

**Central Administrative Tribunal
Principal Bench**

OA No.4373/2017

New Delhi, this the 12th day of December, 2017

**Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. K.N. Shrivastava, Member (A)**

Narender, S/o Sh. Chand Singh
R/o H.No.7, Gali No.5
Laxmi Vihar, Mohan Garden
Uttam Nagar, Delhi-110059. ...Applicant

(By Advocate: Shri Yudhvir Singh Chauhan)

Versus

1. Union of India through Ministry of Defence
Room No.132, B-Wing, Sena Bhawan
New Delhi-110011.
2. Director General (Pers.)
Ministry of Defence
Engineer-in-chief Branch
Kashmir House
New Delhi-110011. ...Respondents

(By Advocate: Shri G.S. Virk)

ORDER (ORAL)

Justice Permod Kohli :-

Notice. Shri G.S. Virk, learned counsel, appears and accepts notice on behalf of respondents.

2. The applicant appeared in the Engineering Services Examination, 2012 for Group 'A' post. On successful

qualification of the examination, he was offered a Group 'A' post of Assistant Executive Engineer(Mechanical Engineering) in the Indian Defence Service of Engineers Cadre, M/o Defence vide letter dated 22.01.2014. The applicant accepted the offer vide letter dated 05.02.2014 and came to be appointed vide subsequent letter dated 10.03.2014. While serving in the Ministry of Defence the applicant also applied for ESE 2013 for the Indian Railway Service of Mechanical Engineers(IRSME) in response to the UPSC's advertisement. He was selected in the Railway Engineering Service and appointed therein. The applicant, however, made an application dated 05.10.2014 for his technical resignation (on lien) w.e.f. 06.12.2014 (Annexure A-4). The respondents vide communication dated 03.12.2014 accorded sanction of technical resignation from service on the request of the applicant from the post of Assistant Executive Engineer w.e.f. 06.12.2014. Pertinent to note that in this sanction letter there was no mention of retention of lien in the M/o Defence. The applicant continued to make representations to the respondents for his return to the post held by him in the M/o Defence. Copies of representations have been placed on record from Annexure A-6 to Annexure A-8. The last representation being 01.04.2017. The respondents have

rejected these representations of the applicant vide the impugned order dated 15.12.2016(Annexure A-1). The impugned order reads as under:-

'Returning From Lien to IDSE under MOD

1. Reference your letter No.Nil dated 16 Oct. 2016 addressed to Hon'ble of India and a copy enclosed to this section.
2. In this connection, it is formed that your request is not accepted for lien.
3. This is for your information."
3. It is this order which is under challenge in the present OA. Learned counsel for the applicant submits that he fulfilled all conditions for retaining lien in the parent department where he was initially selected, i.e., M/o Defence(MES) but his request for returning to the parent department has been wrongly rejected. His further submission is that the impugned order is totally non speaking and unreasoned and thus liable to be quashed on this ground itself.
4. We have examined the impugned order. The order is non speaking. It does not contain any reason whatsoever which demonstrate total non application of mind on the part of the respondents. The impugned order is thus not sustainable in law and is hereby set aside. As a consequence

of setting aside the impugned order, we remand the case back to the respondent No.1 with a direction to re-examine the representations of the applicant in accordance with Fundamental Rule 9 (13) read with Govt. of India, Department of Personnel and Training OM No.18011/1/86-Estt.(D) dated 28.03.1988 and decide the said representations by passing a reasoned and speaking order within a period of two months from the date of receipt of copy of this order.

(K.N. Shrivastava)
Member(A)

(Justice Permod Kohli)
Chairman

/vb/