

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH
New Delhi

O.A. No.2175/1999

New Delhi, this 18th day of the December, 2000

(12)

HON'BLE MR. V.K. MAJOTRA, MEMBER (A)
HON'BLE MR. SHANKER RAJU, MEMBER (J)

Shri R.P. Panda
Asst. Executive Engineer
Ministry of Surface Transport ... Applicant
(By Advocate: Shri Anil Srivastava)

V E R S U S

Union of India through
The Secretary
Ministry of Surface Transport
Transport Bhawan, Parliament Street
New Delhi - 110001. ... Respondent
(By Advocate: Shri Rajinder Nischal)

ORDER (oral)

V. K. MAJOTRA :

The applicant has challenged Memoranda dated 1.10.1999 whereby his request for promotion to the post of Executive Engineer (in short, EE) by taking into account his service in the Border Roads Development Board (in short, BRDB) was rejected. The applicant was appointed to the post of Assistant Executive Engineer (in short, AEE) in the BRDB, Ministry of Surface Transport on 4.9.1995. Later on he qualified UPSC, Engineering Services Examination in 1994 and was appointed as AEE in the Central Engineering Service (Roads) Group 'A' of the Ministry of Surface Transport (Roads Wings) 2.6.1997. As per the Central Engineering Service (Roads) Group 'A' Rules, 1995 promotion to the post of EE shall be (i) 75% from the grade of AEE with 4 years' regular service in the grade on the basis of

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seniority-cum-fitness and (ii) 25% by selection on merit from amongst Assistant Engineers of the Central Engineering Service (Roads) with 8 years regular service in the grade and having degree in Civil Engineering from a recognised University/Institution. The applicant has contended that service rendered by him on the post of AEE in BRDB w.e.f. 4.9.1995 should be taken into account to compute 4 years' regular service in the grade to make him eligible for promotion to the post of EE under the rules. According to the respondent, the service related to the post of AEE in BRDB is a different service and as such it cannot be counted for any other purposes excepting leave and pension. Thus the applicant has not completed 4 years' regular service as AEE in the CES (Roads) Group 'A' to make him eligible for promotion to the post of EE. According to the respondent, there was delay in the character verification report of the applicant and thus there was consequential delay in making offer of appointment to the applicant. The applicant intimated the Ministry vide his letter dated 25.02.1997 that he was already in service with Govt. and thus character verification was not required in his case. Thereafter, the offer of appointment was sent to him on 2.5.1997 and he joined the Ministry on 25.06.1997.

2. We have perused the pleadings of both sides and heard the contention of both the parties.

3. The learned counsel for the respondent stated that though the applicant has worked in the grade of

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► AEE w.e.f. 4.9.1995, in BRDB, service in BRDB being a different service, cannot be taken into account for the purpose of promotion in this CES (Roads) Grade 'A' 1995. On being asked whether verification of antecedents was necessary, even if the applicant was already working with the Central Government, the learned counsel for the respondent stated that if the applicant had informed the Ministry, Department of Road Transport in Highways about this, he would not have been subjected to police verification and offer of appointment would have been made to him immediately on his success in the UPSC, Engineering Service Examination.

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4. The learned counsel of the respondent further stated that after receiving information about this, he was offered appointment immediately on 2.5.1995. The learned counsel of the respondent further stated that the applicant has not made any prayer that his qualifying service for promotion to the post of EE should be considered from the date prior to the date of appointment of his juniors in the said grade. Therefore, even that much weightage cannot be accorded to the applicant.

5. We find that in para 5.b of the OA, the applicant has stated that he is entitled for promotion to the post of EE from the date prior to the date of promotion of his junior. In the grade of AEE, he had rendered service in the Ministry of Surface Transport itself. Further, in the relief clause the applicant has sought

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► "such other or further orders as this Hon'ble may
deemed fit and proper in the facts and circumstances of
the case."

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6. The applicant was working as AEE in the BRDB w.e.f. 4.9.1995. On selection in the Engineering Service Examination 1994 held by the UPSC was appointed AEE for the Roads Wing of the Ministry of Surface Transport. It has been admitted by the respondent that had they known that the applicant was already working in service as AEE w.e.f. 4.9.1995, they would not have resorted to verification of his antecedents and the applicant should have been made an offer of appointment immediately. In that event the applicant would have joined the Roads Wing alongwith or prior to his junior in merit and would have been promoted as EE in the Roads Wing prior to his junior. In our view in UPSC examination particulars about experience are given in detail by the applicant. The applicant was already working as AEE in the BRDB on the basis of UPSC examination 1993. Therefore, it was known to the UPSC and must have been known to the Ministry of Surface Transport, while considering the applicant's case for appointment in the Roads Wing. Obviously, it was not necessary to subject the applicant again for verification of his antecedents. The delay caused in verification of antecedents of the applicant is not due to the fault of the applicant, but on account of negligence and casual approach of the respondents, in ignoring applicant's service with the same Ministry w.e.f. 4.9.1995. If the respondent had not resorted

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to verification of his antecedents, the applicant would certainly have been appointed before his junior as AEE in the Roads Wing. Thus though the eligibility of the applicant for promotion to the post of Executive Engineer under the Rules cannot be computed w.e.f. 4.9.1995, when he was appointed as AEE in BRDB, in our view it is ~~service~~ is fit and proper in the facts and circumstances of the case and particularly non-requirement of verification of antecedents that eligibility of the applicant should be considered by taking into account the period from the date the applicant's junior in the merit in the grade of AEE in the Roads Wing on the basis of Engineering Service Examination held by UPSC in 1994 was appointed.

7. Having regard to the reasons given above, the respondent is directed to consider the applicant for promotion to the post of EE with effect from the date applicant's junior was considered eligible and promoted as EE. This direction should be complied with within a period of three months from the date of communication of this order. No costs.

S. Raju

(SHANKER RAJU)
Member (J)

V.K. Majotra

(V. K. MAJOTRA)
MEMBER (A)

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