

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

OA No. 822/97

New Delhi: this the 21st day of DECEMBER, 2000.

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

HON'BLE DR. A. VEDAVALLI, MEMBER (J)

1. M. Muthurajan,
25/15, Pushp Vihar,
New Delhi-17.

2. D. Chandramouli,
247-G, MIG Flats,
Rajouri Garden,
New Delhi-27

3. J. M. Raj,
SC (Co-Ord),
CPWD,
Chennai

.... Applicants.

(By Advocate: Shri G.K. Agarwal)

Versus

1. Union of India
through
Secretary,
Ministry of Urban Affairs & Employment,
Nirman Bhawan,
New Delhi-11

2. The Appointments Committee of the Cabinet
through
Cabinet Secretary, Rashtrapati Bhawan,
New Delhi-4

3. The Director General (Works),
Central Public Works Deptt.,
Nirman Bhawan,
New Delhi-11

4. The Secretary,
Union Public Service Commission,
Shahjehan Road,
New Delhi-11

Respondents.

And Respondents 5 to 13

(By Advocate: Shri KCD Gangwani with Sh. R. V. Sinha
for official respondents .
Shri G.D. Gupta for Pvt. Resdt.)

ORDER

S.R. Adige, VC(A):

In this OA the relief pressed by applicants' counsel Shri G.K. Agarwal during hearing, is to promote applicants to common cadre posts in Chief Engineers' grade qua DPC meeting as of 14.3.97 with consequential benefits.

2. Heard both sides.

3. It is common ground that the Note to Schedule 1 Central Engineering (Civil) Group 'A' Service Rules, 1996 provides that 3 posts of Chief Engineer are common cadre posts for the Central Engineering (Civil) Group 'A' Service and the Central Engineering Electrical & Mechanical Group 'A' service. Rule 7(v) of those Rules provides that these common cadre posts shall be filled by appointment of officers empanelled by the DPC. When the DPC met on 14.3.97, the 3 common cadre posts in CE grade, namely CE (Training); CE (Vig.) and Dy.DG (Works) were occupied by officers of Central Engineering (Civil) Service.

4. The DPC met on 14.3.97 to make recommendations for filling up 4 vacancies of CE. On behalf of applicants who belong to CE (Elec. & Mech.) Service, it is urged that the DPC which met on 14.3.97 should have addressed itself to making recommendations for filling up the 3 common cadre posts by considering eligible candidates of CE (Elec. & Mech.) service, by transferring if necessary the incumbents on those common cadre posts to three out of the aforementioned 4 vacancies, in which case applicants might have been promoted as CE earlier.

5. The aforementioned Note and Rule 7 (v) cannot be read in isolation, but have to read along with the guidelines contained in Urban Development Department's U.O. Note dated 31.1.97 (Annexure-A-3) which are required to be observed while allocating the common cadre posts between Civil & Electrical Disciplines. Para 1(ii) of the Guidelines provides that a difference of 2 batches or more alone will be taken as a measure of disparity

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and para (iii) provides that for the purpose of batch parity a batch will be treated to have been covered only when all the officers, of the batch have been promoted. It needs to be mentioned that the challenge to para (iii) of the aforesaid guidelines dated 31.1.97 was not pressed.

6. It is not denied that candidates of civil discipline of 1969 batch were considered in the 14.3.97 DPC and applying the aforesaid guidelines, candidates of Electrical discipline of 1969 batch could be considered for promotion against the 3 common cadre posts only after the last officer of the 1969 batch was promoted. Applicant No. 3 Shri J.M. Raj who is shown as senior to applicant No. 2 Shri D. Chandramouli in the seniority list of SE (Elec.) CPWD has himself admitted in his representation dated 14.11.96 (Annexure-A/8) that he belong to 1967 batch of CE (Elec. & Mechanical) cadre. As regards applicant No. 1 Shri M. Muthurajan, he has not denied in the corresponding para of his rejoinder, the specific averment of Respondents 5 to 13 in para 4.4 of their reply that he although a 1964 examination entrant, ^{was} ~~and~~ clubbed along with 1967 Exam. entrants for the purpose of promotion as SE (Elec.). Thus even if applicant No. 1 is the seniormost of the 3 applicants, he having been superceded as SE (Civil) has been treated as an officer of 1967 batch for purposes of consideration for promotion as CE. Therefore, in the light of the aforesaid guidelines, the ~~turn~~ ^{turn} of the 3 applicants for promotion against common cadre posts could not have come before the last candidate of the 1969 batch of Civil discipline was promoted consequent to the ~~recommendations~~ ^{recommendations} of the DPC dated 14.3.97, and would have come only thereafter. In fact we are informed

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that applicant No.1 Shri Muthurajan was promoted as CE(Elec.) soon after in 1997 itself, even before the last candidate of 1969 batch of Civil discipline was promoted.

7. Applicants cannot therefore have any legitimate grievance. The OA is dismissed. No costs.

A. Veda Valli
(DR. A. VEDAVALLI)
MEMBER (S)

S. R. Adige
(S. R. ADIGE)
VICE CHAIRMAN (A).

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