

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

O.A.1855/98

New Delhi, this the 28<sup>th</sup> day of September, 1998

(2)

HON'BLE SHRI N.SAHU, MEMBER(A)  
HON'BLE DR.A.VEDAVALLI, MEMBER(J)

1. Sh.S.K.Jain, Asstt.Engineer(Civil),  
S/o Shri S.L.Jain,  
R/o 4/1712, Mittal Sadan,  
Bhola Nath Nagar,  
Delhi-110032.

2. Sh.R.R.Verma, Asstt.Engineer(Civil),  
S/o Sh.P.V.Verma,  
G.T.B.Hospital Division,  
P.W.D., Shahdara,  
Delhi-95.

3. Sh.H.S.Batra, Asstt.Engineer(Civil),  
S/o Shri Tara Singh,  
R/o BL-13, L-Block, Anand Vihar,  
New Delhi-110064.

.....Applicants

(By Advocate: Shri Sohan Lal)

Versus

1. Union of India, through  
(a) Secretary, Ministry of  
Urban Development & Employment,  
G.O.I., Nirman Bhawan,  
New Delhi.

(b) Secretary, Ministry of Personnel,  
Public Grievances and Pensions,  
G.O.I., North Block, New Delhi.

2. The Secretary,  
Union Public Service Commission,  
Shahjahan Road,  
New Delhi.

3. Director General of Works,  
Central Public Works Department,  
Nirman Bhawan, New Delhi.

.....Respondents

(By Advocate:None)

O R D E R

BY HON'BLE SHRI N.SAHU, MEMBER(A)

Heard Shri Sohan Lal, I.d. counsel for  
applicant.

(3)

2. This O.A. is filed against the office order No.71/98 dated 23.4.98 appointing by way of ad-hoc promotion the officials mentioned in the list who are Assistant Engineers to officiate as Executive Engineers in the Central Engineering Service (Group 'A') temporarily from the date they assume the charge for a period of six months. The applicant also impugns the office order No.72/98 dated 24.4.98 appointing certain Assistant Engineers (Electrical) to officiate as Executive Engineers (Electrical) for a period of six months or till further orders, whichever is earlier. According to the applicants, these promotions are given to the diploma holders on ad-hoc basis in violation of Central Engineering Services Recruitment Rules, 1954. In the year 1972, an amendment was made for relaxation of qualification for the diploma holders and those who are rated 'outstanding' were made eligible for promotion to the posts of Executive Engineers. The graduate Assistant Engineers were compelled to file O.A.704/88. In the case of J.N.Goel and ors. vs. Union of India and ors. (Civil Appeal No.5363/90 disposed of on 25.11.91), the Supreme Court held that during the pendency of the appeal, the promotions may be made but the same should be done in accordance with the relevant rules. In the same civil appeal No.5363/90, the C.P. no.120/92 was disposed of by an order dated 6.11.92 dismissing the contempt petition. The Hon'ble Supreme Court in its final order held that the amended provision relating to outstanding ability and record in respect of diploma holders for the post of Executive Engineer is legal. It was also directed by the Hon'ble Supreme Court that the vacancies prior to 28.10.96

would be filled in accordance with the 1954 rules and the vacancies after 28.10.96 would be filled in accordance with the 1996 rules.

3. It is the claim of the applicants that instead of promoting outstanding diploma holders, the respondents seek to promote the diploma holders with six "Very Good" reports ignoring the criteria of outstanding ability and record.

4. In the case of B.M.Singhal vs. Union of India & ors. (O.A.1461/97), the Tribunal directed the respondents to make promotions ad-hoc for six months and also directed that all promotions made during these six months to be regularised in accordance with the rules; otherwise such ad-hoc promotees would be automatically reverted. The applicants claim that graduate Assistant Engineers eligible in accordance with 1954 rules were not promoted and diploma holders in accordance with 1996 rules were promoted in violation of the general principles. The applicants have filed this application to restrain the respondents not to make any ad-hoc promotions in violation of the judgement of this Tribunal in B.M.Singhal's case and also to restrain them to make the promotions of diploma holders against the vacancies prior to 28.10.96 in accordance with 1954 rules with six very good reports.

5. The C.P.W.D. Graduate Engineers Association submitted a representation to the Special Secretary, Ministry of Urban Affairs and Employment, respondent no.1 on 10.9.98 bringing to his notice the judgement of the Supreme Court in the case of J.N.Goel & ors. vs. Union

5

of India & ors., and also the judgement of the Central Administrative Tribunal in O.A.1461/97 (B.M.Singhal vs. UOI & ors.) decided on 18.8.97. They prayed that while filling up the vacancies, the decisions of the Supreme Court as well as C.A.T. be kept in view and complied with.

6. We think this O.A. is premature. There is no immediate cause of action. No promotions have been made so far. If the promotions are made contravening the principles laid down by the Hon'ble Supreme Court and the C.A.T. then there will be a cause of action for the applicants. We have no hesitation in our mind to dismiss this O.A. at the admission stage as premature.

7. The O.A. is dismissed. No costs.

A. Vedavalli  
( Dr. A. Vedavalli )  
Member (J)

N. Sahu  
( N. Sahu )  
Member (A)  
28.9.98

/mishra/