

CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

O.A. No. 1563/2000

New Delhi this the 26th day of September 2000

(b)

Hon'ble Shri S.R. Adige, Vice Chairman (A)
Hon'ble Dr. A. Vedavalli, Member (J)

1. N.N. Biswas
S/o Late Shri N.N. Biswas
R/o C-55/X-4 Post Office,
Dilshad Garden,
Delhi-110 095.

K.K. Tiwari,
S/o Shri Ram Sarup Tiwari,
R/o 27/1 MES Officers Enclave,
Delhi-110 010.

3. R.P. Singh
S/o Shri G.P. Singh
R/o 27/1 MES Officers Enclave,
Kotwali Road,
Delhi Cantt.
Delhi-110 010.

Applicants

(By Advocate: Mrs. Meera Chhibber)

Versus

1. Union of India
through Secretay
Ministry of Defence,
New Delhi.

2. Engineer-in-Chief,
Army Headquartrs,
Kashmir House, DHQ, P.O.,
New Delhi-10 001.

3. U.P.S.C. through,
Secretary,
Dholpur House,
New Delhi.

Respondents

(By Advocate: Shri VSR Krishna)

O R D E R (Oral)

By Hon'ble Shri S.R. Adige, VC (A)

Applicants who are Assistant Engineers seek a direction to make promotions of Assistant Executive Engineer and Assistant Engineers to posts of Executive Engineers, strictly in accordance with the Recruitment Rules and the directions of Allahabad Bench of Tribunal, till the matter is finally disposed of by the Hon'ble High Court of Allahabad. A



direction has also been sought to Respondents to hold DPCs ~~and~~ AEs simultaneously for any vacancies over and above 39 promotional vacancies of Executive Engineer within 15 days, and to direct respondents to act strictly in accordance with the ratio of 2:1 as per the Tribunal's directions till the High Court decides the matter finally.

2. An interim direction has been sought that the Assistant Executive Engineers should not be given actual promotion beyond 39 vacancies till the Assistant Engineers are promoted in the prescribed proportion.

3. We have heard Mrs. Meera Chhibber, Counsel for the applicant and Shri V.S.R. Krishna, Counsel for the Respondents. Respondents reply has taken on record. With the consent of both the parties, we are proceeding to dispose of the OA.

4. As per the Indian Defence Service of Engineers (Recruitment and the Condition of Service) Rules, 1991, (copy taken on record), 66-2/3% posts of Executive engineers are to be filled on non-selection basis from the grade of Assistant Executive Engineer with four years regular service in the grade, who possess the prescribed eligibility qualifications, while the remaining 33-1/3% posts are to be filled on selection basis from the grade of



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Assistant Engineers with 8 years regular service in the grade who possess the prescribed eligibility qualifications.

5. We note that some Assistant Executive Engineers had approached the CAT, Allahabad Bench in OA No. 465/1999, who by order dated 8.2.2000 (Annexure P-6) allowed the OA to the extent of directing respondents to fill up the vacancies of Executive Engineers in the proportion of 66.6% from Assistant Executive Engineers and 33.3% from Assistant Engineers on the basis of the aforesaid Recruitment rules. We are informed that the aforesaid order has been challenged in the Allahabad High Court, but no stay order has been issued in the matter.

6. Meanwhile, some Assistant Engineers similarly placed as the present applicants had filed OA No. 1405/98 K.D. Singh & Ors. Vs. Union of India & Ors. in CAT, Principal Bench. ^{by its order dt. 30.8.2000} ~~who~~ ^{after} noting the submissions made by respondent's counsel Shri VSR Krishna (who is also respondent's counsel in the present case) that respondents were bound to obey the provisions of ^{the} statutory recruitment rules, and would strictly adhere to the respective quotas for promotion to the posts of Executive Engineers from the feeder grade of Assistant Engineers and Assistant Executive Engineers as prescribed in the recruitment rules, disposed of the OA with the direction to respondent to abide by these ^{submissions} ~~statements~~.

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7. In the present OA also Shri V.S.R. Krishna has reiterated respondents commitment to adhere to the provisions of the statutory recruitment rules, with particular reference to the quota for promotion to the posts of Executive Engineers from the feeder grade of Assistant Engineers and Assistant Executive Engineers as prescribed in the relevant recruitment rules.

8. In this connection we are informed that the procedure for making promotions from the feeder cadre of Assistant Executive Engineers is relatively less complicated as no selections are involved and the same can be done at the departmental level itself and respondents have therefore gone ahead with making promotions from the feeder grade of Assistant Executive Engineers. However, in regard to the promotion quota from the feeder grade of Assistant Engineers, as the same involves filling up through selection basis, reference is required to be made to Union Public Service Commission. Shri V.S.R. Krishna assures us at the bar that action to send the records of those Assistant Engineers who come within the zone of consideration for promotion as Executive Engineers within the 33-1/3% quota prescribed for them, will be sent to UPSC within 45 days from today, and UPSC will be requested at the appropriate level to take necessary action such that the consideration of their cases for promotion, is completed preferably within two months from the date of receipt of the records.

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9. In this connection, Shri Krishna stated at the bar that respondents would have no objection, if a direction is given to respondents that in the case of any delay in filling up of the vacancies in the respective promotion quotas, the seniority of those to be promoted would not suffer and seniority would be determined from the date a slot in the respective promotion quota became available to them in the ratio of 2:1. We direct accordingly

10. In this connection, we are informed that some of the Assistant Engineers, who are likely to come within the zone of consideration would be retiring on superannuation shortly. We call upon the respondents to ensure that the aforesaid directions are strictly adhered to, such that the benefits of promotion, in case they are selected for promotion as Executive Engineers are not denied to them merely because they would have retired on superannuation in the meanwhile.

11. O.A. stands disposed of with the above directions. *No costs*

A. Vedavalli

(Dr. A. Vedavalli)
Member (A)

S. R. Adige

(S. R. Adige)
Vice Chairman (A)

Mittal