

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH.

O.A. No.2459/2001

New Delhi, this the 6th day of January, 2003

(16)

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Shri V. Srikantan, Member (A)

1. Ved Pal Singh,
S/o Sh. Veer Bhan Singh,
L-459, Sector - 12,
Pratap Vihar,
Ghaziabad.
2. A.K. Singh,
S/o Late Sh. S.N. Singh,
32-B, DDA Flats, Mansarovar Park,
Shahdara,
Delhi-110032.
3. Prakash Singh,
S/o Shri Pattram Singh,
H-149A, Dilshad Gardean,
Delhi-110095.

....Applicants
(None for the applicants)
Versus

1. Union of India,
Through the Secretary,
Ministry of Information &
Broadcasting, Shastry Bhawan,
New Delhi.
2. The Chief Executive Officer,
Prasar Bharti, Doordarshan Bhawan,
Copernicus Marg,
New Delhi.
3. Directorate General
All India Radio, Akashvani Bhawan,
New Delhi.
4. The Chief Engineer (Civil),
CCW, AIR 5th Floor, Soochna Bhawan,
New Delhi-11003.

....Respondents
(By Advocate : Shri R.P. Aggarwal)

ORDER (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J) :

This OA has been listed under Regular Matters for hearing at Sl. No.3 today. It is relevant to note that none has appeared for the applicants on the previous date when the case was listed and none has appeared even today also.

2. In the present circumstances, OA could have been dismissed in default and for non-prosecution.

Yours,

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However, we have proceeded in the matter in accordance with Rule 15 of the CAT (Procedure) Rules issued under the provisions of Administrative Tribunals Act, 1985. We have accordingly perused the records and heard Shri R.P. Aggarwal, learned counsel for respondents. It is relevant to note that although the reply of the respondents has been filed on 5.6.2002 with ~~18~~ advance copy to the learned counsel for the applicants, no rejoinder has been filed to contravene the averments given by the respondents in their reply. In Tribunal's order dated 3.10.2002, the statement of the counsel for the applicants has been recorded that he does not wish to file rejoinder.

3. In the above facts and circumstances of the case, this order is passed having regard to the facts and circumstances of the case on merits.

4. The applicants have impugned the action and orders passed by the respondents dated 19.6.2001. A perusal of the order shows that this order has been issued in pursuance of the certain directions of the Tribunal in the OAs mentioned therein. In paragraph 3 of this order, the respondents have stated that the appointments made on promotion are subject to the ultimate outcome of the appeal against the Full Bench order dated 6.12.1999. Learned counsel for the respondents has submitted that that case is still pending before the Hon'ble Delhi High Court.

5. The brief relevant facts of the case are that the respondents have issued Recruitment Rules of 1975 for the post of Assistant Engineer (AE) which were amended by notification issued in March, 1988. Shri R.P.

(B)

Aggarwal, learned counsel has submitted that it was a selection post under the 1975 Recruitment Rules and also under the 1988 amended Recruitment Rules. As per the provisions of the amended Recruitment Rules as noted in Para 4.3 of the OA. The same reads as under:-

"Junior Engineers holding Degree in Civil Engineering with five years of regular service in the grade were to be promoted as Assistant Engineer and Junior Engineers holding diploma in Civil Engineering with 8 years regular service in the grade were to be promoted as assistant Engineers."

6. the applicants have relied upon DOP&T's guide-lines dated 18.3.1988. According to them, as per these guide-lines, when the juniors are found eligible and considered for promotion to the next higher post, then seniors like them should also have been considered so that seniority list is not disturbed. On the other hand, Shri R.P. Aggarwal, learned counsel has submitted that after the amendment of the Recruitment Rules in 1988 read with the DOP&T's OM dated 24.9.1997, copy placed on record, seniority alone without fulfilling eligibility conditions will not entitle the employees for promotion to the next higher grade. He has submitted that in accordance with the Full Bench decision of the Tribunal in Jagdish Chandra's case (OA 2055/1995 with connected cases) decided on 6.12.1999, the respondents have taken appropriate action with regard to consideration and promotion of the eligible candidates, who were earlier reverted by virtue of the decision of the

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Calcutta Bench of the Tribunal in H.C. Burman's case (OA 1078/1989). He has also referred to the judgement in P.K. Aggarwal's case (OA No.1638/1995) decided on 30.1.2001 which is also noted in the impugned order dated 19.6.2001. Learned counsel for respondents has submitted that the directions of the Tribunal in the aforesaid cases have been implemented subject to the outcome of the appeal pending in the Hon'ble Delhi High Court. These averments have also been stated in the counter reply. As mentioned above, the applicants have not filed any rejoinder.

7. In the above facts and circumstances of the case, we do not find any merit in this application or any justification to interfere in the matter at this stage. Accordingly OA fails and is dismissed. There shall be no order as to costs.

V. Srikanth
(V. Srikanth)

Member (A)

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)

Vice Chairman (J)

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