

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

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O. A. No 2431/2001

Date of Decision 19.12.2002

CPWD Non Gazetted  
Office Staff Assn. & Ors. ... Applicant

Shri G.K. Aggarwal ... Advocate for the Applicant

VERSUS

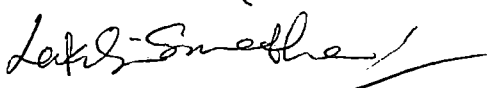
UOI & Ors ... Respondents

Shri A.C. Aggarwal, learned... Advocates for the Respondents  
counsel through proxy counsel  
Shri Neeraj Affarwal

Coram: -

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)  
Hon'ble Shri S.K. Malhotra, Member (A)

1. To be referred to the Reporter or not ? Yes
2. Whether it needs to be circulated to other  
Benches of the Tribunal? No

  
(Smt. Lakshmi Swaminathan )  
Vice Chairman (J)

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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH NEW DELHI

O.A. NO. 2431/2001

NEW DELHI THIS..19th DAY OF DECEMBER, 2002

HON'BLE SMT. LAKSHMI SWAMINATHAN, VICE-CHAIRMAN(J)  
HON'BLE SHRI S.K.MALHOTRA, MEMBER (A)

1. CPWD Non-gazetted,  
Office Staff Association,  
through its General Secretary,  
"C" Wing, Ground Floor,  
near Generator Room, IP Bhawan,  
New Delhi-2
2. JN Antil, Office Superintendent,  
PWD Circle VI, MSO Building, IP Estate  
New Delhi-110002. .. Applicants.

(By Shri G.K.Aggarwal, Advocate)

VERSUS

1. Union of India through  
Secretary, Ministry of Urban Development &  
Poverty Alleviation,  
Nirman Bhawan, New Delhi-110002.
2. The Director General (Works),  
Central Public Works Department  
Nirman Bhawan, New Delhi-110052.  
.....Respondents

(By Shri Neeraj Aggarwal, proxy counsel  
for Shri Adish C.Aggarwal, Advocate)

O R D E R (ORAL)

By Smt. Lakshmi Swaminathan, Vice-Chairman (J)

This is the second round of litigation by the applicants who had earlier filed OA No.617/2001, which was disposed of by Tribunal's order dated 13.3.2001. In that application, the applicants had made the following prayer:

"Call for relevant records, direct respondents to examine creation of posts of Administrative Officers in CPWD Office Staff Cadres corresponding to the Cadre-Review of Group "A" Engineering Services in CPWD and consequent creation of new Units vide A/3 and later too and, if respondents decided to create posts of AOs after such examination, the posts of AOs (Gazetted) be directed to be created

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within three months after receipt of copy of the final order in this OA, and filled immediately thereafter, grant any other relief, with costs. The respondents be directed to pass speaking orders."

2. In pursuance of the aforesaid order, the respondents had issued OM dated 22.5.2001 which has been impugned in the present application.

3. In this OA, the applicants have originally prayed in paragraph 8 for the following relief:

"Declare and order the respondents to prescribe job requirements and eligibility conditions for gazetted administrative posts in Chief Engineers' offices in CPWD so as not to exclude Office Superintendents in CPWD to be promoted thereto, to consider first OSs for promotion and only if none was found suitable, should any alternative source of filling the gazetted administrative posts in CPWD be tried, grant any other relief, grant any other relief with costs."

4. However, learned counsel for the applicants has submitted that he would be satisfied if the prayer as modified in the rejoinder filed by the applicants is ordered to be considered by the respondents. He has submitted <sup>that</sup> the applicants are not as such seeking promotion. The modified prayer of the applicants reads as follows:

"Whether respondents' policy decision to have Section Officers in the Office of Chief Engineers from Central Secretariat Service, instead of giving opportunity for promotion from Superintendents also, either along with SOs from CSS or by way of quota, is arbitrary or discriminatory. A policy decision cannot be challenged unless shown to be arbitrary, discriminatory or malafide."

5. Learned proxy counsel for the respondents submits

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that in this OA the applicants, who are the CPWD Non-gazetted Office Staff Association are seeking promotion or <sup>or</sup> placement in the gazetted post of Office Superintendent Grade I (Gazetted) in the Chief Engineers Office. He has submitted that this is a policy decision and, therefore, on this ground alone this OA may be dismissed. He has submitted that reasons have been given in the impugned OM for the decision.

6. As mentioned above, the applicants have modified the prayer clause in the rejoinder as quoted in Paragraph 4 above.

7. On perusal of Office Memo. dated 22.5.2001 which has been issued by the respondents in pursuance of the Tribunal's order dated 13.3.2001, we find no illegality or arbitrariness to justify interference in the matter or to quash this Office Memo. Considering the relief prayed for by the applicants, including the modified relief as given in their rejoinder and quoted in Paragraph 4 above, it is seen that it is a matter of policy decision of the Government i.e. regarding posting of SOs from CSS in the office of Chief Engineers instead of giving an opportunity for promotion from Superintendents.

8. It is settled law that in exercise of judicial review, the Courts/Tribunal ought not to interfere in such policy matters which is best left for consideration and decision of the Executive. In the present case, we also note that the respondents after taking into consideration all the relevant facts and circumstances, including the proposals and recommendations of the Vth Central Pay Commission have passed the said O.M. which cannot be said to be arbitrary or illegal. During the hearing, learned proxy counsel for the respondents has

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submitted that the number of posts of Office Superintendents Grade I (Gazetted) has been revised from the earlier proposal of 21 to 32. This is also a relevant factor which shows that the respondents have taken a conscious decision in the posting of Office Superintendents Grade I (Gazetted) and posting of Section Officers belonging to CSS in the office of the Chief Engineer. In this view of the matter, we see no merit in this application and the same is accordingly dismissed. No order as to costs.

*may*  
(S.K. Malhotra )  
Member (A)

*Lakshmi Swaminathan*  
(Smt. Lakshmi Swaminathan)  
Vice Chairman (J)

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