

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.2067/2000

Monday, this the 29th day of October, 2001

Hon'ble Shri Justice Ashok Agarwal, Chairman
Hon'ble Shri S.A.T. Rizvi, Member (Admn)

1. S.K.Garg
S/O Shri Joga Ram
SW (C)/EE(C) Posted in the
Office of SE (C), MH Circle
Soochna Bhawan, Lodhi Road
New Delhi
And Resident of 307, Sector-19,
Faridabad (Haryana)
2. Rajiv Kumar
S/O Shri L.P.Garg,
SW (C)/EE(C) Posted in the
Office of SE (C), Delhi Circle II,
Soochna Bhawan, Lodhi Road
New Delhi
And Resident of A-11/17,
Sector-18, Rohini, Delhi-85.
3. A.K.Yadav
S/O Shri Ram Sagar Rai
SW (C)/EE(C) Posted in the Office of
CE (C)-II,
Soochna Bhawan, Lodhi Road
New Delhi
And Resident of 61-Deluxe Apartment
Vasundhara Enclave, Delhi-96.
4. Mohan Singh Mehta
S/O Shri R.K.Mehta
SW (C)/EE(C) working in the office of
CE (C)-I, PTI Building, IIInd Floor,
Parliament Street, New Delhi
And R/O C-1/87, Sector-31,
Noida, UP.
5. Ashok Kumar
S/O Shri Asa Ram Singh
SW (C)/EE(C) working in the office of
SE (E), Soochna Bhawan, Lodhi Road
New Delhi
And Resident of 13/475, Lodhi Colony
Ne Delhi-3.

...Applicants
(By Advocate: Shri R. Venkatramani, Senior counsel
& Shri S.M. Garg)

Versus

1. Union of India
thr' the Secretary
Ministry of Information & Broadcasting
Shastri Bhawan, New Delhi

(2)

2. Union Public Service Commission
thr' its Secretary,
Dhaulpur House, Sahajahan Road
New Delhi-11.

.. Respondents
(By Advocate: Shri H.K.Gangwani for R-1)
None for respondent-2)

O R D E R (ORAL)

Hon'ble Shri S.A.T. Rizvi:

The applicants, inter alia, seek and pray for the following directions to be issued to the respondents:-

i) To hold meetings of DPC for filling up regular vacancies in the grade of Executive Engineer(Civil)/Surveyor of Works (Civil) and Executive Engineer (Electrical)/Surveyor of Work (Electrical) against the quota of Graduate Assistant Engineers and to consider the applicants for promotion with effect from the date of accrual of the vacancies.

ii) To hold meetings of DPC in accordance with the Govt. of India DP and AR OM dated 24.12.1980 and 20.5.1981.

2. The representations made by the applicants for being considered for regular promotion have been disposed of by the respondent-authority by an order dated 25.7.2000 (Annexure P-9) in the following terms:-

"Undersigned is directed to refer to representations of S/Shri Rajeev Garg and S. K. Garg, Surveyor of works (G) O/o SE (C), Circle - II, CCW, AIR, New Delhi regarding regular promotion to the post of Executive Engineer in CCW, AIR and to intimate that after incorporation of



(3)

Prasar Bharati UPSC is not conducting DPCs in respect of employees of AIR and DDn., as Prasar Bharati Act does not provide for association of the UPSC. However, framing of R/Rs in r/o various posts in Prasar Bharati has been started and is expected to be finalised shortly. Regular promotion of Shri Garg alongwith other eligible officers will be taken up after notification of new R/Rs to the post of EE (C)."

3. It will be seen that the main ground taken by the respondent-authority is that since the Prasar Bharati Act does not provide for association of the UPSC in making promotions to the post of Executive Engineer, it is not possible to hold the meetings of the DPC in the manner prayed for by the applicants. According to the respondent-authority, the work of framing of the relevant recruitment rules for the aforesaid purpose has been taken in hand by the Prasar Bharati and is likely to be finalised shortly. The promotion of the applicants will become feasible only after the aforesaid rules had been framed and notified. Aggrieved by the aforesaid OM dated 25.7.2000, the applicants have filed the present OA.

4. The learned senior counsel appearing on behalf of the applicants has drawn our attention to the decision rendered in this regard by the High Court of Judicature at Madras on 17.1.2001 in Union of India & Ors. Vs. D. Devaraj & 9 Ors. Whether or not, the Prasar Bharati (Broadcasting Corporation of India) possess the authority to post and transfer the Engineers currently working on its rolls, was examined by the High Court, who have, after careful consideration of the matter, concluded that the authority to post and transfer the Engineers could be exercised by the Prasar Bharati even though the Engineers still remained servants of the Govt. *2*

(4)

5. We are given to understand at the same time that the Central Govt. is yet to initiate requisite action contemplated under Section 11 of the Prasar Bharati Act. That being so, consistently with what the High Court has observed in the aforesaid judgement, we do not find it difficult to arrive at the very same conclusion, namely, that the applicant-Engineers are still servants of the Govt. and accordingly, they could and should be considered for promotion to the post of Executive Engineer etc. as hitherto in accordance with the procedure in vogue in the Govt.

6. When the matter came before this Tribunal, it was decided on 11.9.2001 to serve a fresh notice on the UPSC. That notice has also been duly served. However, none has appeared on behalf of the UPSC yet again. Despite their absence, in view of what has been discussed above, we are inclined to dispose of this OA by setting aside the OM dated 25.7.2000 and by directing the respondent No.1 to hold meetings of DPC on year-wise basis from 1997 onward in accordance with the DP & AR OMs dated 24.12.1980 and 20.5.1981 and such other rules as might be found to be applicable. The applicants will be considered in the proposed DPC meetings in accordance with the rules and regulations and if found eligible and fit for the purpose, will be promoted with effect from the date of accrual of vacancies. The UPSC whose absence has been noted will play their part in the above process of selection in accordance with the aforesaid rules and instructions. The respondent No.1 will forthwith initiate action to hold DPC meetings and ensure conclusion of such

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(5)

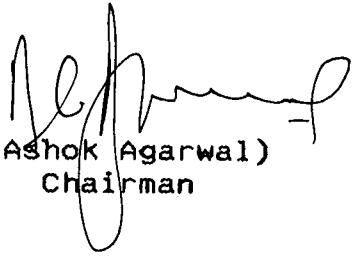
meetings within a period of three months from the date of receipt of a copy of this order. The applicants, subject to being found eligible and fit for the purpose, will be promoted as above within 15 days after the recommendations made by the DPC have been finalised at the level of the competent authority. We direct accordingly.

7. The present OA is disposed of in the aforesated terms. No costs.


(S.A.T. Rizvi)

Member (A)

/sunil/


(Ashok Agarwal)

Chairman