

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

## NEW DELHI

O.A. No. 515/88  
T.A. No.

199

DATE OF DECISION 13.8.1993

|                                |                                |
|--------------------------------|--------------------------------|
| Shri V.P. Chawla               | Petitioner                     |
|                                | Advocate for the Petitioner(s) |
| Versus                         |                                |
| Union of India & ors           | Respondent                     |
| Shri M.L. Verma, Central Govt. | Advocate for the Respondent(s) |
| Additional Standing Counsel    |                                |

### CORAM

The Hon'ble Mr. I.K. Rasgotra, (Member (A))

The Hon'ble Mr. J.P. Sharma, Member (J)

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- ORAL

This case has been on the Board since 5th July 1993. When it came up for hearing today, the ld. counsel for the petitioner nor for the respondent was present. Since this is an old matter and ~~have~~ <sup>has</sup> been on the Board since 5.7.1993, we have decided to dispose of the case on merits. The case of the petitioner is that respondents vide their Office Order No. 258 dated 18.9.1987 have promoted 337 Junior Engineers to the grade of Assistant Engineer, Group 'B' in violation of the provisions made in the recruitment rules. According to the said recruitment rules, 50% of the vacancies in the grade of Assistant Engineers are to be filled through the departmental competitive examination from among the permanent Junior Engineers and 50% by promotion on merit-cum-seniority-basis. The petitioner, therefore contends

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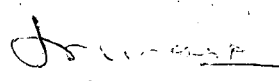
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that at least 168 vacancies should have been filled on the basis of departmental examination and the remaining 168 on the merit-cum-seniority basis. Since the respondents have filled up all the vacancies by holding selection on merit-cum-seniority basis, the petitioner prays that the procedure adopted be declared as illegal. He further prays that he should be promoted to the post of Assistant Engineer (Civil) from the post of Junior Engineer (Civil). In the counter affidavit filed by the respondents it has been explained that 396 posts of Assistant Engineers (Civil) were created as a result of first cadre review of Junior Engineers (Civil) vide Ministry of Urban Development letter No. 28017/24/85 CU 2/ECI, dated 8.5.1987. They admit that according to the Recruitment Rules 50% vacancies are required to be filled up through Limited Departmental Competitive Examination in consultation with the UPSC and the remaining 50% by the merit-cum-seniority. The vacancies, in question, in the grade of Assistant Engineer arose on account of the cadre review which had the primary aim of removal of stagnation among JEs (Civil), it was decided by the Competent Authority to relax the provisions in the recruitment rules, with a view to afford full advantage of the posts so created to senior juniors Engineers. For this purpose D.P.C. was convened on 5.9.1987 to consider the case of promotion of suitable junior engineers (Civil) in accordance with the rules. The case of the petitioner who was appointed as Junior Engineer (Civil) on 11.9.1961 was also considered by the D.P.C. However, on the basis of grading assigned to him by the D.P.C. on assessment of his service record his name was not recommended for promotion. The respondents further contend that the order of promotion does not violate the provisions of the Recruitment Rules as it was decided to fill up the vacancies arising on account of the cadre review

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in relaxation of the rules after obtaining competent sanction. In his rejoinder, the petitioner has contended that he "was entitled to be promoted for the post of Assistant Engineers in the D.P.C. which met on 5.9.1987 merely placing the names of the applicant before the D.P.C. just for eye wash does not mean that the applicant was considered in that D.P.C."

We have perused the record of the case carefully and are of the opinion that the petitioner can only claim consideration for promotion. There is no rule to entitle him to promotion. There is no right to promotion. Right is only for consideration. He cannot claim promotion as is only for consideration. He cannot claim promotion as of right even when his grading is not meritorious enough to place him with the number of vacancies required to be filled up. His right is for consideration for vacancies which had arisen for the post of Assistant Engineer (Civil). The respondents have made a clear averment that the petitioner was considered by the D.P.C. but he did not make the grade. The vacancies have been filled on merit-cum-seniority basis after obtaining the competent sanction for relaxation in the recruitment rules. In the above facts and circumstances of the case, the petition is devoid of merit is accordingly dismissed. There shall be no orders as to costs.

  
(J.P. Sharma)  
Member (J)

  
(I.K. Rasgotra)  
Member (A)