

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH**

OA 4416/2018  
MA 5020/2018

Reserved on 26.02.2019  
Pronounced on 08.03.2019

**Hon'ble Ms. Nita Chowdhury, Member (A)**  
**Hon'ble Mr. S.N.Terdal, Member (J)**

Sh. Pramod Rai Shrivastava,  
(Group 'B')  
Aged about 54 years,  
S/o Late R.R.Srivastava,  
R/o Plot No. 33, New Cosmopolitan Apartment,  
CGHS, Flat No.A-404, Sector-10,  
Dwarka, New Delhi  
(Working as Manager (Tech) in NHAI).

.... Applicant

(By Advocate: Surinder Kumar Gupta)

**VERSUS**

National Highways Authority of India,  
Through its Chairman,  
G-5 & 6, Sector-10, Dwarka,  
New Delhi.

... Respondent

(By Advocate: Mr. Naresh Kaushik with Mr. Lakshya Juneja)

**ORDER**

**Hon'ble Mr. S.N.Terdal, Member (J):**

We have heard Mr. Surinder Kumar Gupta, counsel for applicant and Mr. Naresh Kaushik, counsel for respondents, perused the pleadings and all the documents produced by both the parties.

2. In this OA, the applicant has prayed for the following reliefs:

- "(i) direct the respondent not to give effect to the order dated 25.07.2018 until the case of the applicant for absorption on the post of Manager (Tech) is considered and finalized;
- (ii) May also pass any further order(s), direction(s) as be deemed just and proper to meet the ends of justice."

3. The relevant facts of the case are that with effect from 31.3.2011 the applicant joined the respondent National Highway Authority of India (NHAI) organization on deputation in view of Regulation 13 inserted in the "National Highways Authority of India (Recruitment, Seniority & Promotion) Regulation, 1996" which were framed under Section 9 and 35 of the NHAI Act, 1988. Before going on deputation his parent department was Water Resources Department of State of Madhya Pradesh (MP) and he was having lien in the said Department on the post of Sub Engineer (Graduate). His deputation was extended from time to time. On 29.08.2017, in response to the Notification issued by the respondents inviting application for absorption the applicant submitted his willingness and his name figure in the eligibility list at serial no. 14 as per the list issued on 3.11.2017. On 25.7.2018, the respondents passed an order repatriating the applicant to his parent department and also relieving him. The contention of the applicant is that several other candidates who were not even figuring in the above stated eligibility list were absorbed but, however, he was not absorbed because of the discriminatory and arbitrary conduct of the respondent. Based on the above facts, he has sought the relief prayed for.

4. In the counter affidavit, the respondents have stated that the applicant consequent upon the repatriation and relieving order dated 25.07.2018 was directed by an Office order dated 15.11.2018 to hand over the charge to some Mr. Himanshu Gupta, Deputy Manager (Tech) and that on 16.11.2018 he had handed over the charge and that by a note dated 19.11.2018 submitted by the applicant he had reported about the said handing over of the charge to the technical division for necessary needful action and this is evident from the request letter submitted by the

applicant dated 22.11.2018 to the Chairman, NHAI which is produced by the applicant as Annexure A-18, the relevant para of which is extracted below:

"5. It is pertinent here to mention that till now, undersigned is not conveyed the decision of Admn. Div. on the representation submitted by the undersigned as mentioned at para 1 above. Meanwhile, undersigned has verbally informed by controlling officer that Competent Authority is not considering representation for absorption. Meanwhile, vide office order dated 15.11.2018 (Annexure-IX), Technical Division has directed undersigned to handover the charge to Sh. Himanshu Gupta, Dy. Manager. Accordingly, undersigned has handed over the charge on 16.11.2018 and vide note dated 19.11.2018 reported to Technical Division for further needful (Annexure-X)."

The counsel for the respondent brought to our notice that in spite of the above said averments of handing over the charge, the applicant filed this OA on 22.11.2018 and when the matter for posted before the Tribunal for admission on 04.12.2018 without bringing to the notice of the Tribunal the above said fact in the extracted portion, misled this Tribunal to grant an interim direction of maintaining status quo. From the perusal of the chronological of events, it is observed that as submitted by the counsel for the respondents this Tribunal was misled in passing the interim order. In view of his own above stated note dated 19.11.2018, the main relief prayed for in this OA cannot be granted. He further contended that as per the Recruitment Rules (RRs), the maximum period for which deputation is to be extended is for 7 years and as per the DoP&T OM dated 17.02.2016 the deputation period cannot be extended beyond the maximum period allowed in the RR. The relevant portion of the RRs is extracted in the reply which is as under:-

"4. All other terms and conditions issued vide OM no. 6/8/2009-Estt.(Pay-II) dated 17<sup>th</sup> June 2010 will remain unchanged.

5. In cases where the necessity to have deputation tenures longer than seven years is felt, the concerned administrative Ministries / Departments / borrowing organization may amend the recruitment rules of such deputation post accordingly, after following the requisite procedure. No extension of deputation beyond 7 years is to be allowed unless provided in the relevant Recruitment Rules of such deputation post. It is reiterated that no case for extension beyond five years shall be referred to DoPT."

5. The counsel for the applicant nevertheless, vehemently and strenuously contented, as recorded above, that as several incumbents who were not in the eligibility list have been absorbed, he submits that the relief prayed for by him may please be granted.

6. In view of the facts and circumstances of the case narrated above, the relief prayed for by the applicant cannot be granted and as the applicant had secured the interim direction of maintaining status quo against the facts stated his own note, referred to above, this OA is dismissed with an exemplary cost of Rs.20,000/- to be paid to CAT Bar Association (Library) Fund and status quo order dated 4.12.2018 is vacated.

**(S.N.Terdal)**  
**Member (J)**

**(Nita Chowdhury )**  
**Member (A)**

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