

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

D.A. NO. 319/94

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New Delhi this 17th Day of February 1994

The Hon'ble Mr. J.P. Sharma, Member (J)

The Hon'ble Mr. B.N. Dhoundiyal, Member (A)

Shri Arun Kumar Gupta,
C-8/8633, Vasant Kunj,
New Delhi-110 070.

2. Shri Har Kishan Lal Bansal,
Qr. No. 5, Type IV, GPO Complex,
Ambala Cantt.

.. Applicants

(By Advocate Shri G.K. Aggarwal)

Versus

Union of India through
The Secretary,
Ministry of Communications and
Chairman,
Telecommn. Communication,
Sanchar Bhawan,
New Delhi -110 001.

.. Respondents

(By Advocate : None)

O R D E R

Hon'ble Mr. J.P. Sharma, Member (J)

The applicant no. 1 joined Civil Engineering Wing of P&T as Assistant Executive Engineer on 27.9.1976 and applicant no. 2 joined on the same post on 27.9.1977. The applicant no. 1 was promoted to the post of Executive Engineer (Civil) on adhoc basis with effect from 2.12.1980 and made regular with effect from 2.11.1982. Applicant No. 2 was promoted on adhoc basis with effect from 15.4.1982 and was made regular on 14.2.1983. The next promotional post is Superintendent Engineer (Civil), which is a selection post from amongst those who have rendered at least five years service in the grade of Executive Engineer (Civil)

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After appointment thereto on regular basis. The grievance of the applicants is that the respondents have initiated steps to make adhoc promotion to the promotional posts of Superintendent Engineer (Civil). It is said that those promotions are not being visualised on the basis of existing seniority list of Executive Engineer (Civil) dated 11.1.1989 on the ground that list is to be revised following the revised Assistant Engineer (Civil list) dated 10.12.1993. It is apprehended that the respondents are intending to promote Assistant Engineer (Civil) and Assistant Executive Engineer (Civil) direct as adhoc Superintendent Engineer (Civil) in the ratio of 1:2. In the order of seniority in the Assistant Engineer's (Civil list) dated 10.12.1993 and Assistant Executive Engineer (Civil list) dated 6.5.1988, even though Assistant Engineers (Civil) are only adhoc Executive Engineer (Civil) and not eligible to be promoted as Superintendent Engineer (Civil) from the feeder grade of Executive Engineer (Civil). It is further contended that even their adhoc promotion as Executive Engineer (Civil) were only upto 31.12.1993. However the letter dated 3.6.1993 specifically ^{lays down} that their adhoc promotion is subject to the finalisation of the seniority list in the grade of Assistant Engineer (Civil).

2. The P&T Civil Wing Direct Recruit Engineers Association made representation on 14.1.1994 to the Chairman, Telecomm. wherein it is requested that only the eligible Executive Engineers (Civil) be

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promoted to the post of Superintendent Engineer (Civil) on regular basis from the existing seniority list issued in 1989.

3. The present application has been filed on 10.2.1994 and in Para 6 of the application it is prayed that the waiting period of six months be waived in the circumstances of the present case. In fact earlier to 14.1.1994 the applicant also made representations in October and December 1993 but they have not been furnished with any reply.

4. The reliefs prayed by the applicants is that a direction be issued to the respondents to make adhoc or any other kind of promotion to the grade of Superintendent Engineer (Civil) strictly in accordance with the Dept. of Personnel & Training O.M. No. 3.3.1988 read with GSR 1385 dated 25.9.1976 read with GST 443 dated 19.4.1980 on the basis of Executive Engineer's Civil list dated 11.1.1989. The applicants have also prayed for interim reliefs that adhoc or other kind of promotion be not made by the respondents except on the basis of the Executive Engineer's Civil List dated 11.1.1989 in accordance with the Dept. of Personnel & Training O.M. Dated 30.3.1988 read with the relevant recruitment rules.

5. We have heard the learned counsel for the applicants. The prayer to join together in one application is allowed. The recruitment rules for the post of Superintendent Engineer by the virtue of Rule 7 gives the power to relax the rules with consultation to the Union Public Service Commission

and after recording reasons therefor with respect to any class or category of persons or posts.

For the post of Superintendent Engineer (Civil) the recruitment is made by promotion failing which by transfer on deputation. All the Executive Engineer's (Civil) with five years service in the grade rendered after appointment thereto on a regular basis are eligible for consideration.

Firstly, we find that there is no exceptional circumstances in the present case to allow the applicants to file the application before the expiry of six months as laid down under Section 20 of the Administrative Tribunal Act, 1985. The apprehension harboured by the applicants cannot be said to be genuine. In fact the promotion to the post of Executive Engineer (Civil) is made on non-selection basis from the next lower grade of Assistant Executive Engineer (Civil) who have put in at least five years of regular service whereas the Assistant Engineer (Civil) ought to have put in at least eight years of regular service to be eligible for promotion ^{on selection basis} as Executive Engineer (Civil). Their promotion is to be effected in the ratio of 2:1. The respondents have revised the seniority list of Assistant Engineer by the order dated 10.12.1993. The seniority list of Executive Engineer is dated 6.5.1988. Since the applicants also belongs to the Executive Engineer (Civil) there will be naturally a revision of the seniority list dated 11.1.1989 and it is also because of the fact that the seniority list of Assistant Engineer

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(Civil) has been revised by the order dated 10.02.1993. In view of this fact it is necessary that the first the respondents should dispose of the representation filed by the applicants in October, December 1993 and by the Association in January 1994. In view of this the application cannot be entertained at this stage when the representation is already under consideration with the respondents. The application, therefore, is purely pre-mature.

6. The learned counsel for the applicant also argued that the respondents be directed to give promotion to the post of Superintendent Engineer (Civil) in accordance with the recruitment rules. This needs no direction as the rules are statutory in nature, on the basis of which the respondents have already given promotion in the other grades of Engineering in P&T Civil Wing.

7. The learned counsel for the applicant also highlighted Annexure A-5 dated 3.6.1993 wherein the adhoc appointments to the grade of Executive Engineer (Civil) was extended to certain officers listed in the aforesaid order upto 31.12.1993. However, this is not at all relevant at this stage when the application is disposed of at the admission stage without expressing any opinion on merit of the various contentions raised by the applicants. The application, therefore, is dismissed as pre-mature at the admission stage itself.

S. N. Dholiwal
(B.N. Dholiwal)
Member (A)

J. P. Sharma
(J.P. Sharma)
Member (J)