

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 882/97

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New Delhi this the 30th June 1997

Hon'ble Dr. Jose P. Verghese, Vice Chairman (J)
Hon'ble Shri S.P. Biswas, Member (A)

Shri R.C. Gupta,
L-2 Andrews Ganj Extn.
New Delhi-110049.

Petitioner

(By Advocate: Shri G.K. Aggarwal)

-Versus-

1. Union of India,
through Secretary,
Ministry of Urban Affairs & Employment,
Nirman Bhawan,
New Delhi-110 011.
2. The Director General (Works),
Central Public Works Dept.,
Nirman Bhawan,
New Delhi-110 011.
3. The Secretary,
Union Public Service Commission,
Shahjahan Road,
New Delhi-110 011.
4. A Manickavasagam,
Superintending Engr. (Civil),
through : The Director General (Works) (EC-I),
Nirman Bhawan,
New Delhi-110 011.

Respondents

(By Advocate: Shri Madhav Panikar)

O R D E R (oral)

Hon'ble Dr. Jose P. Verghese, Vice Chairman (J)

The petitioner in this case was appointed as officiating Superintending Engineer (Civil) on regular basis in Central Engineering Service, Grade-A in the scale of Rs. 3700-5000/- by an order dated 4th September, 1995. Admittedly, this order has been passed along with 32 other Superintending Engineers in pursuance to a D.P.C. held for 33 vacancies then stated to be available in the department.

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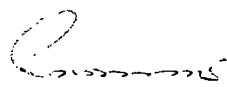
Subsequently, one of the Executive Engineers who were eligible to be promoted to the post of Superintending Engineer (Civil) to a vacancy that arose in the year 1995, challenged the said order by an OA No.1865/95 on the ground that some of the Executive Engineers now promoted as Superintending Engineer by the said order have been posted against subsequent vacancies that arose in the year 1995 and since the said petitioner Shri Surinder Kumar was also eligible for vacancy that arose in the year 1995 to be considered for promotion and since his name was not considered, respondents have wrongly accommodated the previous panelists against the said vacancies and has resulted in denying consideration of Mr. Surinder Kumar for promotion. By a final order dated 1st August, 1996., this court has held that, apparently as a consent order, the panel of 1994, and the order impugned in the said OA is held to be valid and gave various directions including that the Superintending Engineers who have been promoted by the impugned order shall be appointed against suitable vacancies by making adjustments. The respondents seems to have wrongly exhausted the vacancies that were available to the panelists of 1994 by filling them up with candidates from the previous panels. We are not called upon to decide whether such action is right or wrong. But in any case the panel of 1994 since has been declared valid, and the competent superior authority has not set aside the appointment order dated 4.9.1995, any subsequent order of reversion solely on the basis of making certain adjustments of the mistake committed by the respondents subsequently, cannot be in good taste.

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Learned counsel for the respondents submitted that the respondents had, in pursuance to one of the directions of this court in the above said OA, held a review DPC for filling up the vacancies that arose in the year 1995 and has found the petitioner not eligible and not reaching the bench mark. We are of the opinion that since the petitioner has been duly empanelled in the year 1994 and has been given officiating appointment on a regular basis in the year 1995 and since those orders have never been set aside, rather it has been declared to be valid, a review DPC applying a different bench mark could not have been held against the petitioner. Respondents should have complied with the direction given by this court in the said OA and made adjustments against any subsequent vacancies for the purpose of posting. It was stated that the vacancies that were originally available against which the panel of 1994 was drawn up have been either filled up by some of those in the said panel or some of the vacancies have been given for posting to the previous panelists or a few of them are still being occupied by ad hoc appointees. Since interim orders in favour of those ad hoc appointees are subsisting, respondents are not in a position to give posting against those vacancies of 1994 to the petitioner. In any case respondents could not have reverted the petitioner who has been duly selected and appointed and subsequently his appointment was declared as valid by this court, for want of appeal, the said order has become final and the irresistible conclusion is that the respondents will have to respect their own orders and make suitable

adjustments, short of reversion, till the appropriate vacancies arise for the purpose of posting.

With these above directions, this OA is allowed with no orders as to costs.


(S.P. Biswas)
Member (A)

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