(9)

Central Administrative Tribunal
Principal Bench

New Delhi, dated this the 18th JANUARY 2002

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

1. O.A. No. 1636 of 2001

S/Shri

1. Navindra Raghav,
S/o Shri B.N. Singh
R/o EB-140,
Maya Enclave,
Opp. Tihar Jail,
New Delhi.

2. Prakash Pawar,
S/o Shri Shantaram Y. Pawar,
New GH-6, Paschim Vihar,
Mira Bagh,
New Delhi. .. Applicants

Versus

1. Union of India through
the Secretary,
Ministry of Information &
Broadcasting,
Shastri Bhawan, New Delhi.

2. The Chief Executive Officer,
Prasar Bharati,
Doordarshan Bhawan,
Copernicus Marg, New Delhi.

3. Director General,
All Inddia Radio,
Akashwani Bhawan,
New Delhi.

4. The Chief Engineer (Civil),
CCW, AIR, 5th Floor,
Soochna Bhawan,
New Delhi-110003. .. Respondents

2. O.A. No. 1734 of 2001

1. Balwant Singh,
S/o Shri Pratap Singh,
R/o 98-B, PKT A-3,
Mayur Vihar Phase III,
Delhi-110096.

2. Rakesh Chander,
S/o Shri Hira Lal,
House No. 1791, Sector 9,
Faridabad.

(10)

3. Harmoninder Pal Singh,
S/o Shri Surinder Singh,
R/o 14C-C, L.I.G. Flats,
Jhilmil Colony,
Delhi-110095.

4. Biswajit Basu,
S/o Shri S.N. Basu,
R/o 269, LIG Flats,
Hastsal P.O.
Uttamnagar,
New Delhi-110059. .. Applicants

Versus

1. Union of India through
the Secretary,
Ministry of Information &
Broadcasting,
Shastri Bhawan, New Delhi.

2. The Chief Executive Officer,
Prasar Bharati,
Doordarshan Bhawan,
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New Delhi.

4. The Chief Engineer (Civil),
CCW, AIR, 5th Floor,
Soochna Bhawan,
New Delhi-110003. .. Respondents

By Advocates: Shri Rajesh Kumar Gogna for
applicants
Shri H.K. Gangwani for respondents

ORDER

S.R. ADIGE, VC (A)

As both O.As involve common questions of law and fact they are being disposed of by this common order.

2. In both these O.As applicants impugn respondents order No. 21/2001-CW-1 dated 17.6.2001 passed purportedly pursuant to the CAT, P.B. order dated 30.1.2000 in O.A. No. 1638/95 reverting them

(11)

from the grade of A.E. (Civil)/ASW (Civil) to the grade of J.E. (Civil) with immediate effect in supercession of earlier office vide dated 27.6.95. The aforesaid order is subject to the final outcome in the appeal pending in Delhi High Court in CWP No. 6891/2000 against the Full Bench decision dated 6.12.99.

3. Applicants joined service in respondent department as Jr. Engineer. Relevant Recruitment Rules provide for promotion of

i) JEs holding degree in Civil Engineering with five years regular service in the grade.

ii) JEs holding diploma in Civil Engineering with 8 years regular service in the grade, as A.Es.

4. The question whether the eligibility of five years regular servie for those who acquired the degree in civil engineering during the course of service, should be counted from the date of acquiring the degree or could be counted from the date of initial appointment in the cadre, was referred to Full Bench. The Full Bench of CAT, P.B. in O.A. No. 2055/95 Jagdish Chandra & Others Vs. Union of India & Others and connected case. The Full Bench in its order dated 6.12.99 ruled that those applicants were entitled for promotion on completion of five years of regular service in the cadre of J.Es, irrespective of their date of acquisition of the degree in Engineering.

(12)

5. Meanwhile Shri P.K. Agarwal had filed O.A. No. 1638/95 challenging respondents' order dated 27.6.95 reverting him to the grade of J.E. (Civil) pursuant to the CAT (Calcutta) Bench's order dated 6.5.94 in O.A. No. 1075/89 directing respondents to hold a review DPC after rejecting the contention that the eligibility period of five years regular service as J.E. was irrespective of the date of acquiring the degree in engineering.

6. Following the Full Bench's order, this very Bench in its order dated 30.1.2001 allowed O.A. No. 1638/95 and directed respondents to restore Shri P.K. Agarwal as A.E. w.e.f. 27.6.95 and release to him all consequential and financial benefits. As the Full Bench order had been challenged in the Delhi High Court in appeal, the aforesaid order dated 30.1.2001 was made subject to the the ultimate outcome of that appeal.

7. Meanwhile after answering the reference, Jagdish Chandra's case (sura) was returned to the Division Bench for disposal in accordance with law. By that time three out of the four applicants in present O.A. No. 1734/2001 namely S/Shri Rakesh Chander, Harmohinder Pal Singh and Biswajit Basu had featured as private respondents in that O.A. Other O.As were also filed seeking the extension of the benefits of Jagdish Chandra's case (supra). All those O.As bearing No. 2055/95, 1183/95, 1534/95, 1738/95, 1185/95, 2021/95 and 2305/95 were disposed of by common order dated 30.1.2001 directing

(13)

respondents to consider the claims of applicants in each of those O.As for promotion as A.E. on completion of five years regular service in the grade of J.E. irrespective of the date of acquisition of the degree in engineering in the light of the Full Bench order dated 6.12.99. Applicants who were found eligible for promotion were held entitled to consequential benefits in accordance with law, rules and instructions. These directions were to be implemented within four months from the date of receipt of a copy of the order. Care was to be taken by respondents to avoid as far as possible the reversion of those already promoted. Where such reversion became unavoidable, the same was to be done only in accordance with law. It was also made clear that these orders would be subject to the outcome of the appeal pending in the Delhi High Court against the Full Bench decision dated 6.12.1999.

8. Now applicants in the two O.As impugn respondents' order dated 17.6.2001 passed by respondents pursuant to the Tribunal's order dated 17.6.2001 in O.A. No. 1658/95 P.K. Agarwal Vs. Union of India & Others.

9. We have heard both sides.

10. The main argument advanced by applicants' counsel is that the impugned reversion order was issued without putting applicants to notice

(14)

which was illegal, arbitrary and violative of Articles 14 ande 16 of the Constitution as applicants stood promoted as A.Es on regular basis.

11. On the other hand respondents contend that the impugned reversion order was issued strictly pursuant to the Tribunal's own directions and under the circumstance the contention that no show cause notice was required to be issued. It has also been contended that the reversions have been made subject to the appeal pending in the Delhi High Court against the Full Bench order dated 6.12.99, and further more posts are no longer available to accommodate the reverted JEs following the implementation of the SIU report which has resulted in the reduction in the number of sanctioned posts in the grade of J.Es.

12. In this connection applicants themselves admit in their rejoinder in O.A. No. 1636/2001 that the SIU's report has been implemented on 29.6.2001, and posts of J.Es have been reduced but it is contended that this was done after the issue of the impugned order dated 17.6.2001.

13. We have considered the matter carefully.

14. We note that atleast three out of four applicants in present O.A. No. 1734/2001 were private respondents in O.A. No. 2055/95 which was disposed of along with connected cases by order dated 30.1.2001 and hence cannot claim that they were unaware of the pending litigation. We also note that

(15)

the impugned order dated 17.6.2001 reverting applicants has itself been made subject to the ultimate outcome of the appeal against the Full Bench order dated 6.12.99 pending on the Delhi High Court. Applicants also do not deny that pursuant to the SIU report, vacancies are not available to accommodate the reverted J.Es, as of date.

15. In the light of the aforesaid facts and circumstances and particularly having regard to the fact that the impugned reversion order states clearly that it is subject to the outcome of the appeal against the Full Bench order which is pending in the Delhi High Court, and which forms the basis of applicants' reversion, we are not inclined to interfere with the impugned orders at this stage. We dispose of these O.As without recording any finding on merits giving leave to applicants to seek revival of these O.As through M.As upon receipt of the Delhi High Court's orders on the appeal against the Full Bench's order dated 6.12.99.

16. Both O.As are disposed of in terms of Para 15 above. No costs.

17. Let a copy of this order be placed in each case record.

(Dr. A. Vedavalli)
Member (J)

(S.R. Adige)
Vice Chairman (A)

karthik

24/1/2002

(H. G. MITTAL)
Private Secretary
Central Administrative Tribunal
Faridkot House, Copernicus Marg
New Delhi-110001