

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 424
T.A. No.

1986

DATE OF DECISION May 20, 1987.

Shri H.S. Sawhney, Petitioner

Shri R.P. Oberoi, Advocate for the Petitioner(s)

Versus

Union of India and others Respondents.

Mrs. Raj Kumari Chopra, Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. Kaushal Kumar, Member (A).

The Hon'ble Mr. G.Sreedharan Nair, Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether to be circulated to other Benches? *No*

(G.Sreedharan Nair)
(G.Sreedharan Nair)
Member (J)

20.5.1987.

(Kaushal Kumar)
(Kaushal Kumar)
Member (A)
20.5.1987.

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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
DELHI.

REGN. NO. CA 424/1986

May 20, 1987.

Shri H.S. Sawhney Applicant.

Vs.

Union of India and others ... Respondents.

CORAM:

Hon'ble Mr. Kaushal Kumar, Member (A).

Hon'ble Mr. G.Sreedharan Nair, Member (J).

For the applicant Shri R.P. Oberoi, counsel.

For the respondents ... Mrs. Raj Kumari Chopra, counsel.

(Judgment of the Bench delivered by
Hon'ble Mr. G.Sreedharan Nair, Member (J))

The applicant, an Executive Engineer, working ~~under~~
in the Ministry of Defence has filed this application
complaining against his not being included in the
zone of consideration for promotion to the post of
Superintending Engineer. The fact that the applicant
has not been included in the list of Executive
Engineers, who are within the zone of consideration,
is admitted in the reply filed by the respondents.

The stand taken by them is that since the applicant
does not possess the required educational qualifications,
his name has not been included in the list of Executive
Engineers eligible for consideration.

2. We have heard counsel on either side and
have examined the records and are satisfied that
the real dispute is whether the ^{technical} qualifications

possessed by the applicant can be treated equivalent to a diploma in Engineering. According to the applicant, he has secured a pass in the final examination in the Association~~ship~~ of Govt. Technical Institute Insein (Burma) which is higher than a diploma in Engineering. However, the respondents do not admit this position. It is not for this Tribunal to give a verdict on the question as to whether a particular ~~technical~~ educational qualification possessed by a person can be treated as equivalent to a degree or diploma.

It is on record that on 17.5.1986 the applicant had given a representation to the second respondent pointing out that his educational qualifications have already been recognised as equivalent to degree in Engineering by the Ministry of Defence and as such, he is eligible to be included in the zone of consideration for promotion as Superintending Engineer.

Counsel of the applicant has also invited our attention to the letter dated 5.7.1984 addressed by the second respondent to the Chief Engineer, Western

Command, Shimla wherein a reference is made to the ~~letter~~ ~~the applicant will be treated as for wie degree holder~~ ruling given by the Ministry of Defence. However,

there is no definite statement therein that the educational qualification possessed by the applicant is to be treated as equivalent to a diploma in Engineering. As such, we are not in a position to hold that the matter is concluded by the contents of the said letter.

3. In view of what is stated above, we are of the view that the respondents have to take a positive decision as to whether the technical qualifications possessed by the applicant can be treated as equivalent to a diploma in Engineering. In this context, reference may be made to the reply of the respondents by way of answer to para 14 of the application wherein it is stated that if the applicant makes an application to the authorities concerned now, proving beyond a shadow of doubt about his eligibility as regards educational qualifications, the department is willing to reconsider his case on merit. It was admitted by the counsel of the respondents that no action has been taken on the representation dated 17.5.1986 as it was received by the respondents only after they received a copy of the present application.

4. In the circumstances, we hold that the proper course to be adopted in this case is to direct the respondents to consider and dispose of the representation filed by the applicant on 17.5.1986. The respondents shall arrive at a definite decision on the question whether the technical qualifications possessed by the applicant can be treated as equivalent to a diploma in Engineering. We direct the respondents to do so within a period of two months from the date of receipt of a copy of this order. In case the

respondents arrive at the decision that the technical qualification possessed by the applicant is equivalent to a diploma in Engineering, he will certainly be included in the zone of consideration for promotion to the post of Superintending Engineer in accordance with the rules and his case for promotion considered by convening a review

D.P.C.

5. The application is disposed of as above with no order as to costs.

G. Sreedharan Nair
20.5.1987
(G. Sreedharan Nair)
Member (J)
20.5.1987.

Kaushal Kumar
20.5.1987
(Kaushal Kumar)
Member (A)
20.5.1987.