

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

OA 1817/2000

New Delhi, this the 20th day of March, 2001

Hon'ble Mr. Justice Ashok Agarwal, Chairman  
Hon'ble Shri Govindan S. Tampi, Member (A)

Shri R.C.Manchanda,  
S/o Shri J.R.Manchanda,  
R/o KU-151, Pitam Pura,  
Delhi - 110 034.  
Working as Executive Engineer (CD-1),  
O/O Chief Engineer,  
Irrigation & Flood Control  
Govt. of NCT of Delhi.

...Applicant

(By Advocate : Shri M.K.Gupta)

V E R S U S

Govt. of NCT of Delhi : Through

1. Chief Secretary  
5, Shamnath Marg,  
Delhi - 110 054.
2. Secretary-cum-Development Commissioner,  
Govt. of NCT of Delhi  
5/9, Under Hill Road,  
Delhi.
3. Chief Engineer, Irrigation & Flood Control  
Govt. of NCT of Delhi,  
4th Floor, ISBT,  
Kashmere Gate,  
Delhi - 110006.

...Respondents

(By Advocate : Shri Mohit Madan, proxy  
for Mrs. Avnish Ahlawat)

O R D E R (ORAL)

Hon'ble Shri Govindan S. Tampi, Member (A)

The applicant in this case, an Asstt. Engineer was assigned the current duty charge of Executive Engineer by order dated 02.06.1988. He held the said charge from 2-6-1988 to 17-12-1997, when he was promoted as Executive Engineer. Throughout the entire period, he was holding the charge and was officiating as Executive Engineer, but was given the

benefit of pay and allowances only from his promotion on 17.12.1997. His plea is that as he has been looking after the charge without any break, he should be given the pay and allowances attached to the post of Executive Engineer, whose current charge he held and that the same period should be reckoned for computing his seniority as an Executive Engineer. According to Shri M.K. Gupta, learned counsel for the applicant, the applicants' case is clearly covered by the decision of the Hon'ble Supreme Court in the case of Secretary-cum-Chief Engineer Vs. Hari Om Sharma and others {1998(5) SCC.87}. He also points out that in terms of the recruitment rules the applicant was eligible to be considered for promotion as an Executive Engineer, when he was given the current charge in 1988, and the delay in the promotion arose only on account of the inaction of the respondents, for which he should not be made to suffer. He also says that one Shri M.K. Puri who was similarly placed as the applicant was given the benefits, which the applicant is now seeking. The application should therefore, succeed, is his plea.

3. Contesting the above, Shri Mohit Madan, learned proxy counsel for the respondents states that since the applicant was not at all promoted as Executive Engineer but was only given the current charge, while continuing to be working as Asstt. Engineer, he did not have any claim for the benefits of pay and allowances of Executive Engineer or of seniority in the higher grade. Shri Madan fairly conceded that the applicant was eligible for being considered for promotion as Executive Engineer in

1988, when he was assigned the current charge, but he was not so promoted, as the applicants' seniors were also awaiting promotion as Executive Engineer. According to Shri Madan, the request made also by the applicant was time barred and he is seeking a relief in respect of a cause of action which arose nearly ten years ago. He also referred to the decision of the Hon'ble Supreme Court in the State of Haryana Vs. R.K. Aggarwal (1997 (4) SLR 733) holding that "employee is not entitled to salary for the period he was holding current charge duties in addition to own duties". According to him the reliance placed by the applicant on the decision in Hari Om Sharma's case was not relevant. Hence, he prays that the application be dismissed.

4. We have carefully considered the facts placed before us and gone through the rival contentions.

5. It is not under dispute that the applicant was assigned the current charge of the Executive Engineer in 1988 and continued to look after the same till 17.12.1997, when he was appointed to officiate as Executive Engineer, on the recommendation of the D.P.C. Since it is clear that he was not promoted as Executive Engineer but was only given the current charge, it is evident that it was only a temporary arrangement, though he was <sup>at that time itself</sup> eligible to be considered for promotion as Executive Engineer. Since he was not promoted as Executive Engineer, but only a temporary arrangement of assignation of current charge was ordered, we do not hold that he is entitled to get the

benefit of full pay and allowances as Executive Engineer from the day he was given the current charge. The observation of the Hon'ble Supreme Court in the case of R.K. Aggarwal, raised by the respondents is relevant in this regard. Besides, the facts in this case are also not on all fours with those in Hari Om Sharma's case relied upon by the applicant. The fact, however, remains that he has been approved for promotion by the DPC, which met on 05.12.1997 against the vacancy meant for 1995-1996. That being the case we feel that the interests of justice would be adequately met by directing the respondents to grant notional fixation of pay and allowances to the applicant in the grade of Executive Engineer from the date on which the vacancy of Executive Engineer arose in the year 1995-96 with grant of increments upto the date of his actual promotion on 19.12.1997. Respondents are directed to complete this exercise within three months from the date of receipt of the copy of the order.

6. The application is accordingly disposed of. No order as to costs.

(Govindan S. Tampi)  
Member (A)

/vikas/

(Ashok Agarwal)  
Chairman