

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**MUMBAI BENCH, MUMBAI.**

**ORIGINAL APPLICATION No.162 OF 2019**

**Dated this Monday, the 18<sup>th</sup> day of March, 2019.**

***CORAM: DR. BHAGWAN SAHAI, MEMBER (ADMINISTRATIVE)***  
***RAVINDER KAUR, MEMBER (JUDICIAL)***

Ismail Gani Khan, Age about 48 years,  
Working as MTS (Blue Printer)/DC  
AFK, Pune 411 003.  
Presently residing at Dasharath Landge Chawl,  
Kashrwadi, Pune 411 034.

***... Applicant***

***(By Advocate Shri Ulhas Shinde)***

**VERSUS**

1. Union of India, Through The Secretary,  
Govt. of India, Ministry of Defence,  
South Block, New Delhi 110 011.
2. The Secretary, Ministry of Defence,  
Department of Defence Production & Supplies,  
Govt. of India, South Block, New Delhi 110 011.
3. The Chairman, Ordnance Factory Board,  
10-A, Shaheed Khudiram Bose Road,  
Kolkatta 700 001.
4. The General Manager,  
Ammunition Factory, Khadki,  
Pune 411 003.

***... Respondents***

**Order reserved on 01.03.2019**  
**Order delivered on 18.03.2019**



**ORDER**

*Per : Dr. Bhagwan Sahai, Member (Administrative)*

This OA has been filed on 25.01.2019 by Shri Ismail Gani Khan seeking quashing and setting aside of the speaking order dated 20.10.2016 (Annex A-1) and Gazette Notifications dated 19.07.2012 (Annex A-3) and 29.12.2012 (Annex A-4). He also seeks setting aside of the order passed by the Establishment Office of the Ammunition Factory, Khadki, Pune dated 17.03.2017 directing the applicant to give willingness and undertaking for re-designation to Industrial Cadre (labour / semi-skilled) based on which he would be placed at the bottom of seniority of Labour / Semi-skilled workers.

2. We have heard the counsel for the applicant on 28.02.2019 and 01.03.2019. The applicant has submitted that he was one of the 26 applicants in the Original Application No.4044/2013 filed before Principal Bench of the Tribunal, which was decided on 22.07.2016 with certain directions to the respondents. In pursuance to those directions of the Principal Bench



of the Tribunal, the respondents issued the impugned order dated 20.10.2016 explaining that in the Recruitment Rules i.e. Para 10(iii) of SRO 43 of 2013 regarding promotion of Group 'C' employees in the former Grade Pay of Rs.1,800/- to the post of LDC in the Grade Pay of Rs.1,900/-, it has been provided that (i) 85% vacancies would be filled up by direct recruitment; (ii) 10% of the vacancies shall be filled from Group 'C' staff who possess 12<sup>th</sup> Class or equivalent qualification and have three years experience of regular service; and (iii) 5% of the vacancies shall be filled on seniority-cum-fitness basis from Group 'C' employees who have experience of three years regular service in posts with Grade Pay of Rs.1,800/-.

3. In that OA No.4044/2013 before the Principal Bench, the main grievance of the applicants was that they were not 12<sup>th</sup> pass and they had no opportunity for promotion. In view of this, that OA was decided on 22.07.2016 issuing directions to the respondents to provide promotional avenues



to the applicants.

4. In the consequent order, the respondents have explained that for the 5% promotion quota for LDCs, there is no mention of educational qualification and thus, the rules already have provision for promotion of candidates who were not 12<sup>th</sup> pass.

5. Subsequently, 14 applicants out of the 26 applicants in OA No.4044/2013 filed CP No.31/2017 before the Principal Bench of the Tribunal. The present applicant was also one of those 14 Contempt Petitioners (Serial No.14). After hearing the Contempt Petitioners and the respondents and considering the order issued by the respondents on 21.04.2017, the Contempt Petition was closed by the Principal Bench on 03.05.2017.

6. Thereafter MA No.2069/2017 was also filed by the petitioners in the Contempt Petition for recalling the order of closure of the Contempt Petition dated 03.05.2017. However, after hearing the parties, the Principal Bench dismissed that MA finding no



misrepresentation by the respondents with reference to their reply to the Contempt Petition.

7. From these details, it is clear that the present applicant along with others have already availed of and exhausted all the legal remedies before the Principal Bench of the Tribunal. At the above stages of the decision on the OA and dismissal of the Contempt Petition with reference to it by the Principal Bench of the Tribunal, we find that remedy on the cause of action of the present applicant had already attained finality.

8. However, now the applicant in the present OA (162/2019) has attempted to indulge in further litigation for the same cause of action before this Bench of the Tribunal. We find that this attempt of the applicant is a totally wasteful litigation, which cannot be entertained at all. The applicant has also made an attempt to justify the delay in challenging the order of the Director General, Ordnance Factory Board, Kolkata dated 20.10.2016 claiming



that he has not been considered for promotion for the post of Tracer or Charge-man Grade II and that the delay of one year and three months of filing this OA should be condoned.

9. As explained above, in view of finality of the decision of Principal Bench of the Tribunal with reference to the grievance of the present applicant in OA No.4044/2013, we find this application for condonation of delay has no substance and this OA being a wasteful litigation by the applicant cannot be entertained. Therefore, this OA is dismissed at the stage of admission itself.

**(Ravinder Kaur)**  
**Member (Judicial)**

**(Dr. Bhagwan Sahai)**  
**Member (Administrative)**

*kmg\**