shall remain in operation. I am sanguine that the Secretary, Ministry of Road Transport and Highways would take a magnanimous view in the matter looking into all the issues.

6. The O.A stands disposed of with the above directions. No costs.

In view of the aforementioned Order, M.A. Nos.2717/2015 and 4277/2015 stand disposed of.

(A. K. Bhardwaj)
Member (J)

/Mbt/