

**Central Administrative Tribunal  
Principal Bench, New Delhi**



O.A. No.1061/2020

With

O.A. No.1249/2020

Through video conferencing

Tuesday, this the 15<sup>th</sup> September, 2020

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

**OA No. 1061/2020**

Sh. R.A. Goel

A.E. Age 57 years, Group B

S/o Late Sh. Suraj Bhan Goel

R/o 75/42, West Panjabi Bag, New Delhi

... Applicant

(through Sh. Rajeev Sharma)

Versus

1. North Delhi Municipal Corporation  
Through its Commissioner  
Dr. S.P. Mukherjee Civic Centre, 4<sup>th</sup> Floor  
J.L. Marg, New Delhi.

2. The Union Public Service Commission  
Through its Secretary  
Dholpur House, Shahjahan Road  
New Delhi

...Respondents

(through Sh. R.K. Jain, Sh. R V Sinha and Sh. Amit Sinha,  
Advocates)



**OA No. 1249/2020**

Anand Prakesh  
A.E. Age 59 years, Group B  
S/o Sh. Baleshwar  
R/o B-1480, Shastri Nagar, Delhi.

... Applicant

(through Sh. Rajeev Sharma)

Versus

North Delhi Municipal Corporation  
Through its Commissioner  
Dr. S.P. Mukherjee Civic Centre, 4<sup>th</sup> Floor  
J.L. Marg, New Delhi.

... Respondents

(through Sh. R.K. Jain, Sh. R V Sinha and Sh. Amit Sinha,  
Advocates)

**O R D E R (ORAL)**

**Justice L. Narasimha Reddy:**

The reliefs claimed in both these O.As. and the facts raised are substantially similar. Hence, they are disposed of through this common order.


2. The applicants in both the O.As. are working as Junior Engineers in the North Delhi Municipal Corporation (North



DMC). The Departmental Promotion Committee (DPC) for promotion to the post of Assistant Engineer were held in June and August, 2007. On both the occasions, the names of the applicants were considered, but on account of pendency of criminal cases and disciplinary proceedings, they were not treated as fit. Another factor was that their Annual Confidential Reports (ACRs) were not available.

3. The applicant in O.A. No.1249/2020 faced prosecution in a criminal case and that ended in his favour only on 25.05.2017. The applicant in O.A. No.1061/2020 faced departmental as well as criminal proceedings. Though, punishment was imposed against him in the departmental proceedings, that was set aside with the intervention of this Tribunal as well as the Hon'ble High Court of Delhi. The criminal case is also said to have ended in the year 2011.

4. The grievance of the applicants is that though they were entitled to be considered for promotion at the relevant point of



time, the same was denied to them and many juniors to them have been promoted. They have also stated that it was only in the recent past, that they have been promoted on *ad hoc* basis. They claim relief in the form of a direction to the respondents to promote them on regular basis, with all consequential benefits.

5. The respondents filed counter affidavit in O.A. No.1061/2020. According to them, the cases of the applicants were, infact, considered in the year 2007 and they were found unfit due to pendency of the criminal or disciplinary proceedings. It is also stated that a Review DPC would be convened, so that the cases of the applicants are considered, as per their entitlement.

6. We heard Shri Rajeev Sharma, learned counsel for applicants, Shri R.K.Jain and Shri R.V. Sinha with Shri Amit Sinha, learned counsel for respondents, at the stage of admission, at length, through video conferencing.



7. In the normal course, sealed cover procedure is adopted, when promotions are made, if an employee is facing disciplinary or criminal proceedings. In the instant cases, the applicants were, in fact, considered for promotion but were treated as unfit only on the ground that the criminal/disciplinary proceedings are pending. The approach does not appear to be proper. Things would have been different had it been a case where the DPC found them unfit on assessing their performance, on merit. Treating them as unfit on the sole ground that the criminal/disciplinary proceedings are pending, cannot be countenanced.

8. The impediment for consideration of the cases of the applicants on regular basis ceases to exist with the setting aside of the punishment and the acquittal in the criminal cases. The respondents, no doubt, have extended the benefit of promotion to the applicants on *ad hoc* basis, as soon as the cases against them were dropped. However, their regular promotion needs to be considered.



9. We, therefore, dispose of these O.As., directing that the respondents shall convene a Review DPC for promotion to the post of Assistant Engineer, against the vacancies, as per their entitlement, within a period of two months from the date of receipt of a certified copy of this order. The nature of benefits, that must be extended to the applicants be in the form of seniority or the monetary benefits, shall be strictly in accordance with the relevant provisions of law.

There shall be no orders as to costs.

**( Mohd. Jamshed )**  
**Member (A)**

**(Justice L. Narasimha Reddy)**  
**Chairman**

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