



Central Administrative Tribunal Principal Bench, New Delhi

O.A. No.2140/2020

Tuesday, this the 22nd day of December, 2020

Through video conferencing

Hon'ble Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)

Kailash Chander Joshi, aged about 46 years
Son of late Shri M C Joshi, at House No.209
Mitralok Colony
Ballupura Road, Dehradun
Present working as Assistant Engineer (Civil)
Regional Office, Jaipur
MoRTH, Rajasthan

...Applicant

(Mr. V Shekhar, Senior Advocate assisted by Mr. Kumar
Gaurav, Advocate

Versus

1. Union of India, represented through the Secretary to Govt. of India, Ministry of Road Transport & Highways, No.1, Parliament Street, New Delhi – 110 001
2. Joint Secretary to the Govt. of India (Gen.) & CVO Ministry of Road Transport & Highways, No.1 Parliament Street, New Delhi – 110 001
3. The Under Secretary to the Govt. of India, Establishment II B Section, Ministry of Road Transport & Highways No.1, Parliament Street, New Delhi – 110 001

..Respondents

(Mr. Gyanendra Singh and Mr. Ashok Kumar, Advocates)

ORDER (ORAL)



Mr. Justice L. Narasimha Reddy:

The applicant joined the service of the Ministry of Road Transport and Highways, as Draughtsman Gr-III on 16.07.1997. At that time, he held an ITI certificate. In the year 1998, the applicant passed Diploma in Civil Engineering. Through an order dated 09.03.2000, the applicant was appointed as Draughtsman Gr-III in substantive capacity. Thereafter he was promoted to the post of Draughtsman Gr-II (which has since been re-designated as Senior Technical Assistant (STA)) on 08.04.2003.

2. The applicant states that he acquired degree in Civil Engineering from Janardan Rai Nagar (JRN) Rajasthan Vidyapeeth Udaipur, through correspondence mode, in the year 2010. On the basis of degree acquired, he was promoted to the post of Assistant Engineer (Civil) on 30.08.2011 on *ad hoc* basis and on regular basis on 18.07.2012.

3. The applicant was issued a show cause notice on 02.11.2020 requiring him to explain as to why his promotion be not cancelled and he may be reverted in view of the judgement of the Hon'ble Supreme Court, holding that the Degrees in Civil Engineering obtained from JRN Rajasthan Vidyapeeth Udaipur during certain academic years, shall not be treated as valid. The



applicant submitted his explanation. Taking the same into account, the appointing authority issued an order dated 15.12.2020 reverting the applicant to the post of STA. It was directed that any advantage granted to the applicant in the past for the post of Assistant Engineer (Civil) shall not be recovered, but the benefit shall stand withdrawn. This O.A. is filed challenging the order dated 02.11.2020 and other consequential orders.

4. The applicant contends that even if the degree in Civil Engineering acquired by him from JRN Rajasthan Vidyapeeth Udaipur stands cancelled, he has, to his credit, the diploma in Civil Engineering as well as an experience of 10 years. He contends that in view of the clarification issued by the Government in the year 1977 and the Judgement of the Hon'ble High Court of Delhi in **Union of India & others v. T. R. Sharma & others** (Writ Petition (C) No. 4879/2014) decided on 05.08.2014, he deserves to be treated as qualified and that there is absolutely no justification for the respondents in reverting to him to the post. Reliance is also placed on the DOPT O.M. dated 11.02.2015.

5. We heard Mr. V Shekhar, learned senior counsel for applicant and Mr. Gyanendra Singh & Mr. Ashok Kumar, learned counsel for respondents.



6. It is not in dispute that the applicant acquired promotions to the post of STA and thereafter to the Assistant Engineer (Civil) over the period after he joined the service in the year 1993. The Recruitment Rules to the post of Assistant Engineer clearly mention that an STA must pass degree in Civil Engineering and possess the experience up to the stipulated extent. The applicant, no doubt, had the experience or standing in the feeder category, i.e., STA. The degree in Civil Engineering was obtained by him from JRN Rajasthan Vidyapeeth Udaipur through the distance mode.

7. The Hon'ble Supreme Court dealt with, in detail, the validity of the degrees in various branches of Engineering, including Civil, in its judgement in **Orissa Lift Irrigation Corporation Limited v. Rabi Sankar Patro** (2018) 1 SCC 468). After taking into account, the various aspects pertaining to such institutions and the award of degrees by them, their Lordships held that the degrees in Engineering, issued by the four Institutions, mentioned therein, cannot be treated as valid. One of the reasons mentioned therein was that the courses were conducted without the approval of the AICTE.

8. The respondents did not have any other issue or complaint vis-à-vis the applicant. The only basis for issuance of the show cause notice was the judgement of the Hon'ble Supreme Court. Once the highest Court of the country declared



the law vis-à-vis the particular subject, everybody, including the Departments, is required to work in aid of that. That is the mandate under Article 141 of the Constitution of India. Therefore, no exception can be taken to the impugned order.

9. It is true that the applicant held the diploma in Civil Engineering awarded by the Board of Technical Education. However, it cannot be treated as equivalent to degree in Civil Engineering. The clarification said to have been issued by the Education Department in the year 1977 may have been valid or proper at the relevant point of time. However, once the Hon'ble Supreme Court held repeatedly that unless approved by the AICTE, no institution can impart education in Engineering (Technical), hence the Diploma in Civil Engineering cannot be treated as equivalent to Degree in Civil Engineering. The judgement of the Hon'ble High Court, referred to above, did not take into account, the impact of the AICTE Act or the judgement of the Hon'ble Supreme Court thereon, over the years. The O.M. issued by the DOPT is advisory in nature. Even if the advice tendered therein is taken to its logical conclusion, that must result in amendment of Recruitment Rules, and not any conferment of benefit, straightway.

10. The applicant contends that he acquired Degree in Civil Engineering in the year 2018-19 from the Institute of Civil Engineers (India) and the same has been approved by the



AICTE. If that is so, the applicant has to make an effort to get the promotion on the basis of the said degree. For this purpose, he has to make a representation to the respondents in this behalf. As and when the representation is made, the necessary action shall be taken thereon, within two months thereafter.

11. We do not find any merit in the O.A. and the same is dismissed with no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

December 22, 2020
/sd/sunil/