

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH**

ORIGINAL APPLICATION NO.170/01331/2018

DATED THIS THE 11th DAY OF JUNE, 2019

HON'BLE DR.K.B.SURESH, JUDICIAL MEMBER

HON'BLE SHRI C.V.SANKAR, ADMINISTRATIVE MEMBER

Subodh Kumar Shaw
S/o Shankar Shaw
Aged about 29 years
Resident of No.31/14
Type 1 quarters
DGQA Residential Complex
Guntha Vihar
J.C.Nagar Post
Bangalore-560006.

....Applicant

(By Advocate Sri B.Veerabhadra)

Vs.

1. The Commanding Officer
Station Work Shop, EME Type J
Agram Post
Bangalore-560007.
2. The Directorate General of EME
Master General of Ordnance Branch
Integrated Head Quarters of MOD (Army)
New Delhi-110 106.
3. The Union of India
Ministry of Defence
Rep by its Secretary
DHQPO
New Delhi-110001.
4. Commissioner of Police/Superintendent of Police
District Police Headquarters
PO:Chinsurah RS
District: Hoogly
State: West Bengal
Pin Code: 712012.Respondents

(By Advocate Sri B.G.Vijayakumara Swamy)

ORDER

(PER HON'BLE SHRI C.V.SANKAR, MEMBER (ADMN))

The case of the applicant is that he had applied for the post of TCM under the control of 1st respondent in response to the notification at Annexure-A1. He belongs to OBC category. The applicant reported on 17.2.2017 as recorded in the admit card(Annexure-A2). Consequently the 1st respondent issued a letter dtd.18.4.2017(Annexure-A3) whereby attestation form along with medical examination form and statement and declaration form was forwarded. The applicant submitted all the required documents and was expecting the appointment order. The 1st respondent has issued a letter dtd.18.5.2017(Annexure-A4) to the Commissioner of Police, Hoogly District, West Bengal. Thereafter another letter dtd.14.6.2017(Annexure-A5) was issued to the same authority. Then the 1st respondent issued a letter dtd.20.10.2017(Annexure-A6) to District Collector/Magistrate for verification of character and antecedents of the applicant. That being the position, the 1st respondent issued a letter dtd.8.1.2018(Annexure-A7) informing stoppage of recruitment process due to optimization of Civ. manpower. Aggrieved by the same, the applicant submitted representation/RTI dtd.6.3.2018(Annexure-A8), in response to which the 1st respondent has replied vide dtd.27.3.2018(Annexure-A9). The action of the 1st respondent is against the policy of Union of India stipulated in OM dtd. March, 2016(Annexure-A10). As the respondents willfully denied the legitimate appointment to the applicant as TCM, he filed the present OA seeking the following relief:

i. Call for the relevant records and on perusal;

ii. Direct the respondents to consider the case of the applicant for appointment from the due date when others have been appointed in pursuance of the notification at Annexure-A1 with all consequential benefits

including the service and monetary benefits while declaring the impugned letter in No.20302/Employment dtd.8.1.2018 Annexure-A7 as void arbitrator and discriminatory and

iii. Pass any other order or direction or grant any other relief as deemed fit by this Hon'ble Tribunal including the cost of the exemplary cost, in the interest of justice, equity and fair play in administration.

2. Per contra, the respondents in their reply statement have submitted that the applicant who belongs to OBC category had applied for the post of TCM under the control of 1st respondent when it has been notified. The applicant reported on 17.2.2017 as recorded in the admit card. Thereafter the 1st respondent issued a letter dtd.18.4.2017 whereby attestation form along with medical examination form and statement and declaration form was forwarded. The applicant submitted the required documents. The provisional selection letter(Annexure-R1) was sent stating that the applicant is a probable candidate for the selection for appointment as TCM at station workshop EME, Bangalore and also in para 4 of the same letter, it is clearly quoted that the letter is not be treated as an authority for appointment to the post of TCM. Appointment order is not issued because it will be issued only after verification of character and antecedents. The 1st respondent sent verification of character and antecedents form vide letter dtd.18.5.2017(Annexure-R2) addressed to the Commissioner of Police Hoogly District, West Bengal. Thereafter, another letter dtd.14.6.2017(Annexure-R3) was issued to the same authority. The same was returned unverified stating that the same may be sent to the District Magistrate. Then the 1st respondent has again forwarded the verification of character form to District Collector/Magistrate vide letter dtd.08.07.2017(Annexure-R4). In the meanwhile, the respondents' office has received direction from the Directorate General of EME(Civ) stating stoppage of recruitment process due to optimization of Civ. manpower vide letter dtd.8.1.2018(Annexure-R6) which is impugned herein.

Thereafter another letter is issued directing that recruitment process to all categories of persons in Corps of EME have been withheld temporarily vide Dte.Gen of EME (Civ) letter dtd.26.6.2018(Annexure-R7). Hence, the applicant is not eligible for the benefit sought for by him. As such the OA is liable to be dismissed.

3. We have heard the Learned Counsel for both the parties and perused the materials placed on record in detail. In this case, the entire recruitment process was completed excepting verification of character and antecedents as early as April, 2017. The verification details have finally been received in February 2018. However, in the meantime, the recruitment process for Civilian Manpower has been stopped vide Annexure-R6. As rightly claimed by the applicant, he would come under the category of point No.(a) mentioned in letter dtd.20.11.2017 which reads as follows:

(a) Direct Rect. All cases in rect in adv stages where formalities for conducting tests, verification of docus etc. have been completed and provisional selection letter/ Offer of Appt has been issued to the candidates (only final issue of Appt letter is remaining) upto 07 Nov 2017 be completed and extn of NACs for such cases be obtained from AG's Br if reqd on PRIORITY.

However, the respondents would contend that the process of granting extention of validity of NAC has been withheld temporarily since a special committee has been constituted under MoD to review the restructuring of Corps of EME vide Annexure-R7. It is not clear whether any report of the special committee has since been received. In the case of the applicant, he has been selected after following due process in April 2017 itself and only the issue of the final appointment letter has been delayed. Since the respondents themselves have admitted that in case of recruitment in advance stages, only the extension of NAC has to be obtained, it is unjustified on the part of the respondents to cite the formation of a committee and stopping the process of extension of validity of NAC temporarily. It is not known as

to when this temporary ban would be lifted and the formal order of appointment would be finally issued. A reasonable expectation has been created vis-a-vis the selection process with regard to the case of the applicant and he is entitled to be issued a formal letter of appointment since the verification of character and antecedents has also been received subsequently. The process of the extension of NAC cannot be prolonged forever citing a report on the restructuring of the Corps of EME which may take many years to be finally approved and accepted by the Ministry. Therefore, there will be a mandate to the respondents to issue the formal letter of appointment irrespective of Annexure-R7 to the applicant within a period of two(2) months from the date of issue of this order.

4. The OA is allowed with the above direction. No costs.

(C.V.SANKAR)
MEMBER (A)

(DR.K.B.SURESH)
MEMBER (J)

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Annexures referred by the applicant in OA.No.170/01331/2018

Annexure-A1: Application call for
Annexure-A2: Admit Card
Annexure-A3: Letter dtd.18.4.2017
Annexure-A4: Letter dtd.18.5.2017
Annexure-A5: Letter dtd.14.6.2017
Annexure-A6: Letter dtd.20.10.2017
Annexure-A7: Impugned letter in No.20302/Employment dtd.8.1.2018
Annexure-A8: Representation/RTI dtd.6.3.2018
Annexure-A9: RTI reply dtd.27.3.2018
Annexure-A10: DoPT OM dtd.March 2016

Annexures with reply statement:

Annexure-R1: Letter dtd.18.4.2017
Annexure-R2: Letter dtd.18.5.2017
Annexure-R3: Letter dtd.11.6.2017
Annexure-R4: Letter dtd.8.7.2017
Annexure-R5: Copy of RTI 2015 dtd.27.3.2018
Annexure-R6: Copy of the order dtd.20.11.2017
Annexure-R7: Copy of letter dtd.26.7.2018
Annexure-R8: Copy of Procedure to be adopted for direct recruitment
Annexure-R9: Copy of procedure adopted for the recruitment Group C & E
Categories
Annexure-R10: Copy of Office Memorandum
