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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO.1874/2001

This the 4th day of January, 2002.

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

1. Ajmer Singh S/O Hawa Singh,
R/O House Ni.22, Phase-4,
Prem Nagar, Najafgarh,
New Delhi-43.
2. G.N.Mishra S/O L.P.Mishra,
R/O Qr. No.11, CPWD Enquiry Office,
Sector 3, Pushp Vihar,
New Delhi-110017.
3. Rajesh Kumar S/O Norata Ram,
R/O 61-A, DDA Flats,
Pocket "C", Shivam Enclave,
Delhi-32.

... Applicants

(By Shri Naresh Kaushik, Advocate)

-versus-

Govt. of India through
Director General of Works,
Central Public Works Department

... Respondents

(By Shri Bhaskar Bhardwaj , Advocate)

O R D E R (Oral)

Hon'ble Shri V.K.Majotra, Member (A) :

The applicants are Junior Engineers (Civil) with the Central Public Works Department (CPWD), New Delhi. They claim to be eligible for appointment to the post of Assistant Engineers under the relevant rules. The issue relating to appointment on promotion to the post of Assistant Engineer was decided vide order dated 15.2.1999 in OA No.2239/1998 with OA No. 2526/1998 - Kamal Kishore Joshi & 2 Ors. and Sudama Prasad Sharma & 3 Ors., respectively, v. Union of India & Ors. Although the OAs were dismissed, it was held appropriate that while

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conducting the selection for filling up 391 posts of Assistant Engineers through Limited Departmental Competitive Examination (LDCE), 1999, respondents would take the following precautions :

- "(i) Segregate both vacancies and eligibility year-wise. This is to ensure that an employee after having qualified in the examination does not get the benefit of seniority against the year when he was not even eligible for the same.
- (ii) Existing rules for filling up the posts meant for reserved category candidates shall be adhered to as prescribed by the DoPT in its OM dated 2.7.97. While communicating vacancies of 391 JEs, respondents have only indicated that the percentage of reservation for SC/ST will be indicated only later only. Since reservation in promotion in such cases are to be ensured as per law laid down, respondents shall strictly follow instructions for maintaining the roster and running account register to look after the interests of backward classes.
- (iii) Vacancies of 391 shall be recalculated to ensure that 1:1 ratio between the two groups for the years from 1993 to 1999 have not been tilted to unduly favour one of the two contending groups.
- (iv) We are inclined to agree with the respondents' submission that "present practice of keeping vacant slots for being filled up by direct recruitment of later years thereby giving them unintended seniority over promotees who are already in position could be dispensed with." The above precaution shall be taken before finalising the present selection process on hand."

2. The learned counsel of the applicants stated that instead of declaring the result for all the 391 posts, the respondents have declared result of only 336 vacancies of Assistant Engineers (Civil). He further pointed out that although the respondents in their counter have denied that there were no more vacancies for

the year 1993-94, the respondents had published a list (Annexure R-1) indicating that 34 Assistant Engineers (Civil) had retired during the period 1.4.1993 to 30.9.1993 and another 83 retired during the period 1.10.1993 to 31.7.1994, meaning thereby that 117 posts had fallen vacant during 1.4.1993 to 31.7.1994. The learned counsel contended that in view of this document, the respondents could not have taken a stand that there were no vacancies during the year 1993-94.

3. The learned counsel of respondents referred to notice dated 16.9.1998 whereby information relating to holding of the LDCE for promotion of Junior Engineers (Civil)/(Electrical) to Assistant Engineers grade {(Civil)/(Electrical)} was published stating that the number of vacancies indicated in the notice were approximate and were liable to alteration.

4. The directions in order dated 15.2.1999 in OA No.2239/1998 with OA No.2526/1998 make it clear that the number of vacancies were to remain 391 and were to be re-calculated to ensure that 1:1 ratio between the two groups, i.e., 50% promotion on the basis of LDCE is maintained for the vacancies arising during the period 1.4.1993 to 31.3.1999. Thus, even though in the notice dated 16.9.1998 the respondents had indicated that 391 vacancies of Assistant Engineers (Civil) indicate approximate number of vacancies and are liable to alteration, the respondents could not have altered the number of vacancies. While the respondents have denied occurrence of any vacancies during the period 1993-94,

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Annexure R-1 establishes that due to retirement of various personnel, 117 vacancies had occurred. Certainly the respondents have ^{not fully} complied with the directions of the Court and not taken steps to fill up 391 posts of Assistant Engineers on the basis of LDCE held in February, 1999.

5. Having regards to the reasons recorded and discussion made above, the OA is allowed directing the respondents to declare the results of LDCE, 1999 relating to all the 391 notified vacancies of Assistant Engineers (Civil) vide notice dated 16.9.1998 and make appointments to the same extent in accordance with rules and laws applicable to the case, along with all consequential benefits, within a period of two months from the communication of these orders. No costs.

S. Raju
(Shanker Raju)
Member (J)

V. K. Majotra
(V. K. Majotra)
Member (A)

/as/