

Central Administrative Tribunal, Principal Bench

Original Application No.1662 of 1996

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New Delhi, this the 15th day of February, 2000

Hon'ble Mrs.Lakshmi Swaminathan, Member (J)
Hon'ble Mr.R.K.Ahooja, Member (A)

S.S.Bhatia, Asstt. Engineer (Elect)II,
NSGP Elect.Division-I,CPWD,Manesar(Gurgaon) - Applicant

(By Advocate - Shri D.S.Garg)

Versus

Union of India through :

1. The Superintending Engineer, NSGP Circle, CPWD, Manesar (Gurgaon).
2. The Chief Engineer, C/o Superintending Engineer H.Q., Delhi Outer Zone, CPWD, Curzon Road, New Delhi.
3. The Director General of Works, C.P.W.D., Nirman Bhavan, New Delhi.
4. Shri J.P.Maheswari, Ex. Engineer, C/o D.G.Works, CPWD, Nirman Bhavan, New Delhi.
5. Shri J.L.Mehta, Asstt. Engineer(E), C/o D.G.Works, CPWD, Nirman Bhavan, New Delhi.
6. Shri K.L.Verma, Asstt. Engineer(E), C/o D.G.Works, CPWD, Nirman Bhavan, New Delhi.

- Respondents

(By Advocate Shri R.V.Sinha through
proxy counsel Shri R.N.Singh)

O R D E R (Oral)

By Mrs.Lakshmi Swaminathan, Member(J) -

The applicant is aggrieved by the order passed by the respondents dated 15.2.1996 in which they have stated that there is no discrepancy in assigning him seniority as Assistant Engineer (AE) (E) in the seniority list of AEs (E) dated 20.9.1991 at serial no.312.

2. The facts of the case are that the applicant was appointed in the post of Junior Engineer (JE) (E) with effect from 18.1.1963 in CPWD and admittedly

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respondents 4,5 and 6 were appointed on later dates as JE(E). The applicant was promoted on adhoc basis to the post of AE(E) with effect from 4.2.1981. In the impugned seniority list of 20.9.1991 the applicant has been assigned seniority at serial no.312 whereas according to him his juniors i.e. respondents 4,5 & 6 were assigned seniority at serial nos. 102, 188 and 190, respectively. Shri D.S.Garg, learned counsel has submitted very vehemently that he never was aware of the impugned seniority list of September,1991 till about 1995 and in any case the impugned OM dated 15.2.1996 gives him a fresh cause of action and hence there is no question of limitation. He has further submitted that in the OA he has also challenged the holding of the DPC in 1983 on the basis of which the promotions of respondents 4,5 & 6 and the applicant have been carried out which has been reflected in the impugned seniority list of 20.9.1991. According to the learned counsel, the impugned seniority list should be set aside because the applicant has been regularised as AE(E) with effect from 4.2.1981 whereas his juniors - respondents 4,5 & 6 have been regularised with effect from 31.12.1976, 25.1.1979 and 25.1.1979 respectively. He has, therefore, submitted that the impugned order should be set aside and the respondents should be directed to issue the revised seniority list showing him senior to respondents 4,5 & 6.

3. We have seen the reply filed by the respondents and have also heard Shri R.N.Singh, learned proxy counsel. The respondents have taken a preliminary objection that the OA is highly belated and barred by

limitation as the cause of action had arisen on 20.9.1991 whereas the OA has been filed five years later. They have also submitted that the applicant was promoted to the grade of AE(E) which was purely on adhoc basis and he joined the post on 20.8.1981. The adhoc appointment would, therefore, not confer ^{on 13} him any right to any claim either for regular appointment as AE(E) or for determination of seniority in that grade or any other incidental benefits of regular promotion. In 1983, admittedly the respondents had held a DPC meeting to prepare yearwise panel for promotion as AE(E). In furtherance of the recommendations of the DPC held in 1983, the respondents have issued the impugned seniority list dated 20.9.1991. In the circumstances, we find merit in the submissions made by the learned proxy counsel for the respondents that the OA is highly belated.

4. It is further noticed that the promotion to the post of AE(E) is on selection basis for which a DPC had been held in 1983. It is not denied by the applicant that the DPC which met in 1983 had ~~also~~ considered the case for promotion to the post of AE(E) and on that basis, ¹³ ~~subsequent~~ the impugned seniority list of AE(E) has been prepared in September, 1991.

5. Having regard to the facts and circumstances of the case, the contention of the applicant's counsel that the impugned seniority list of AE(E) should be set aside is unacceptable. This seniority list is based on the recommendations of the DPC which was held in 1983 and the validity of the recommendations of the committee cannot be questioned at this distance of time in this OA.

6. On merits also none of the grounds taken by the applicant in the OA justifies setting aside the recommendations of the DPC held in 1983 or the subsequent seniority list issued by the respondents on 20.9.1991. It is also settled law that in such matters of seniority in service law, ^{the} settled position should not be unsettled. [Direct Recruit Class II Engineers Officers' Association Vs. State of Maharashtra, (1990) 13 ATC 348.]

7. In the result, for the reasons given above we see no merit in this application, apart from the fact that the same is highly belated. Accordingly the OA is dismissed. No order as to costs.

R.K.Ahooja
(R.K.Ahooja)
Member (A)

Lakshmi Swaminathan
(Mrs.Lakshmi Swaminathan)
Member (J)

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