

Central Administrative Tribunal  
Principal Bench: New Delhi

OA No. 427/97

New Delhi, this the 31st day of July, , 1997

Hon'ble Dr. Jose P. Verghese, Vice-Chairman(J)  
Hon'ble Shri K.Muthukumar, Member (A)

Jagjit Singh,  
32/III, Sadiq Nagar,  
New Delhi.

..Applicant

(By Advocate: Shri G.K. Aggarwal)

-Versus-

1. Union of India through  
Secretary,  
Ministry of Urban Affairs and  
Employment, Nirman Bhawan,  
New Delhi.
2. The Director General (Works)  
Central Public Works Department,  
Nirman Bhawan, New Delhi.

....Respondents

(By Advocate: Shri S.Mohd. Arif)

O R D E R (ORAL)  
[Dr. Jose P. Verghese, Vice-Chairman (J)]

The only relief sought in this petition by the petitioner is that in view of his superannuation on 31.7.1997, the promotion of the petitioner, which has been recommended and approved by the President in pursuance to the DPC held in November, 1995, may be granted for the purpose of calculating the last pay drawn and subsequent pensionary benefits. The petitioner could not be promoted at that time due to the stay order passed by the Hon'ble Supreme Court in SLP filed against an order of this court wherein this court had directed amendment of the recruitment rules as far as the Executive Engineers' Cadre is concerned. The Hon'ble Supreme court had stayed the promotion of various

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Executive Engineers including the petitioner who were diploma holders granting some more time to the department to amend the recruitment rules which the department did, in due course and thereafter in January, 1997 Hon'ble Supreme Court vacated the stay while passing the final judgement in the case of J.N. Goel & Ors vs. Union of India reported in 1997 (1) JT(SC) p. 451. While passing the final order in the above said case, the Hon'ble Supreme Court had directed the respondents to review all the promotions made prior to 29.10.1996 and grant promotions in accordance with the recruitment rules of 1954 if the would-be promotees were eligible under the said rules. The affected Executive Engineers by such promotion order had been given liberty to agitate the matter as and when it pleases them. But in this case, since the petitioner is being superannuated on 31.7.1997 and in view of the fact that the petitioner is not claiming any payment of arrears and he is only claiming the fixation of pay for the purpose of arriving at the last pay drawn, for calculating the pensionary benefits, we direct the respondents to consider the case of the petitioner in the light of the final order passed by the Hon'ble Supreme Court and if he is found eligible in accordance with the recruitment rules of 1954, shall pass appropriate orders of promotion only for the purpose of arriving at the last pay drawn in order to calculate the pensionary benefits, forthwith preferably within 15 days from the date of receipt of a copy of this order.

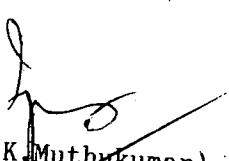
It was stated by the respondents in their counter affidavit that the re-consideration in accordance with the Hon'ble Supreme Court's order is under way and

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it is directed that in view of the impending superannuation, such exercise shall be complete as far as the petitioner is concerned within two weeks from the date of receipt of a copy of this order.

Respondents were under the impression that the Supreme Court's order may not be applicable to the case of the petitioner for the reason that the petitioner has not been promoted in the strict sense of promotion referred to in this case, since his name only has been recommended and the approval of the President has been granted, yet the actual order of promotion has not been issued prior to the order of the Supreme Court. In the circumstances of the case and from the orders passed by the Hon'ble Supreme Court staying the promotion, we find that the Hon'ble Supreme Court had stayed these very promotions including that of the petitioner asking the respondents to amend the recruitment rules as per the direction of this Tribunal in accordance with the order under challenge therein, we consider such a dispute as put forth herein, may not be substantial to grant relief to the petitioner. We hope and trust that the entire process will be completed in time so that retiral benefits be granted to the petitioner in accordance with rules.

With these directions, this OA is disposed of with no order as to costs.

  
(K. Muthukumar)  
Member (A)

naresh

  
(Dr. Jose P. Verghese)  
Vice-Chairman (J)