

11
12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 759 of 1988
T.A. No.

DATE OF DECISION 5.1.1990

Kehar Singh Applicant (s)

Shri Rajeev Sharma Advocate for the Applicant (s)

Versus

C.P.W.D. & Another Respondent (s)

Mrs. Raj Kumari Chopra, Advocat for the Respondent (s)

CORAM :

The Hon'ble Mr. B.C. Mathur, Vice-Chairman (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. To be circulated to all Benches of the Tribunal ?

JUDGEMENT

(Judgement of the Bench delivered by Hon'ble
Shri B.C. Mathur, Vice-Chairman.)

This is a case filed under Section 19 of the Administrative Tribunals Act, 1985, by Shri Kehar Singh and Shri V.K. Raghunathan Nair against the impugned order dated 15.4.1988 passed by the Controller of Examination, Office of the Superintending Engineer, Delhi, Central Circle No. III, C.P.W.D. New Delhi, disallowing the applicants to sit in the Junior Engineers' Grade Limited Departmental Competitive Examination.

2. As far as Applicant No. 2 is concerned, it has been stated by the learned counsel for the applicant that he has left the Department and his prayer has become infructuous.

3. As far as Applicant No. 1 is concerned, he has been working as Draftsman Grade III in the P.W.D. since 16.4.1981. He had taken admission in the four year part time Diploma Course (Civil) in Arya Bhatt Poly Technique, Karnal Road, Delhi and had completed 3 years of course but before fully completing the 4th year which is the final year of the Diploma Course, he applied for the departmental examina-

tion for Junior Engineer (Civil) in the C.P.W.D. The minimum qualification to the post of Junior Engineer is 3 year full time diploma in Civil Engineering or equivalent. The Rules also provided that a candidate who had appeared in the Examination, the complete passing of which would render him eligible to appear at the Junior Engineers' Examination but has not been informed of the result, could also apply to appear in the examination. A candidate who intended to appear in such an examination could also apply provided the qualifying examination would be over before the commencement of this Examination. Such candidates would be admitted to the examination if otherwise eligible subject to production of a certificate to this effect from the Principal of the Institute concerned but their admission would be deemed to be provisional. The Controller of Examination refused permission to the applicant as he did not fulfil the requisite qualification of diploma in Civil Engineering. It was stated in the impugned order that as the applicant was still studying/appearing in the final year, he could not be allowed to sit at the Examination. It was also mentioned that the applications received direct could not be entertained. It has been pointed out by the applicant that his application for taking the Junior Engineers' Examination was duly verified from the service records and recommended by the Engineering Assistant attached to the Superintending Engineer. Since this application was duly forwarded and recommended, he did not produce any further certificate from the Principal of the Poly Technique. He also cited the case of 4 other persons who had similarly appeared for the Junior Engineers Examination, they having received the diploma from the Polytechnique and in one case of Shri Arvinder Singh Sahotta, who had got compartmental in the Diploma Examination, he was appointed as Junior Engineer after 6 months when Shri Sahotta had cleared the diploma examination.

4. The respondents in their reply said that the applicant was not eligible to appear at the examination as he had not completed the Diploma Examination prior to his appearing at the Junior Engineers Examination. He was provisionally allowed to take the examination

13
14

under orders of the Tribunal but he was not eligible to take the examination as he was not qualified for the same. In the case of the 4 other persons cited, it was said that they were admitted to the examination provisionally on the condition that they would submit certificate from the Principals before the commencement of the examination to the effect that their final diploma examination was over. In the case of the applicant, no such certificate was submitted from the Principal before the commencement of the Junior Engineers' Departmental Competitive Examination, 1988 to the effect that the final examination was over.

5. The Departmental Competitive Examination, 1988 commenced on 9.5.1988 whereas the examination at the Arya Bhatt Polytechnique, Delhi was over on 20.5.1988. As the applicant was yet to complete his examination, he could not be admitted to the Junior Engineers' Departmental Competitive Examination. It has been pointed out by the learned counsel for the applicant that the applicant had actually appeared at the final diploma examination on 4.5.88 when the diploma examination examination started. He had also appeared in the second paper on estimating on 6.5.1988. He completed the 2 other papers on 11.5.88 and 20.5.88. The result of this diploma examination have been declared and he has been awarded first division in that examination. It has been stated by the applicant that the Junior Engineers' Departmental Examinations are not held every year and the 1988 Examination was held after 1985. The fact that he did appear in the Diploma Examination and completed the same before the results of the Junior Engineer Examinations were declared, he should be entitled to be considered as if he had taken the final examination in the diploma course in time.

6. We have gone through the pleadings and given careful consideration to the arguments on both sides. Strictly speaking the applicant to be eligible for appearing at the Junior Engineers' Examination should have completed the examination for the diploma course prior to the Junior Engineers' Departmental Examination. The applicant had done so only partially. We cannot give a direction that the applicant had completed the requirements, but if these examinations are not held every year, it should cause some hardship to the applicant if he is

Bm

14
15

denied the fruits of the result of Departmental Examination for Junior Engineers allowed provisionally by this Tribunal provided the results of this examination were declared later than 20.5.88. This appears to be a case where relaxation could be given by the Department. We do consider this as a hard case but leave it entirely to the discretion of the authorities concerned who may consider the case of the applicant. With these observations, the application is disposed of. Parties to bear their own costs.

J.P. Sharma

(J.P. SHARMA)

Member (J)

B.C. Mathur
8.1.90

(B.C. MATHUR)

Vice-Chairman