

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No. 1945/1989

New Delhi, dated the 26th April, 1994

Hon'ble Sh.B.N. Bhoundiyal, Member(A)
Hon'ble Smt. L. Swaminathan, Member(J)

Sh. Nirmal Kumar
S/o Shri Mirchi Singh,
Asstt. Engineer(Electrical),
C.P.W.D. Pushp Bhawan,
New Delhi.

... Applicant

(By advocate Sh.K.N.R. Pillay)

Versus

1. Union of India through the Secretary, Ministry of Urban Development, New Delhi.
2. Shri R.L. Kane, Executive Engineer(E), HQ. Vidyut Bhawan, New Delhi.
3. Shri M.S. Thind, Executive Engineer(Elect), C.P.W.D. Elect. Division No. VI, Delhi Cantt., Delhi.
4. Shri S.K. Saha, Executive Engineer(Elect) EA, Central Electrical Circle No. I, C.P.W.D. Calcutta.
5. Shri A.K. Roy Biswas, Surveyor of Works(Elect), Central Elect. Circle-II, CPWD, Calcutta.

... Respondents

ORDER(ORAL)

(Hon'ble Shri B.N. Bhoundiyal, Member(A))

This O.A. has been filed by Shri Nirmal Kumar who is working as Assistant Engineer(Elect) in the CPWD against the impugned order dated 24.6.1988 (Ann. A.III) and office order dated 1.8.1988 (Ann. A.IV) whereby his junior have been shown as senior in the seniority list of Asstt. Engineer(Electrical),

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2. The applicant was recruited as Junior Engineer(Electrical) on 7.12.1963. His name appears at serial No.120 of the seniority list of Junior Engineer(Electrical) whereas, the names of Shri Kane, Thind, Saha and Shri A.K. Roy Biswas appear at numbers 124, 153, 155 and 156 respectively. His contention is that he was promoted as Assistant Engineer(E) earlier than his juniors. Even though this promotion was described as adhoc promotion, it was against long term vacancies. No DPC was held between 1973 to 1986 and vide order dated 1.8.86 seniority of the applicant vis-a-vis others was unnecessarily disturbed. The following reliefs have been claimed:-

- (a) direct the seniority list of Asstt. Engineers be recast by rearranging the Scheduled Caste Officers promoted against the reserved quota, on the basis of their continuous length of officiating service including adhoc service prior to regularisation by the DPC.
- (b) direct that the adhoc promotion given to respondents 2 to 5 as Executive Engineers be reviewed on the basis of seniority revised as above.

3. Though the case was fixed among the 10 cases for posted peremptorily for final hearing, no one appeared on behalf of the respondents. We, therefore, proceed to dispose of the case on the basis of the pleadings ^{of} on the record and the submissions made by the learned counsel for the applicant.

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4. In the counter filed by the respondents, the main averments are ; according to the provision of Recruitment Rules, 1954, the promotion of JEs to the grade of Asstt. Engineer is made by selection from among the permanent J.Es. A number of representations were received after the decision of the Government to reserve some posts for the degree holders. Later an amendment that 50% of the post be fixed for selection for promotion from the permanent J.E. and 50% by a limited departmental competitive examination was challenged. Ultimately, it was decided that any amendment made to the rules shall apply only prospectively. All this delayed meeting of regular I.PCs and during this period adhoc promotions to the post of Assistant Engineer(E) had to be made. The applicant was considered by the D.P.C. for promotion to the grade of Assistant Engineer(E) alongwith other eligible officers. He was assigned higher grading as SC/ST candidates as per instructions issued by the Ministry of Home Affairs vide O.M. dated 11.7.1968. He was assessed as good for the panel of 1973 and could not be included in the merit list. He was again considered for the panel of 1974 and he was assessed as "Not yet fit." For the panel of 1975, he was assessed as ' very good' and his name was included in the panel and he was assigned seniority w.e.f. 31.12.1975. It has also been clarified that after 1972, there has no direct recruitment to this post and it is only after 1977, the vacancies have been rotated among promotees and those who come through a Limited Departmental

Competitive Examination.

5. Learned counsel for the applicant has contended that in 1974, he was assessed 'not yet fit' as he had just been promoted as Assistant Engineer(E) on adhoc basis. However, it is clear that DPC reached this conclusion on the basis of the CRs of the previous 5 years and not just on the basis of the CR of the year 1974.

6. In the facts and circumstances of the case, we hold that the applicant has failed to bring out any irregularities in the D.P.C. proceedings and the application is hereby dismissed. There will be no order as to costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)

Member (Judicial)

B.N. Dhoundiyal
(B.N. Dhoundiyal)

Member (A)

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