

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1011/1998

New Delhi, this 19th day of May, 1999

Hon'ble Shri T.N. Bhat, Member(J)
Hon'ble Shri S.P. Biswas, Member(A)

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1. Budh Sen Naresh
WZ-96, School Road
Uttar Nagar, New Delhi-69

2. Raj Pal Singh
A-55, Hardev Puri
100 ft Road, Shahdara, Delhi

3. Mohan Lal
A-43, Sanwal Nagar
New Delhi-49

... Applicants

(By Shri C.B. Pillai, Advocate)

versus

Union of India, through

1. Secretary
Ministry of Information & Broadcasting
Shastri Bhavan, New Delhi

2. Director General
All India Radio
Civil Construction Wing
Akashvani Bhavan, New Delhi

3. Chief Engineer
Civil Construction Wing
PTI Building
Parliament Street, New Delhi ... Respondents

(By Shri Gajender Giri, Advocate)

ORDER

Hon'ble Shri S.P. Biswas

Applicants are assailing the order dated 1.5.98 by which they have been reverted from the post of Assistant Engineer(C) (AEC for short) to that of Junior Engineer(C) (JEC for short), though they have been officiating on ad hoc basis for more than four years. Consequently, they seek a direction to the respondents to promote them to the post of AEC on regular basis with effect from 1.10.91.

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2. We have heard the learned counsel for both parties and perused the materials placed on record.

3. The case of the applicants is that they, belonging to reserved category of Scheduled Caste community, were appointed as JEC with effect from 14.5.84, 17.5.84 and 14.5.84 respectively, that as per the R/Rules 60% of the posts of AEC are to be filled by promotion from amongst JECs holding Diploma in Civil Engineering with 8 years service in the grade and that they became eligible for regular promotion in May, 1992. They would contend that in May, 1989 when the Government of India issued instructions to fill up the backlog vacancies for such reserved category officials even by providing relaxation in eligibility conditions for filling up posts meant for SC/STs, the Department had sought relaxation in eligibility conditions to the extent it was necessary for individual SC/ST candidates which was approved by the competent authority. In fact, appropriate authority allowed relaxation for those who were short of less than one year. The applicants were only short of ^a few months on the cut-off date i.e. 1.10.91 when the DPC last took place on 30.3.92. The applicants would contend that their cases could have been covered by the above decision of the competent authority and they could have been considered for regular promotion by the DPC held on 30.3.92. On the other hand, applicants were promoted on ad hoc basis as AEC in March, 1994. In

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pursuance ^{of} ~~to~~ judgement dated 6.5.94 of the Calcutta Bench of this Tribunal in OA 1078/89,, respondents held review DPCs on 20.3.95, 10.4.95, 17.4.95 and 26.4.95 and all general candidates, who were promoted on ad hoc basis on 30.3.94 alongwith applicants, have been regularised as AEC while the applicants have been left out. Aggrieved by this, applicants No.1 and 2 filed OA 83/98 which was disposed by an order dated 8.1.98 directing the respondents to dispose of applicants' representation in accordance with law through a speaking order. However, respondents by their Memo dated 21.4.98 intimated the applicants that the SIU report of March/April, 1995 recommended a strength of 162 posts and since the strength existing in the cadre was overshooting the recommended strength further meeting of DPC could not be held. That is how the applicants are before us seeking the aforesaid reliefs.

4. Respondents in their reply would contend that the application is not maintainable inasmuch as the applicants have not completed the requisite length of service of eight years as per R/Rules/1988 on the crucial date i.e. 1.10.1991. Thus, the applicants could not be considered at the time DPC was held on 30.3.92 for the year 1991. The post of AEC being a Group B selection post, no carry forward of reservation is allowed as per DoPT's OM dated 6.6.90. Respondents are maintaining separate rosters for such officials in both promotion and direct recruitment categories as per DoPT's

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instructions dated 22.4.70 on the subject. The cut-off date of 1.10.91 for the DPC held on 30.3.92 was fixed in accordance with instructions of DoPT dated 29.7.89. The benefit of reservation was extended to JECs belonging to SC/ST category (including the applicants) by earmarking SC/ST quota in ad hoc promotion in accordance with the instructions of DoPT dated 30.4.83 and 30.9.93. Sanctioned strength of AEC was 268 when promotions were made in 1994. 27 posts were abolished in April, 1995 under 10% economy cut imposed by the Govt. reducing the sanctioned strength to 241. It was further contended that SIU/Ministry of Finance vide their letter No.27/5/92/SIU dated 23.8.93 had issued instructions that no vacant posts in the Civil Construction Division of AIR be filled up since the entire workload with the Division and the manpower required to dispose of the same in the most economical and efficient manner is under determination.

5. It is not in dispute that the four review DPCs were held later on in pursuance of directions of the Calcutta Bench of the Tribunal in OA 1078/89. We, however, find that those review DPCs were held for the vacancies that occurred in 1988, 1989, 1990 and 1991 and the the applicants did not put in the length of service required under the relevant R/Rules. We also find that DoPT had not agreed to the extension of ad hoc appointment of the officers including the applicants to the grade of AEC beyond 30.4.98 since the strength in that grade was held

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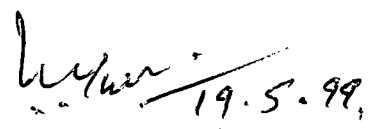
to be much more than the strength recommended by SIU in its report and therefore respondents had no other alternative except resorting to reversion of those ad hoc promotees including the applicants by the impugned order.

6. Based on pleadings and materials placed before us, we do not find any merit in the contentions of the applicants claiming promotion for the vacancies that occurred in 1991, when they have completed 8 years service only in May, 1992. They cannot legally claim promotion which is against the R/Rules. In the result, the OA is dismissed.

7. We would like to make it clear that our orders dismissing the OA shall not debar the respondents in considering the cases of the applicants against future vacancies subject to their fulfilling all the conditions as prescribed under the R/Rules for the post of AEC. We are inclined to make this observation since the respondents have not indicated the number of SC candidates on roll in the category of AEC to establish that 15% quota meant for SCs/STs stand fulfilled even with reduced strength.

8. There shall be no order as to costs.


(S.P. Biswas)
Member(A)


(T.N. Bhat)
Member(J)

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