

IN THE COURT OF CENTRAL ADMINISTRATIVE TRIBUNAL
AT PORT BLAIR

O.A. No. 351/00521/A&N/2017

IN THE MATTER OF:

Shri Kishore Narayan,
Aged about 52 years,
S/o late Shyam Narayan,
Working as Assistant Engineer,
Presently posted at Executive Engineer,
South Andaman Division, APWD, Port Blair.

..... Applicant

-Versus -

1. The Union of India
Through Secretary to the Ministry of Home Affairs,
Govt. of India, North Block,
New Delhi – 110 001.
2. The Lieutenant Governor,
Andaman and Nicobar Islands,
Port Blair.
3. The Chief Engineer,
Nirman Bhavan,
APWD, Port Blair.
4. The Superintending Engineer,
Nirman Bhavan,
APWD, Port Blair
5. The Executive Engineer,
South Andaman Division,
APWD, Port Blair

..... Respondents

WLL

No. O.A. 351/00521/2017

Date of order: 7.4.2017

Present : Hon'ble Mr. A.K. Patnaik, Judicial Member
Hon'ble Ms. Minnie Mathew, Administrative Member

For the Applicant : Ms. A. Nag, Counsel

For the Respondents : Md. Tabraiz, Counsel

O R D E R (Oral)

Per A.K. Patnaik, Judicial Member:

Heard Ms. A. Nag, Ld. Counsel appearing for the applicant and Md. Tabraiz, Ld. Counsel appearing for the departmental respondents.

2. This O.A. has been filed by the applicant, who is working as Assistant Engineer and presently posted at Executive Engineer, South Andaman Division, APWD, Port Blair, under Section 19 of the Administrative Tribunal Act, 1985 challenging order dated 23.8.2016 by which he was transferred from Executive Engineer, South Division, Port Blair to Construction Division, Car Nicobar, letter dated 31.1.2017 written by Executive Engineer, South Andaman Division, Port Blair to the Chief Engineer, APWD through which the Executive Engineer, South Andaman clearly mentioned that he cannot be relieved from his present place of posting till fresh consignment of explosive arrives and his salary issue is settled, letter dated 22.2.2017 written by the Chief Engineer, APWD to the Superintending Engineer, APWD to provide detailed information about him and also non-consideration of his representation dated 6.3.2017 by which the applicant had requested the authorities to release his salary. Through this O.A., the applicant has sought for the following reliefs:-

- "a) An order/orders directing the respondent authorities to release the salary of the applicant from the month of October, 2016 till date.
- b) An order/orders directing the respondent authorities to release the salary of the applicant including arrears of salary as well as required TA and DA before relieving the applicant.
- c) An order directing the respondent authorities to act in accordance with law.

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d) An order do issue directing the respondents to produce the records of the case before this Hon'ble Tribunal so that consonable justice may be done.

e) Such other or further order, direction or directions, as Your Lordships deem fit and proper in the interest of Justice."

3. As per the Ld. Counsel appearing for the applicant, the sum and substance of the dispute are that he was initially appointed as Junior Engineer (Civil) in APWD, Port Blair on 14.5.1987 after participating in the selection process conducted by the respondent authorities. Vide order dated 21.2.2011 he was promoted to the post of Assistant Engineer (Civil) in APWD w.e.f. 3.7.2009. Promotion was granted to him by strictly adhering to the rules governing the field. The applicant further submits that in his entire service career he has been transferred to various places in Andaman & Nicobar Islands. This O.A. has been filed in connection with his transfer, which was ordered on 23.8.2016. He was transferred from South Division, Port Blair to Construction Division, Car Nicobar. He submits that though he was transferred from Executive Engineer, South Division, Port Blair to Construction Division, Car Nicobar but he was not relieved to join duties by his superior authority i.e. the Executive Engineer, South Andaman Division, APWD, Port Blair. He has already handed over charge to the incumbent who joined his place of posting at Executive Engineer, South Andaman Division, APWD, Port Blair. But as the applicant was not relieved by the authorities, he could not join the place of posting. Thereafter, the authorities without giving any valid reasons have stopped his salary. He was made to work at the office of Executive Enginer, South Andaman Division, APWD, Port Blair but his salary was not released. On 31.10.2017 the Executive Engineer, South Andaman Division, APWD, Port Blair had written a letter to the Chief Engineer, APWD wherein he had clearly mentioned that the applicant cannot be relieved from his present place of posting till fresh consignment of explosive arrives. In the said letter it has also been mentioned that unless the salary issue of the applicant is settled, he cannot be relieved. The Chief Engineer, APWD on

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22.2.2017 wrote a letter to the Superintending Engineer to provide detailed information with regard to this applicant. This letter was duly forwarded by the Superintending Engineer to the Executive Engineer, South Andaman Division, Port Blair on 27.2.2017. The applicant fairly submits that he did not choose to remain at Port Blair. It was due to the requirement of the authorities that he was made to work at Port Blair. He further states that the authorities have named him to be the consignee of the explosives which was to be transported from Mainland to APWD, Port Blair. Therefore, the authorities require his presence to receive the materials. All sorts of dealings including bill verification etc. were to be done by him. He also states that till the date of filing of this O.A. he was discharging his duties at Executive Engineer, South Andaman Division, APWD, Port Blair but still the authorities are not paying him his salary. Now, the applicant has come to know that the authorities are going to relieve him without releasing his salary for the months he has worked at Port Blair. He preferred a representation on 6.3.2017 requesting the authorities to release his salary, which is still pending consideration.

4. Ms. A. Nag, Ld. Counsel for the applicant submitted that the grievance of the applicant would be more or less addressed if a specific order is passed by directing the concerned authority i.e. respondent No. 5 to dispose of the representation dated 6.3.2017 within a specific time frame.

6. Though no notice has been issued still then we think it appropriate to dispose of this O.A. without waiting for reply by directing the respondent No. 5 (i.e. the Executive Engineer, South Andaman Division, APWD, Port Blair) that if any such representation have been preferred on 6.3.2017 and the same is still pending consideration, then it may be considered and disposed of by way of a well-reasoned order within a period of two months from the date of receipt of a copy of this order under communication to the applicant and if after such consideration, the applicant's grievance is found to be genuine, then expeditious

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steps may be taken within a further period of three months from the date of such consideration to extend those benefits to the applicant.

7. We make it clear that we have not gone into the merits of the matter and all points are kept open for the respondents to consider the same as per the rules and regulations in force.

8. A copy of this order along with paper book be transmitted to the respondent No. 5 by speed post for which Ms. A. Nag undertakes to deposit necessary cost in the Registry by 10.4.2017.

9. With the aforesaid observation and direction, the O.A. is disposed of.

(Minnie Mathew)
Administrative Member

(A.K. Patnaik)
Judicial Member

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