

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA No. 1209/1998

New Delhi, this the 28th day of July, 1998

HON'BLE SHRI T.N. BHAT, MEMBER (J)
HON'BLE SHRI S.P. BISWAS, MEMBER (A)

In the matter of:

1. S.K.Garg, Executive Engineer,
Public Works Department (DA),
Division No.4, Hauz Khas,
New Delhi-110 016.
2. A.K.Garg, Executive Engineer,
Central Public Works Department,
Sucheta Kriplani Hospital
New Delhi.
3. M.C.Bansal, Executive Engineer,
Central Public Works Department
(Vigilance Unit),
Nirman Bhawan,
New Delhi-110 011.
4. Akhilesh Kumar,
Executive Engineer,
Delhi Aviation Division,
Central Public Works Department,
East Block,
R.K.Puram,
New Delhi.

.... Applicants ..

(By Advocate: Sh. K.B.S.Rajan)

Vs.

1. Union of India
through the Secretary,
Ministry of Urban Affairs and Employment,
Nirman Bhawan,
New Delhi-110011.
2. The Director General of Works,
C.P.W.D.,
Nirman Bhawan,
New Delhi-110011.
3. The Secretary,
Union Public Service Commission,
Dholpur House,
Shahjahan Road,
New Delhi-110003.

.... Respondents ..

(By Advocate: Sh. Madhav Panikar &
Sh. Gajender Giri.
(Sh. G.K. Aggarwal for intervenors)

28.7.98

O R D E R

Hon'ble Shri T.N.Bhat, Member (J)

This OA has been filed assailing the proposed action of the respondents to review the promotions/seniority effected by the respondents to the post of Executive Engineer (Civil, Engineering) in the C.P.W.D., as according to the applicants, the effect of such a review of the promotions would be a complete change in seniority list prepared by the respondents on 20.10.94 as at Annexure-I. The applicants who are working as Executive Engineers, having been promoted from the stream of Assistant Executive Engineers, have taken the plea that the aforesaid seniority list (Annexure-I) was upheld by this Bench of the Tribunal vide the judgment order dated 30.6.96 in OA No. 303/95 and a bunch of other OAs.

2. The dispute between the parties, namely, those who have been promoted from the stream of AEEs and those promoted from the stream of AEs is an old one and a number of cases had been filed in the past before the Tribunal as well as the Hon'ble Supreme Court. There was also a dispute inter se between two groups of Assistant Engineers, namely, graduate Engineers and the diploma holders. According to the respondents they have initiated the process of review according to the directions of the Hon'ble Supreme Court in J.N.Goel and Others vs. Union of India and Others (Civil Appeal Nos. 5363 and 5364 of 1990) and the judgment of the Madras Bench of the Tribunal in A.S.Ananaram and Others vs. Union of India and Others (OA Nos. 295 and 463 of 1995) delivered on 9.9.97. Copies of both the judgments have been annexed to the OA by the applicants and their contention is that according

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to these judgments the review has to be done only in respect of those promotions which were effected after the year 1988 when OA No. 704/88 was filed in the Tribunal which led to the delivery of the judgment in the Appeals by the Hon'ble Supreme Court in J.N. Goel (supra). The second contention, which was raised during the course of the hearing, by the learned counsel for the applicants is that while reviewing the promotions/seniority the respondents are likely to undertake review of the seniority of even those persons who had been promoted to the post of Executive Engineer from the stream of AEEs. The learned counsel for the applicant in this regard draws our attention towards the instructions/guidelines issued by the Directorate General of Works to the U.P.S.C. in para 5 of the instructions the scope of the proposed review has been extended to cover even those ad hoc promotions which had been made after 1972 and regularised in 1994. Furthermore, it is stated in para 5 itself that according to the directions of the Hon'ble Supreme Court the ad hoc promotions which were regularised by holding yearwise DPCs for the left over vacancies from 27.8.1980 to 31.3.94 in respect of Executive Engineers (Civil) are required to be reviewed by holding yearwise Review Departmental Promotion Committee.

3. Both the learned counsel for the respondents have placed reliance upon the judgments in J.N. Goel and Ananaram (supra) and have said that by reviewing promotions the respondents are only implementing these judgments.

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4. We agree with the learned counsel for the applicants that both the aforesaid judgments related to the inter se dispute between two groups of Assistant Engineers as the graduate Assistant Engineers had been disputing the eligibility of some of the diplomaholder Assistant Engineers for their promotion to the post of Executive Engineers. According to the amendment to the 1954 Recruitment Rules made in 1972 diploma holder Assistant Engineers were made eligible for promotion to the post of Executive Engineer for the first time on condition that only those Assistant Engineers could be promoted to Group "A" service in relaxation of the educational qualifications provided in the rules who are found to be of outstanding ability and record. The grievance of the degreeholder Engineers was that even those diplomaholder Assistant Engineers were promoted, though on ad hoc basis, who did not have any such outstanding ability and record. Although fresh Recruitment Rules have been framed in 1996 making diplomaholder Assistant Engineers with 10 years regular service in the grade eligible for promotion the Apex Court held in J.N.Goel (supra) that promotions made in respect of vacancies occurring prior to 1996 shall be governed by 1954 rules as amended from time to time while those which occurred after the 1996 Rules were framed would be governed by these fresh rules w.e.f. 29.10.96. Neither in the J.N.Goel judgment of the Hon'ble Supreme Court nor in the Ananaram judgment of the Madras Bench of the Tribunal was there any mention of those promotees who had come from the stream of Assistant Executive Engineers.

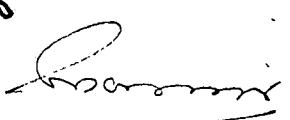
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5. However, having stated the above facts we are not trying to force the hands of the concerned department or the U.P.S.C. to take any particular action in the matter of review, as in our considered view the instant OA is premature. The applicants ought to wait till the exercise of review is over. We are confident that the process of review shall be done and completed strictly in accordance with the rules and the guidelines issued from time to time by the Hon'ble Supreme Court and the various Benches of this Tribunal and the concerned authorities shall not lose sight of the fact that the dispute between the promotees from the stream of Assistant Executive Engineers and those from the stream of Assistant Engineers is quite distinct from the inter se dispute between the different groups of Assistant Engineers.

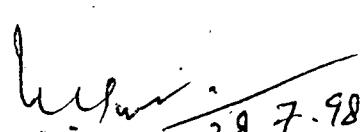
6. It shall be open to the applicants to assail the orders that may be passed after the review of the promotions/seniority if they feel aggrieved by the same.

7. In view of the above this OA is dismissed as being premature.


(S.P. BISWAS)

Member (A)

'SD'


28.7.98
(T.N. BHAT)

Member (J)