

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 2099/89
 T.A. No.

199

DATE OF DECISION 5.4.1991

<u>Shri Pritam Singh</u>	<u>Petitioner</u> Applicant
<u>Shri J.P. Verghese,</u>	Advocate for the Petitioner(s) Applicant
<u>Union of India & anr.</u>	Respondents
<u>Mrs. Raj Kumari Chopra,</u>	Advocate for the Respondent(s)

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The Hon'ble Mr. P.K. KARTHA, VICE CHAIRMAN (J)

The Hon'ble Mr. D.K. CHAKRAVORTY, MEMBER (A)

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

JUDGEMENT

(JUDGEMENT OF THE BENCH DELIVERED BY
 HON'BLE MR. D.K. CHAKRAVORTY, MEMBER (A))

The grievance of the applicant relates to the non-implementation of the judgement of this Tribunal dated 28.7.88 in OA 721/87. The operative part of the judgement reads as follows:-

" In the facts and circumstances, we allow the application only to the extent of directing the respondents to get the case of the applicant for promotion as Assistant Engineer reconsidered by a Review Committee as on 12.7.63, 28.4.66 and 30.8.67 as if the disciplinary proceedings and his suspension did not exist. If he on the basis of the reconsideration by any of these Review DPCs, is found fit for promotion, he should be promoted as Assistant Engineer from the date his next junior in the panel of that year was so promoted. He should thereafter be assigned seniority in the grade of Assistant Engineer from the date of his

national promotion and considered by a Review DPC for promotion as Executive Engineer in the year in which his next junior in the grade of Executive Engineer was so considered. If on the basis of the recommendations of these Review Committees', he gets promotion as Assistant Engineer and Executive Engineer w.e.f the date his next junior in the feeder grade of Jr.Engineer and Asstt. Engineer was promoted, he should be given arrears of pay and allowances as Asstt. Engineer and Executive Engineer, as the case may be. Action on the above lines should be completed within a period of three months from the date of communication of this order."

2. The applicant has stated that on 27.10.88, in part compliance with this Hon'ble Tribunal's order, the respondents directed that the applicant was deemed to have been promoted as Asstt. Engineer(civil) with effect from 30.10.63 AN, the date of promotion of his immediate junior, who has been promoted from 12.7.63 panel. The consequential benefits of this order were also directed to be paid to the applicant such as arrears of pay and allowances, etc.

3. On 26.12.88, the respondents passed an order saying that the case of the applicant "for promotion to the grade of Executive Engineer(Civil) on the basis of his seniority as Asstt. Engineer(Civil) assigned to him by the Review Committee was considered and the Review Committee did not find him fit to be included in any of the panels prepared during 1985 to 1988. He, therefore, could not be promoted to the grade of Superintending Engineer (Civil)."

4. The applicant made a representation on 9.8.89 stating that his case for promotion to the post of Executive Engineer be considered with respect to the promotion given to him as Asstt. Engineer as on 3.10.63 by Review D.P.C and taking into account the same standard

and basis on which his juniors were promoted and considered for promotion by the D.P.C of 1985.

5. The applicant has submitted that for the promotion as Executive Engineer due in 1985, the D.P.C should take into account the basis on which his juniors were considered and promoted to the post as applicable in 1985 and not apply the present standards or basis of promotion to the post of Executive Engineer. By applying different standards than those of 1985 as applied to his juniors, justice shall not be done to him.

6. The respondents have stated in their counter-affidavit that the applicant's name was duly considered for promotion by the Departmental Promotion Committee held on 28.10.58, 24.4.61 and 12.7.63 but was not found fit for promotion. The Departmental Promotion Committee held on 28.4.66 again considered the case of the applicant while taking note of the fact that charges against the applicant had been dropped, the Departmental Promotion Committee did not consider him fit for promotion. The case of the applicant was not considered by the Departmental Promotion Committee held in 3/69 and 9/70 as all the officers considered therein were senior to him. In December, 1971, the applicant along with others was promoted on ad hoc basis pending regular Departmental Promotion Committee. His name was subsequently considered by the Departmental Promotion Committee held on 7.9.72 and was approved for regular promotion. On the basis of the seniority in the grade of Assistant Engineer, the applicant's case had not been considered for promotion to the grade of Executive Engineer. No junior officer to the applicant had been promoted.

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7. The respondents have also submitted that as per recruitment rules for the post of Executive Engineer in the CPWD only graduates in Engineering are eligible to be promoted to that grade. But as per a proviso to the rules, diploma holder Assistant Engineers with outstanding record of service can be promoted as Executive Engineer. As the promotions are being made on ad hoc basis, the diploma holders with 'Very Good' record of service had also been considered for promotion to the grade of Executive Engineer. In the Departmental Promotion Committee held on 27.2.85, 24.3.86, 29.4.87 and 12.5.88 the diploma holders Assistant Engineers who were assessed as not less than 'Very Good' by Departmental Promotion Committee were declared as fit. On going through the C.Rs of the applicant for the relevant periods, he has been assessed as 'Good' for all the four Departmental Promotion Committees mentioned above. On the basis of his assessment he was not considered as 'fit' for promotion as Executive Engineer with reference to the relevant Departmental Promotion Committee by the Review Departmental Promotion Committee. He was also informed accordingly vide this office memorandum dated 26.12.88.

8. We have carefully gone through the records of the case and have considered the rival contentions. We see no reason to disbelieve the version of the respondents that the applicant did not make the grade for promotion to the post of Executive Engineer. Under the relevant recruitment rules, a diploma holder can be promoted if he possesses an outstanding record of service. For ad hoc promotions, even those who have been graded as "Very Good" are considered. The applicant has only been adjudged as "Good" by the D.P.C.

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9. In the facts and circumstances of the case, we see no merit in the present application and the same is dismissed. There will be no order as to costs.


(D.K.CHAKRAVORTY)

MEMBER


(P.K.KARTHAI)

VICE CHAIRMAN