



Central Administrative Tribunal Principal Bench, New Delhi

O.A. No.1607/2015
M.A. No. 1257/2020
M.A. No.3257/2019

Through video conferencing

Tuesday, this the 22nd day of September, 2020

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Pradeep Kumar, Member (A)

1. Jatinder Kumar, MES No. 315467
Aged about 52 years
S/o Sh. Satish Kumar
O/o Garrison Engineer Dehradun, Uttrakhand.
 2. B.P. Sharma, MES No. 315065
Aged about 54 years
S/o Sh. Roshan Lal
O/o Garrison Engineer Guwahati, Assam.
 3. G.S. Tomar, MES No. 315615
Aged about 52 years
S/o Sh. J.S. Tomar
O/o AGE (I) (Project), Sri Nagar, J&K.
- ... Applicants
- (through Sh. M.K. Bhardwaj)

Versus

1. Union of India & Ors.
Through its Secretary
Ministry of Defence, South Block, New Delhi.
2. The Engineer-in-Chief
E-in-C's Branch, Kashmir House
Rajaji Marg, New Delhi.
3. The Director General (Pers)
E-in-C's Branch, Kashmir House
Rajaji Marg, New Delhi.
4. Ashok Kumar
S/o Late Sh. Lakhi Ram

R/o G-154, Nanakpura, New Delhi-110021.



5. K.L. Jose
S/o Sh. K.V. Lonappan
Working as AE (Civil), GE Baroda
R/o 1103, Pearl, Nirmal Lifestyle
LBS Marg, Muluned (W)
Mumbai-400080

..Respondents

(through Sh. R.K. Jain for R. Nos. 1, 2 and 3 and Sh. Yogesh Sharma for R. Nos. 4 and 5)

O R D E R (ORAL)

Justice L. Narasimha Reddy:

As in the case of the dispute pertaining to promotion to the post of Assistant Engineer, in almost every engineering service in the country, the one in the MES also, has its own quantum of complications. Earlier, there existed two cadres of Superintendent i.e. Grade I & Grade II. On the basis of an order passed by the Bangalore Bench of this Tribunal, they were merged and the cadre of Junior Engineer was created. The Rules in relation to that post are said to have been issued through a Presidential order w.e.f. 09.07.1999. There again, there is a dispute between the Diploma holders on the one hand and the Degree holders on the other.

2. The applicants, who are Junior Engineers, were promoted to the post of Assistant Engineers through an



order dated 24.11.2006 on the strength of an order dated 10.03.2006 passed by this Bench of the Tribunal in O.A. No. 1124/2005. It is stated that the promotion of the applicants was challenged by the diploma holders by filing O.A. Nos.1098 & 2105/2007 and the O.As. were dismissed on 26.05.2008. The grievance of the applicants is that though their promotions were upheld by this Tribunal, they were not shown at all, in the seniority list dated 14.02.2014.

3. On behalf of the respondents, detailed counter affidavits are filed. The fact that the applicants are promoted to the post of Assistant Engineer on 24.11.2006 is not disputed. It is, however, stated that in view of the judgment of Hon'ble Punjab and Haryana High Court in CWP No.7504 CAT of 2007, a Review Departmental Promotion Committee (DPC) was convened and the applicants did not come up for selection for the relevant years. It is stated that the applicants were reverted from the post through order dated 13.10.2009, and O.A. Nos.3020/2009 & O.A. No.2589/2010 filed by them before this Bench were dismissed on 29.11.2011. It is also stated that the W.P. (C) Nos.8566/2011 filed by the applicants is pending.



4. We heard Mr. M.K. Bhardwaj, learned counsel for applicants, Mr. R.K. Jain, learned counsel for respondent Nos.1 to 3 and Mr. Yogesh Sharma, learned counsel for respondent Nos. 4 & 5, at length, through video conferencing.

5. There is any amount of complexity in the facts of the present case. After the merger of the post of Superintendent Grades I & II, the Recruitment Rules were framed and the applicants were promoted to the post of Assistant Engineer, on 24.11.2006 against the vacancies of 2004-05. It is also true that when the promotions were challenged before this Tribunal in O.A. Nos.1098/2007 & 2105/2007, they were dismissed through order dated 26.05.2008. Had the situation remained at that, the applicants were certainly entitled to be shown in the seniority list dated 14.02.2014 against the vacancies of 2004-05.

6. The fact, however, remains that the Hon'ble Punjab and Haryana High Court rendered a detailed judgment in CWP No.7504 CAT of 2007 and issued directions as to the method of promotion to be made on the basis of the revised rules, that came into force from 09.07.1989. Accordingly, a Review DPC was convened and the



applicants were found not eligible for promotion against the vacancies earlier to 2013-14. Accordingly, they were reverted through order 13.10.2009. The applicants were not successful when the order of reversion was challenged in O.A. No. 3020/2009 and O.A. No.258/2010. They filed W.P. (C) Nos.8566/2011 & 3323/2012 against the order in the OA, and it is still pending before the Hon'ble High Court of Delhi. An interim order is passed therein.

7. It is stated that the applicants were promoted to the post of Assistant Engineer in the year 2013-14. Obviously for that reason, they did not find place in the seniority list dated 14.02.2014. If the applicants are of the view that they are entitled to be treated as Assistant Engineer against the vacancies of the year 2004-05, even while the Writ Petition is pending they have to approach the Hon'ble High Court by filing a miscellaneous application and seek necessary orders.

7. Another aspect is that the question as to whether the interim order passed by the Hon'ble High Court on 28.03.2012 in the pending Writ Petition entitles the applicants to be shown in the seniority list dated 14.02.2014, needs to be considered by the Hon'ble High Court, and the Tribunal cannot do that.



8. We, therefore, dispose of the O.A., leaving it open to the applicants to approach the Hon'ble High Court for necessary directions in relation to their seniority.

9. M.As., if any, shall stand disposed of.

There shall be no orders as to costs.

(Pradeep Kumar)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

September 22, 2020

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