

**Central Administrative Tribunal
Principal Bench
New Delhi**

OA No.367/2019

This the 1st day of February, 2019

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Pradeep Kumar, Member (A)

Anuj Kanwal,
Director (JAG Post) 'A'
Central Water Engineering Services
S/o A. N. Kanwal, Aged 50 years,
R/o C-488, FF, Yojna Vihar,
New Delhi-110092. ... Applicant

(By Mr. Siddhant Rai Pethi and Mr. Daryl Menezes, Advocates)

Versus

1. Ministry of Housing and Urban Affairs
through Secretary,
Ministry of Housing and Urban Affairs,
Nirman Bhawan, New Delhi.
2. Hon'ble Minister of State (Independent Charge)
through Secretary,
Ministry of Housing and Urban Affairs,
104-C, Nirman Bhawan,
New Delhi. ... Respondents

(By Mr. Piyush Chhabra, Advocate)

ORDER

Justice L. Narasimha Reddy, Chairman :

An advertisement was issued on 30.05.2016 by the
Ministry of Urban Development, Government of India, inviting
applications for appointment to the post of Arbitrators by way

of deputation with the headquarters at Mumbai and Delhi. The applicant herein responded, along with many others.

2. Through an office order dated 03.03.2017, the applicant and one Mr. Rajesh Banga were appointed as Arbitrators in the pay scale of Rs.37400-67000 + Grade Pay Rs.10000/- (pre-revised). The appointment was by way of deputation, and the applicant was required to operate from the headquarters at Mumbai. On receipt of the order of appointment, the applicant addressed a letter on the same day, stating that on account of the critical illness of his mother, the circumstances would not allow him to join outside Delhi, at least for a year. A request was made to post him at Delhi. This was followed by a detailed representation dated 21.07.2017, taking exception to the appointment and posting of Mr. Rajesh Banga at Delhi.

3. The respondents issued office order dated 05.12.2017 cancelling the appointment of the applicant as Arbitrator. This was preceded by the approval of the Appointments Committee of the Cabinet (ACC) on 14.11.2017. This OA is filed challenging the proceedings dated 14.11.2017 through which the ACC accorded approval for cancellation of

the appointment of the applicant as Arbitrator, and the office order dated 05.12.2017.

4. The applicant contends that he is already working as Director in the Central Water Engineering Services, and with a view to improve his career, he responded to the advertisement for appointment as Arbitrator on deputation basis. According to him, the respondents could have posted him in Delhi, but instead they have chosen Mr. Rajesh Banga, though the circumstances warranted the other way. It is also stated that the respondents did not consider and appreciate the reasons furnished by him in the representation, and the order of cancellation was passed in contravention of the prescribed procedure.

5. We heard Mr. Siddhant Rai Pethi and Mr. Daryl Menezes, learned counsel for the applicant, and Mr. Piyush Chhabra, learned counsel for the respondents, at the stage of admission itself.

6. The appointment is to the post of Arbitrator in the Ministry of Urban development, and it is purely on deputation basis, for a period, not exceeding five years. The applicant was selected and an order of appointment was issued. However, he

was not prepared to join in the office at Mumbai. He cited the reason of ill health of his mother. An attempt was also made by him to find fault with the appointment and posting of Mr. Rajesh Banga. The respondents gave ample time and opportunity to the applicant to join at Mumbai, and left with no alternative they have cancelled the order of appointment, so that steps can be initiated for appointment of another individual.

7. The applicant made an effort to point out procedural irregularities. When he was not inclined to join the post from the very hour he received the order of appointment, it is just un-understandable as to what procedural gambit is involved. As provided for under the relevant guidelines, the respondents have debarred the applicant from being considered for appointment as Arbitrator for a period of five years. There is valid basis for such stipulation. The process for selection and appointment takes quite some time, and if a candidate who is appointed after such a long procedure, declines to join for his own reasons, he cannot have the luxury of frustrating the very selection process. The debarment is to ensure that the other departments do not become victims of such fanciful approaches.

8. We do not find any merit in the OA. The same is accordingly dismissed. There shall be no order as to costs.

(Pradeep Kumar)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/as/