Central Administrative Tribunal
Principal Bench

New Delhi, dated this the 30th JANUARY 2001

(38)

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

1. O.A. No. 2055 of 1995

S/Shri

1. Jagdish Chandra,
S/o Shri Pritambar,
R/o House No. 1526, Janta Flats,
Nand Nagri, Delhi.

2. Ashutosh Roy,
S/o Shri B.C. Roy,
R/oo RZ-11, Main Road,
Palam Colony,
New Delhi.

3. R.K. Talwar,
S/o Shri B.C. Talwar,
R/o D-358, Anand Vihar,
Vikas Marg Extension II,
Delhi-110092.

4. R.N. Bansal,
S/o Shri S.B. Bansal,
R/oo I-3/62, Sector, 16,
Rohini,
Delhi-110085. .. Applicants

Versus

1. Union of India through
the Secretary,
Ministry of Information & Broadcasting,
Shastri Bhawan,
New Delhi-110001.

2. Director General,
All India Radio,
Parliament Street,
New Delhi-110001.

3. Chief Engineer,
All India Radio,
Parliament Street,
New Delhi-110001. .. Respondents

2. O.A. No. 1163 of 1995

J.D. Atkaan .. Applicant

Versus

Union of India & Others .. Respondents

3. O.A. No. 1534 of 1995

D.D. Ranga .. Applicant

Versus

Union of India & others .. Respondents

4. O.A. No. 1739 of 1995

K.M. Sharma .. Applicant

Versus

Union of India & Others .. Respondents

5. O.A. No. 1185 of 1995

S.K. Sharma & Others .. Applicants

Versus

Union of India & Others .. Respondents

6. O.A. No. 2021 of 1995

Panna Lal Singh .. Applicant

Versus

Union of India & others .. Respondents

7. O.A. No. 2205 of 1995

S.K. Vaid & Others .. Applicant

Versus

Union of India & Others .. Respondents

(By Advocates: Shri R. Venkatramani, Sr. Counsel with Shri S.M. Garg and Shri P.M. Ahlawat for applicant in O.A. No. 1163/95
O.A. No. 2055/95 O.A. No. 1185/95
O.A. No. 1534/95 & O.A. no. 2021/95
None for applicant in O.A. No. 1739/95
None for applicant in O.A. No. 2205/95

Shri K.R. Sachdeva for official respondents in O.A. No. 1163/95
O.A. No. 1739/95

Shri George Paracken proxy counsel for Shri S.M. Arif for official respondents in other O.As

Shri K.B.S. Rajan, Shri Anil Singal proxy counsel for Mrs. P.K. Gupta and Shri B.B.Raval for other respondents

ORDER

S.R. ADIGE, VC (A)

As these O.As involve common questions of law and fact, they are being disposed of by this common order.

2. In all these O.As applicants seek the benefits flowing from the interpretation of law as contained in Paragraph 39 of CAT, Principal (Full) Bench order dated 6.12.99 in leading O.A. No. 2055/95 (PB) Jagdish Chandra & Others Vs. Union of India & Others and connected cases, namely that they are eligible for promotion as Assistant Engineer on completion of five years regular service in the cadre of J.E. irrespective of their date of acquisition of a degree in Engineering.

3. The facts and circumstances leading to the reference are already available in the aforesaid Full Bench order dated 6.12.99 in regard to O.A. No. 2055/95 and are not being repeated.

4. We have heard both sides.

5. On behalf of official respondents Shri K.R. Sachdeva has contended that the aforesaid Full Bench order dated 6.12.99 has been challenged in the Delhi High Court, and these cases should be adjourned sine die till the matter is finally disposed of by the Delhi High Court. Inter alia he has also

contended that the Full Bench erred in arriving at its conclusions. On behalf of some of the private respondents, Shri Raval questioned the very legality of the reference to the Full Bench by a Division Bench of the Tribunal in the light of the Hon'ble Supreme Court's ruling in L. Chandrakumar's case. He also contended that the operation of the Full Bench decision if at all should be prospective in nature. Appearing on behalf of some of the private respondents who belong to reserved community, Shri Baracken urged that his clients had been promoted against available vacancies and the Full Bench decision dated 6.12.99 should not be implemented in a manner so as to affect the rights of his clients.

6. We have considered these contentions carefully.

7. We as a Division Bench of the Tribunal are bound absolutely by the Full Bench decision dated 6.12.99, which has considered the matter in great detail. Even otherwise, we find no good reasons to disagree with the interpretation of law as contained in the Full Bench decision dated 6.12.99, more so in view of the legal interpretation contained in judgment of the Hon'ble Supreme Court in A.K. Raghumani Singh & Others Vs. Gopal Nath & Others 2000 (3) SCALE Page 391 which is on all fours with the present cases.

8. We note that the aforesaid decision of the Full Bench dated 6.12.99 has been appealed against in the Delhi High Court, but we have not been shown any orders staying the operation of that decision.

9. As regards the relevance of a reference to the Full Bench, in the light of the Hon'ble Supreme Court's ruling in L. Chandra Kumar's case (supra), it was open to the parties to have advanced this argument at the time the reference was made or indeed when the matter was being heard by the Full Bench, but it is not available to respondents now. In any case, the Hon'ble Supreme Court did not strike down the relevant provisions in the Administrative Tribunals Act which permit a reference to a larger Bench to be made to resolve the issue, where there is a conflict of decisions between two coordinate Benches, as has happened in O.A. No. 2055/95.

10. In the facts and circumstances of the cases before us and in the light of the foregoing discussion all these O.As succeed and are allowed to the extent that respondents are directed to consider the claims of applicants in each of these O.As for promotion as Asst. Engineer on completion of five years of regular service in the cadre of Junior Engineer grade, irrespective of their date of acquisition of the degree in Engineering, in the light of Para 39 of the Full Bench decision dated 6.12.99 in O.A. No. 2055/95 and connected case. Applicants who are so found eligible for promotion, will be entitled to consequential benefits admissible in accordance with law, rules and instructions

flowing therefrom. These directions should be implemented within four months from the date of receipt of a copy of this order, and while implementing the same, care should be taken by respondents to avoid as far as possible the reversion of those already promoted. Where such reversion becomes unavoidable, the same shall be done only in accordance with law. It is further made clear that the implementation of these directions will be subject to the outcome of the appeal pending in the Delhi High Court against the Full Bench decision dated 8.12.99 and this fact should be clearly mentioned in any orders respondents issue pursuant to the aforesaid directions. No costs.

A3

(Dr. A. Vedavalli)
Member (J)

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

'gk'

True copy
Dhanwal
30/1