

**CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH**

OA/310/00494/2015

Dated Wednesday the 7th day of October, Two Thousand Fifteen

P R E S E N T

HON'BLE MR. JUSTICE B. SESHASAYANA REDDY, Member (J)

&

HON'BLE DR. P. PRABAKARAN, Member(A)

S.P. Palanisamy, M/A 59 years,
Project Manager,\
IITM Project Circle, CPWD
IITM Campus, Chennai- 600 036.

... Applicant

By Advocate: Dr. P.S. **Vijayakumar**

Vs.

- Union of India represented by:
1. The Secretary,
Ministry of Urban Development,
Nirman Bhawan,
New Delhi;
 2. The Director General,
Central Public Works Dept., (CPWD),
Nirman Bhavan, New Delhi;
 3. The Addl. Director General,
CPWD, Rajaji Bhawan,
Besant Nagar, Chennai-90.
 4. The Chairman
Union Public Service Commission,
Dholpur House, Shahjahan Road,
New Delhi- 110 069;
 5. Shri M. Jagannathan,
Superintending Engineer (Civil),
O/o. The Chief Engineer,
Valuation Cell, I.T. Dept.Ch.
- ... Respondents

By Advocate: **Mr. V. Chandrasekaran(R1-3)**
Mr. P. Deivendra (R4)

ORDER

(Pronounced by Hon'ble Mr. Justice B. Seshasayana Reddy, Member(J))

This O.A. is filed by S. Palanisamy Under section 19 of the Administrative Tribunals' Act, 1985 seeking the following reliefs:-

- a) to direct the Respondents to promote the applicant to the post of Superintending Engineer (Civil) on ad-hoc/in-situ basis from the date of his juniors' promotion (i.e.) w.e.f. 6.12.2010 with consequential seniority, attendant benefits and pecuniary benefits at par with his juniors with effect from 6.12.2010;*
- b) to allow the O.A. with costs; and*
- c) to pass such further or other orders as may be deemed fit and proper in the facts and circumstances of the case and thus render justice."*

2. The applicant was appointed as Junior Engineer (Civil) (JE) on 13.3.1978 in Central Public Works Department (CPWD) at New Delhi. He was promoted as Assistant Engineer(Civil) (Group 'B' Gazetted Post) on 02.12.1983 through Limited Departmental Competitive Examination (LDCE) conducted by the UPSC and joined at the office of the Superintending Engineer's (Civil), Bangalore. Thereafter, he was promoted as Executive Engineer (Civil) (EE) on regular basis on 24.4.1998 and joined at Construction Division XII, New Delhi. He was further promoted as Superintending Engineer (Civil) (SE) on

B. Seshasayana Reddy

ad hoc basis on 02.08.2012 and his promotion as Superintending Engineer was regularized on 12.3.2015. The 2nd respondent issued a Charge-memo dated 5.12.2001 under Rule 14 of CCS(CCA) Rules. The inquiry officer found that the charges levelled against him were not proved. The disciplinary authority disagreed with the I.O.s report and held that both the charges were proved and issued an order dated 11.12.2006 imposing the major penalty of reduction by one stage below in the time scale of pay for a period of three years with cumulative effect. Applicant filed O.A. No. 65/2008 assailing the order of penalty. Penalty order came to be quashed by this Tribunal in O.A. No. 65/2008. Respondents preferred Writ Petition No. 17518/2009. The said W.P. came to be disposed of setting aside the order passed by the Tribunal and giving liberty to the department to pass orders afresh on the punishment to be awarded. The 4th respondent passed orders afresh imposing a penalty of reduction to one stage below in the time scale of pay for a period of one year. While so, M. Jagannathan -5th respondent, one of the juniors to the applicant, came to be promoted as Superintending Engineer (Civil) on ad-hoc basis by an Office Order dated 6.12.2010 itself. Aggrieved by his non-promotion to the post of Superintending Engineer (Civil) on par with his junior, he approached the

Pr. Reddy

Tribunal invoking the jurisdiction Under Section 19 of the Administrative Tribunal's Act 1985 seeking the aforesaid relief.

3. Respondents filed reply statement.

4. When the O.A. came up for hearing, learned counsel appearing for the respondents submits that applicant has been promoted to the grade of Superintending Engineer (Civil) on adhoc/in-situ basis with effect from 06.12.2010 vide office order dated 23.07.2015. This factual aspect is not contradicted by the learned counsel appearing for the applicant. However, learned counsel for the applicant submits that applicant has to be treated as senior to M. Jagannathan in the cadre of Superintending Engineer(Civil).

5. As on this day, no seniority list has been prepared after giving promotion to the applicant herein as Superintending Engineer (Civil) and as and when the seniority list is prepared, the applicant is at liberty to challenge the same by submitting representations to the department. Since the relief sought by the applicant with regard to his promotion with effect from 06.12.2010 has been considered by the department, nothing survives in this O.A. for adjudication. Accordingly, this O.A. is

Dr. Reddy

dismissed reserving liberty to the applicant to make a representation for fixation of his seniority in the cadre of Superintending Engineer (Civil) and on which event, respondents have to consider his representation and pass appropriate orders.

6. With the above direction, this O.A. is dismissed. There shall be no order as to costs.