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Central Administrative Tribunal
Principal Bench, New Delhi.

D.A.No.1723/89

New Delhi, This the 15th April 1994

Hon'ble Shri N. Dharamadan, Member(J)

Hon'ble Shri P.T.Thiruvengadam, Member(A)

Shri A.P. Garg
Extra Assistant Director
Foundation Engineering Directorate
Central Water Commission
Sewa Bhavan
R.K. Puram
New Delhi - 110066

Resident of 146/R, Pushp Vihar,
M.B. Road, Saket
New Delhi.

...Applicant

By Advocate Shri K L Bhandula
Versus

1. Union of India
through the
Secretary to the Government of India
Ministry of Water Resources
Shram Shakti Bhawan,
New Delhi.
2. The Chairman,
Central Water Commission
Sewa Bhawan
R. K. Puram
New Delhi.

By Advocate Shri Madhav Panikkar

...Respondents

O R D E R (Oral)

Hon'ble Shri N Dharamadan, Member(J)

1. The applicant is at present working as Extra Assistant Director in the Foundation Engineering Directorate, Central Water Commission. He is aggrieved by the Annexure I order dated 16.8.1989 by which his earlier regularisation as per Annexure II was reviewed and he has been de-regularised with effect from 27.6.1989. According to the applicant the action of respondent No.2 by issuing the impugned order is arbitrary illegal and also against the principles of natural justices. As per Annexure III order dated 5.9.1980 the applicant was appointed in

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the grade of Extra Assistant Director (Assistant Engineer) in the scale of Rs.650-1200 on adhoc basis and after convening the DPC and considering the claim of the applicant for regularisation, the Annex-II order dated 14.8.1986 was passed in which the applicant has been granted regularisation with effect from 10.6.1986. The applicant was continuing in that post for a long period. In the meantime, he has received Annexure I which has adversely affected the applicant's regularisation since the applicant was deregularised from 27-6-89.

2. The respondents in their reply have given the reason for the change that the Review DPCs which met on 21.6.1989, 24.6.1989 and 27.6.1989 examined the relevant records pertaining to the applicant and three others who were working in the grade of Extra Assistant Director/Assistant Director and the DPC did not recommend them for promotion of the EAD/AD from the earlier date as shown in the Annexure II. The post of EAD/AD is mainly a selection post and it is to be filled 100 per cent by promotion from amongst personnel working in the grade of Head Draftsman, Design Assistant and Junior Engineers having not less than three years regular service in that grade. As per the rules, the DPC is required to certify the eligible persons as outstanding person, very good, and good on the basis of merit with reference to their respective ACRs. This was not correctly done in the earlier DPC before passing the order of regularisation i.e. Annexure II dated 14.8.1986. Accordingly

the Department felt the necessity of convening the aforesaid Review DPCs. The respondents further stated that de-regularisation has been done as per the impugned order Annexure I.

3. The applicant also filed a rejoinder and reiterated that the earlier regularisation accorded to the applicant as per Annexure II with effect from 10.6.86 is the correct decision and there is no reason for convening a review DPC.

4. Having heard the counsels at both sides this DA can be disposed of without going into the ^{various} original contention raised by the learned counsel for the respondents. Admittedly a fresh Annexure I order has been passed without issuing a notice or opportunity to the applicant. In view of the fact that this applicant has been regularised by Annexure II order dated 14.8.86 indicating that the applicant is entitled for regularisation from 10.6.86 on the basis of the decision of DPC, the applicant is entitled to claim regularisation with effect from the date shown in Annexure II. Of course, the respondents have given some reasons for convening the review DPCs. All these reasons were not told to the applicant. They only intimated the date of deregularisation vide the impugned order dated 16.8.1989.

5. In this way we are satisfied that issuing of Annexure I in so far as the applicant is concerned is against the principles of natural justice.

6. In the result we quash the impugned order Annexure I to the extent that the applicant is ⁴ deregularised with effect from 27-6-89⁴. But we ⁴

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make it clear that the respondents are free to pass fresh orders after ^{following the procedure and} applying the principles of natural justice. This DA is partly allowed and there is no order as to costs.

P. J. Thiruvengadam

(P.T. THIRUVENGADAM)
Member (A)

LCP

N. Dharamadan

(N. DHARAMADAN)
Member (J)

15.4.94.