

**CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH, BENGALURU**

**ORIGINAL APPLICATION NO.170/00351 TO 355/2018**

**DATED THIS THE 13<sup>TH</sup> DAY OF JUNE, 2019**

**HON'BLE DR.K.B.SURESH  
HON'BLE SHRI C.V. SANKAR**

**...MEMBER(J)  
...MEMBER(A)**

1. B.K.CHANDRASHEKAR  
S/o Sri.B.K.Gurubasappa,  
Aged about 57 years,  
MES/1386650,Working as SAA,  
O/o CWE (Army),  
No.101, Dickenson Road,  
Bangalore– 560 042.  
Residing at: Greenaly Signatures,  
N0.004, 'A' Block GF,  
Arikere Behind,  
Sai Baba Temple,  
Bangalore-560 076.
2. S.R.JAGATAP  
S/o Late .R.Y.Jagatap,  
Aged about 57 years,  
Working as JAA,  
MES /306074,  
O/o CWE (Army),  
No.101, Dickenson Road,  
Bangalore– 560 042.  
Qtr. No.33/10,  
DCA Complex,  
Someshwarapura,  
Extn Ulsoor,  
Bangalore-560 008.
3. K.S.N.REDDY  
S/o Late K.R.Reddy,  
Aged about 56 years,  
Ex-JC-305603,  
Working as JAA,  
O/o Garrison Engineer (South)  
Bangalore-560 042.  
Res: No.27, 4th Main,  
8th Cross,  
Ramamurthy Nagar,  
Bangalaore-560 016
4. ARAVIDAKSHAN P.M  
S/o Shri M.K.R. Nambiar,  
Ex-JC 306293L, Age 55 years

Working as JAA,  
 O/o CWE (AF) (North),  
 Bellary Road, JC Nagar P.O,  
 Bangalore-560 006.  
 Res:QtrNo.10/13  
 Gunatha Vihar DGQA,  
 Residential Complex,  
 J.C.Nagar Post,  
 Bangalore-560 006.

5. G.NAVI CHANDER  
 S/o Late.M.Govindaraj,  
 aged about 55 years,  
 Working aa SAA,  
 O/o Garrison Engineer (Project),  
 Bangalore-560 042.  
 Res: No.376,  
 Karnashree Layout,  
 2nd Stage, Medahalli,  
 Bangalore-560 049.

.... APPLICANTS

(By Advocate Shri K. Hanifa)  
 Vs.

1. Union of India  
 Rep by its Secretary,  
 Room No.234,  
 Ministry of Defence,  
 South Block,  
 New Delhi-110 015.

2. Engineer in Chief,  
 IHQ, MOD (Army),  
 Kashmir House,  
 Rajaji Marg,  
 New Delhi-110 001.

3. Chief Engineer,  
 HQ, Southern Command,  
 Pune-411 001.

4. Garrison Engineer (South),  
 Bangaalore-560 042.

5. Commander Works Engineer (North)  
 Bellary Road, JC Nagar Post,  
 Bangalore-560 006.

6. Commander Works Engineer (Army),  
 No.101, Dickenson Road,  
 Bangalore- 560 042.

.... RESPONDENTS

(By Standing Counsel Shri K. Gajendravasu for Respondents)

**O R D E R (ORAL)****HON'BLE DR.K.B.SURESH** **...MEMBER(J)**

Heard. Persons on the verge of retirement or under other issues are the applicants. It seems vide order L.13229/CCB/486/EIB dated 06.03.2018, produced as Annexure A-19, HQ Chief Engineer, Chennai Zone was informed by the Commander Works Engineers(Army), certain issues with regard to the applicants, we quote from it:

Commander Works Engineers  
(Army)  
Military Engineer Services  
101, Dickenson Road,  
Bangalore-560 042.

L.13229/CCB/486/EIB

06 Mar 2018,

HQ Chief Engineer  
Chennai Zone  
Island Grounds  
Chennai-09.

**POSTING TRANSFER: SUBORDINATE  
ON ADMINISTRATIVE GROUNDS**

1. Please refer HQ CE SC Pune Posting Order No. 03/2018 dated 22 Feb 18 issued vide letter No.132404/2/CCB Jul 2017/134/E 1B(S)/A1 dated 22 Feb 2018.
2. Representations for cancellation of posting order received from the following individuals of our area is fwd herewith duly recommended by CWE please:-

Ser No	MES No, Name, Designation & Unit	Remarks
a	MES-130690 Shri G Navi Chander, SAA GE (P) Bangalore	Indl has not completed six years of service in Bangalore, hence Indl requested for cancellation of posting.
b	A/1386650	Indl will be completing 57 years of age on 17 May 2018 and as per Para 58 of E-in-C's Branch New Delhi posting policy letter No. B/20148/PP/E1C (1) dt 27 Aug 07 is exempted from posting

		and also Indl elected has First Time Branch Secretary AIMESAC & MSA for Bangalore.
c	Ex-JC-306736F Shri Ram Chandra Prasad, JAA CWE (Army) Bangalore	Son of the individual is having 40% disability for life as per AFMSF-16 (Ver 2006 dt Sep 12 issued by Comd Hosp (Air Force) Bangalore. Based on the medical ground of his son your HQ has cancelled his earlier posting order vide your letter No 132402/2016/LDC/110/E1B(S)/A2 dt 15 Jun 16.
d	MES-190109 Smt Archana SJ, JAA CWE (Army), Bangalore	Indl is having 12 months old Baby Boy and her spouse is working in IT Sector in Bangalore and his service is not transferable. Due to which her 12 months old Baby needs mothers care/nourishment. Based on her child care she has requested for cancellation of posting order as per Govt of India, DOPT order No.28034/2/97-Estt(A) dt 12 Jun 97.
e	EX-JC-305603 Shri KNS Reddy, JAA GE (South), Bangalore	Indl is suffering from Dysphasia with Sub Mucosal module in esophagus on UGI and under medical treatment with Command Hospital Bangalore and also not completed six years service in Bangalore, hence Indl has requested for cancellation of posting.
g	MES-189364 Smt R Alamelu Naidu, JAA CWE (Army), Bangalore	Indl is having 03 years old Girl child and her spouse is working in IT Sector in Bangalore and his service is not transferable. Due to her 03 yrs child and needs both parental care/nourishment. Based on her child care she has requested for cancellation as per Govt of India, DOPT order No. 28034/2/97-Estt(A) dt 12 Jun 97.
h	Ex-JC-306074K Shri Sadanan R Jagatap, JAA CWE (Army), Bangalore	Indl is elected first time as JCM IVth Level Member vide this office order No. 11211/JCM/276/E1B dated 06 Aug 2016 and also going to complete 57 years of age 20 Jun 2018, hence as per Para 17 and 58 of E-in-C's Branch New Delhi posting policy letter No B/20148/PP/E1C (1) dt 27 Aug 07 is exempted from posting please.

3. In view of the above, representations of the above Individuals may please be fwd to HQ Chief Engineer Southern Comd Pune duly recommended by Chief Engr at the earliest due to paucity of time please.
4. HQ Chief Engineer (AF) Bangalore has also taken up a considered case of Bangalore area with HQ Chief Engr Southern Comd Pune for review of posting order vide their letter No 122015/AF/CCB/3600/E1B(S) dt 03 Mar 2018 (copy enclosed).

-sd/-

(C Subramanyam  
Admn Offr II  
For Commander Works Engineers(Army)

2. Apparently, thereafter an administrative ground order was passed saying that the applicants had been put on warning list and have not reciprocated. But then that does not seem to be correct, as evidenced from Annexure A-19. As Annexure A-19 could not have genesis, unless the applicant supplied necessary points. Therefore, we think that the stand taken by the respondents seems to be at variance with the facts available.

3. Apparently, from the level of Director, E-in-C an order was issued as B/20148/PP/E IC(1) dated 20<sup>th</sup> August 2018, which we quote:

*Directorate General (Pers)  
HQ Military Engineer Services  
Engineer-in-Chief's Branch  
Kashmir House, New Delhi-11*

*B/20148/PP/94/E IC(1)*

*20<sup>th</sup> August 2018,*

*Chief Engineer [for kind attn.. of Jt DG (Pers)/Col(Pers)]  
HQ Southern Command  
Pune-908541.*

**WARNING INSTRUCTIONS FOR ADMINISTRATIVE POSTING-2018**  
**BASIC SUBORDINATE STAFF**

1. *Reference All India MES Civilian Engineer Association letter No.AIMCEA/CHQ/THU/30 dt Jul 2018 addressed to Lt Gen Sanjeev Kumar Shrivastava, AVSM, E-in-C, E-in-C's Sectt, Kashmir House, New Delhi-11 and copy endorsed to your HQ wherein they have enclosed the copy of your HQ letter No.132601/Adm Posting-18/01/E1B(S).A1(a) dated 24 Jul 2018.*
2. *The matter has been analysed by the E-in-C and it is directed to put on hold Administrative Postings being planned vide your letter No.132601/Adm Posting-18/01/E1B(S).A1(a) dated 24 Jul 2018. Deficiency of stations should be taken care of by posting newly recruited LDCs, Stenos & JEs. Please ensure that while posting newly recruited LDCs, Stenos & JEs priority will be given to newly raised formations.*
3. *Please fwd details alongwith justification of all adm postings issued by your Command and also give detailed comments on the points raised in the Association letter.*
4. *This has approval of the E-in-C.*

-Sd/-  
 (S.K. Tripathi, IDSE)  
 Director, E1C(1)  
 For E-in-C

4. Therefore, the higher authority has directed that all Administrative postings be put on hold and that deficiency of stations should be taken care of by newly recruited persons. Therefore, this transfer order could not have been issued by Respondent No.3. It is quite illegal and against the mandate given by the higher authority.
5. We think that this is a matter which should be examined by Respondent No.1 in relation to the sensitiveness and obedience of orders by the then Respondent No.3. He may do so within the next 2 months. The transfer orders are hereby quashed. OA allowed. No costs.

(C.V. SANKAR)  
 MEMBER(A)

vmr

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

**Annexures referred to by the Applicant in OA.351 to 355/2018**

Annexure A1: Transfer Policy of the Respondent Department dt.27.08.2007.

Annexure A2 : O.O.No. 145 dt. 06.08.2016 – Constitution of Fourth Level JCM Council at CWE (Army), Bangalore – showing Applicant-2 as JCM Member.

Annexure A3: L.No.132402/CML-17/SS/166/EIB (S)/A1 (a) dt.29.05.2017- Warning instruction for CML Posting.

Annexure A4: L.No.132402/Gen/485/EIB (S)/A (a) dt.29.07.2017- posting/Transfer: Command Manning Level.

Annexure A5: L.No.132404/2/CCB Jul 17/77/EIB (S)/A1 dt.11.11.2017-Warning instructions.

Annexure A6: Representation of the 3<sup>rd</sup> Applicant dt.16.11.2017.

Annexure A7: Representation of the 5<sup>th</sup> Applicant dt.20.11.2017.

Annexure A8: Representation of the First Applicant dt.21.11.2017.

Annexure A9: Representation of the 2<sup>nd</sup> Applicant dt.22.11.2017.

Annexure A10: O.O. No.176 dt.16.12.2017-Sowing 3<sup>rd</sup> Applicant as Works Committee Member.

Annexure A11: L.No.132404/2/CCB Jul 2017/134/EIB/(S)A1 dt. 22.02.2018 – Warning instructions.

Annexure A12: Representation of Staff Union dt.24.02.2018.

Annexure A13: Representation of 5<sup>th</sup> Applicant dt. 24.02.2018.

Annexure A14: Representation of First Applicant dt.26.02.2018.

Annexure A15: Representation of 4<sup>th</sup> Applicant dt.26.02.2018.

Annexure A16: Representation of Staff Union dt.27.02.2018.

Annexure A17: Representation of third Applicant dt.28.02.2018.

Annexure A18: Letter dt. 03.03.2018- issued by CE (AF), Bangalore.

Annexure A19: L.No.13229/CCB/486/EIB dt. 06.03.2018-issued by CWE(Army)

Annexure A20: Representation of the 2<sup>nd</sup> Applicant dt. 09.03.2018.

Annexure A21: Order.No.132404/2/CCB Jul 2017/63/EIB/A1 dt.10.04.2018

**Annexures referred by the Respondents in the Reply**

Annexure-R1: Copy of Warning Instructions.

**Annexures referred to by the Applicant in Rejoinder**

Annexure A22: L.No.1753/152/E1B dt 13.06.2018 by R-4.

Annexure A23: L.No.95 (1/WC) 2018-B3 dt. 19.06.2018 –issued by Ministry of labour.

Annexure A24: L.No.132601/Admn Posting-2018 Basic subordinate staff/01 /EIB(S)/A1 (a) dt. 24.07.2018 issued by R-3 .

Annexure A25: L.B/20/20148/PP/94/E 1C (1) Warning instructions for Administrative posting- 2018 Basic subordinate staff dt.20.08.2018 issued by R-2 .

Annexure A26: Headquarters, Chief Engineer Southern Command Pune letter No.100301/KSN Reddy/04/RTI Cell dated. 01.Sep .2018 directing the applicant to obtain the relevant documents through this Hon'ble Tribunal – issued by R-3.

Annexure A27: Garrison Engineer (South) Bangalore letter.No.1036/OA/21/E1B dt. 23.07.2018 R-4 intimating the cancellation of membership of Applicant-3 from Works Committee .

#### **Annexures referred by the Respondents in the Additional Reply**

Annexure-R1: RTI Application.

#### **Annexures referred by the Respondents in the Additional Reply**

Annexure R1- Shri K.S.N. Reddy (Applicant-3) submitted application under RTI Act 2005 for seeking information on details of correspondence related to administrative posting.

Annexure-R2: HQ Chief Engr Southern Comd Pune Warning Instruction letter No.132404/CCB Jul 17/77/E 1B (S)/A1 dt. 11 Nov 2017 along with Appx 'B' to fwd choice station by 22 Nov 2017.

#### **Annexures referred to by the Applicant in written arguments**

Annexure A28: Appointment orders for the post of LDC issued by R-3.

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