

Central Administrative Tribunal  
Principal Bench

O.A. No. 2240 of 1995

New Delhi, dated this the 29<sup>th</sup> NOVEMBER, 1999

Hon'ble Mr. S.R. Adige, Vice Chairman (A)  
Hon'ble Mr. Kuldip Singh, Member (J)

Shri A.K.L. Das,  
S/o Shri S.L. Das,  
Asst. Engineer, D & R Wing,  
Central Water Commission,  
R.K. Puram,  
New Delhi-110066. .... Applicant

(By Advocate: Shri D.R. Roy)

Versus

1. Union of India through  
the Secretary,  
Ministry of Water Resources,  
Shram Shakti Bhawan, New Delhi.
2. Central Water Commission,  
through its Chairman,  
Central Water Commission,  
Sewa Bhawan, R.K. Puram,  
New Delhi. .... Respondents

(By Advocate: Shri V.S.R. Krishna)

ORDER

BY HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Applicant impugns respondents' order dated 5.4.95 and seeks regular promotion as Asst. Engineer w.e.f. 20.11.89, on the ground that a vacancy became available on that date and also on the ground that his junior was promoted on that date with consequential benefits.

2. Respondents have not submitted their reply despite the fact that the O.A. was filed on 27.11.95. None appeared for respondents the case was called out. We are, therefore, disposing of the O.A.

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after hearing applicant's counsel Shri Roy and perusing the materials on record.

3. Along with the O.A., applicant has filed a copy of the CAT, P.B. order dated 24.1.96 in O.A. No. 2350/94 filed by him. In that O.A., applicant had sought regular promotion as Asst. Engineer w.e.f. 25.4.91 when his junior Shri Shish Pal Gill and others were promoted along with arrears, increments and interest. In the order dated 24.1.96 it was noticed that by impugned order dated 5.4.95 applicant stood regularised as Asst. Engineer w.e.f. 28.11.90 i.e. w.e.f a date prior to the date applicant himself was claiming regular promotion as Asst. Engineer. In that order dated 24.1.96 it was also noticed that applicant in his rejoinder had put forward a claim that he was entitled to regular promotion as Asst. Engineer w.e.f. 28.11.89, but it was held that this was not his prayer in the O.A., and if applicant had wanted to change his prayer in the O.A. he should have filed an M.A. for amending the relief clause in the O.A. which he did not do, and he could not change his prayer in the rejoinder. By order dated 24.1.96 the O.A. was disposed of noting that the relief regarding regularisation of promotion as Asst. Engineer w.e.f. 25.4.91 already stood granted, applicant having been regularly promoted w.e.f. 20.11.89 vide respondents' order dated 5.4.95 and the reliefs regarding increments, interest etc. could not be granted.

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4. Nothing has been shown to us to suggest that the aforesaid order dated 24.1.96 has been stayed, quashed or set aside.

5. Applicant has stated in the O.A. that after respondents had issued the impugned order dated 5.4.95, he has come across a seniority list dated 5.8.94 (Annexure A-2) wherein he finds that dated S.I. No. 207 Shri H.Z. Qureshi is working in Group B since 20.11.89 and Shri Quereshi is junior to him.

6. Shri Quereshi has not been impleaded as a respondent in the O.A. He is a proper and necessary party and the O.A., therefore, suffers from the fatal infirmity or non-joinder of parties. That apart no satisfactory reason has been advanced as to why applicant did not seek seek amendment of O.A. No 2350/94 itself claiming regular promotion w.e.f. 20.11.89 instead of 25.4.91 before the O.A. was disposed of on 24.1.96. The O.A. is, therefore, also hit by Res Judicata.

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

*Kuldeep*  
(Kuldeep Singh)  
Member (J)  
/GK/

*Adige*  
(S.R. Adige)  
Vice Chairman (A)