

Central Administrative Tribunal  
Principal Bench  
New Delhi

O.A.No.4158/2017

Order Reserved on: 28.11.2017  
Order pronounced on 30.11.2017

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

G. Suresh (Aged 62 years)  
Ex-CGM (FA)  
S/o K.K.Gopinathan Pillai  
R/o C-3A/39-A  
Janakpuri  
New Delhi. .... Applicant

(Applicant in person)

Versus

National Highways Authority of India  
Through the Chairman  
G 5&6, Sector 10, Dwarka  
New Delhi – 110075. .... Respondent – 1

Mr. Siba Narayan Nayak  
CGM(FA)  
National Highways Authority of India  
G 5&6, Sector 10, Dwarka  
New Delhi – 110075. .... Respondent – 2

## **ORDER**

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

The applicant, a retired Chief General Manager (Financial Analyst) of the 1<sup>st</sup> Respondent-National Highways Authority of India, filed the OA questioning the Annexure A7-Order dated 23.05.2016 whereunder, the 2<sup>nd</sup> Respondent was appointed as Financial Analyst/CGM (FA) on contract basis in the 1<sup>st</sup> Respondent-NHAI.

2. While the applicant was working as Chief General Manager (FA) of the 1<sup>st</sup> Respondent-NHAI, a major penalty chargesheet dated 20.06.2015 was issued to him under Rule 14 of the CCS (CCA) Rules, 1965. He was also placed under suspension vide Order dated 23.06.2015. While the said disciplinary proceedings are pending, the applicant retired from service, on attaining the age of superannuation, on 31.12.2015.

3. While things stood thus, the applicant in response to the advertisement of the 1<sup>st</sup> Respondent-NHAI, for filling up one post of CGM (FA), on contract basis, applied and the Screening Committee constituted for the said purpose observing that the applicant was not cleared by the vigilance, declared him not eligible for interview. Thereafter, in pursuance of the Screening Committee recommendation, the 1<sup>st</sup> Respondent-NHAI appointed the 2<sup>nd</sup> Respondent as Financial Analyst/CGM (FA) on contract basis vide the impugned Annexure A7.

4. However, the 1<sup>st</sup> Respondent-NHAI, after considering the reply of the applicant made to the Charge Memorandum, and the facts and materials of records, vide Order dated 20.03.2017 dropped all the charges framed against the applicant and also ordered to treat the period of suspension from 23.06.2015 to 20.09.2015 as duty for all purposes.

5. Heard the applicant in person.

6. The applicant submits that since the charges against the applicant were dropped and the suspension period was treated as spent on duty for all purposes, his non-consideration for appointment as CGM(FA) on contract basis is illegal.

7. It is to be seen that the nature of appointment of the applicant in the 1<sup>st</sup> Respondent-NHAI prior to his retirement was completely different from that of the appointment of the 2<sup>nd</sup> Respondent in the 1<sup>st</sup> Respondent-NHAI. The former was of a permanent nature whereas the latter one, is on contract basis. Admittedly, as on the date of consideration of the case of the applicant for appointment as CGM(FA) on contract basis, a major penalty charge sheet was pending against him, and that vigilance clearance was also not granted to him, and accordingly his case was not considered for contract appointment. Therefore, we do not find any illegality in the action of the respondents in not considering the applicant for appointment on contract basis as CGM (FA).

8. Accordingly the OA is dismissed, being devoid of any merit. No costs.

(Nita Chowdhury)  
Member (A)

(V. Ajay Kumar)  
Member (J)

/nsnrvak/