



Central Administrative Tribunal Principal Bench, New Delhi

O.A. No.2182/2020

Today, this the 24th day of December, 2020

Through video conferencing

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

Pramod Kumar, aged about 49 years
S/o Sheetla Prasad, H.N-85(Old No.55)
Upper Ground Floor, Gali No.3
Durgapuri Extension
North East Delhi-110093
At present working as Assistant
Engineer (Civil), Zone-II, Ministry of Road
Transport and Highways (MoRTH)
New Delhi.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. Rajeev Kumar, Advocate)

ORDER (ORAL)



Mr. Justice L. Narasimha Reddy:

The applicant joined the service of the Ministry of Surface Transport, Road Wing as Draughtsman Gr-II on 13.08.1998. At that time, he held an ITI certificate. In the year 2001, the applicant passed Diploma in Civil Engineering. Through an order dated 29.07.2010, he was granted the benefit of Modified Assured Career Progression (MACP). 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 the degree so acquired, he was promoted to the post of Assistant Engineer (Civil) on 28.02.2012 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 be not 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 passed 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. Rajeev Kumar, learned counsel for respondents.

6. It is not in dispute that the applicant was initially appointed to the post of STA and thereafter was promoted to



the Assistant Engineer (Civil). The Recruitment Rules to the post of Assistant Engineer clearly mention that an STA must pass degree in Civil Engineering and possess the experience upto the stipulated extent. The applicant, no doubt, had the experience or standing in the feeder category, i.e., STA. However, 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, are 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), 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, straightaway.

10. The applicant contends that he acquired Degree in Civil Engineering in the year 2011 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/