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CENTRAL ADMINISTRATIVE TRIBUNAL  
Principal Bench

R.A. No.362 of 1994  
M.A. No. 3561 of 1994  
in  
O.A. No.1023 of 1988

New Delhi, dated the <sup>15</sup>12<sup>th</sup> September, 1996

HON'BLE MR. S.R. ADIGE, MEMBER (A)  
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Shri V.P. Sharma,  
S/o Shri Om Prakash,  
R/o 234, Bhora Enclave,  
New Delhi-110041.

..... APPLICANT

(By Advocate: Shri A.K. Gupta)

VERSUS

1. Union of India through  
the Secretary,  
Ministry of Defence,  
South Block,  
New Delhi-110011.
  2. E-in-C Army HQ,  
Kashmir House,  
D.H.Q P.O.,  
New Delhi-110011.
  3. CWE (P), Bikaner
  4. Shri Dhanna Ram,  
Lineman/HS II,  
through GE Bikaner.
  5. Shri Sattar Beg,  
Lineman/HS II  
through GE Bikaner.
  6. Shri Tirlok Chand,  
Lineman/HS II,  
through GE (P) Army,  
Suratgarh.
  7. Shri Dharam Lal,  
Elec/HS II,  
through GE Army,  
Suratgarh.
  8. Shri Madan Mohan,  
Elect/HS II  
through GE Army,  
Suratgarh.
  9. Shri Dilbagh Singh,  
Elect/HS II/I,  
through GE Army,  
Suratgarh
  10. ShriGian Singh,  
Lineman/HS II through  
GE Airforce, Suratgarh
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11. Shri Moolu Ram,  
Lineman/HS II  
through GE, Bikaner. ... RESPONDENTS  
(By Advocate: Shri M.L.Verma)

JUDGMENT

BY HON'BLE MR. S.R. ADIGE, MEMBER (A)

In this RA bearing No.362 of 1994 Shri V.P. Sharma has sought review of the judgment dated 15.3.94 in OA-1023/88 V.P.Sharma Vs. UOI & Ors.

2. We note that against the impugned judgment dated 15.3.94 the applicant had filed SLP 14681/94 which by order dated 12.9.94 was dismissed by the Hon'ble Supreme Court as withdrawn. Although the applicant has averred in para 20 of the RA that at the time of hearing of the SLP Their Lordships had observed, that since there were errors which were patent on the face of the order it would be proper for the applicant to approach the Tribunal way of a review, <sup>it is</sup> and <sup>although</sup> under these circumstances that the SLP was withdrawn for moving the review application, <sup>although</sup> and these averments have not been contradicted by the Respondents in their reply, the Hon'ble Supreme Court's order dated 12.9.94 dismissing the SLP makes no mention of any such averment having been made.

3. However, having regard to the fact that a petition for condonation of delay has been filed, and as upon the examination of this case the claims of the applicant have merit, as would be apparent from the following paragraph, we condone the delay in filing the R.A.

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4. We note that the Tribunal in its impugned judgment dated 15.3.94 had rejected the applicant's prayer on the basis of Respondents' letter dated 5.12.84 (Ann. A-22 of the additional documents placed by the applicant on record) namely that the individuals having seniority in the grade of Linemen/Electricians upto 27.4.81 were considered for promotion, whereas the applicant came into feeder cadre only on 16.10.81.

5. On the other hand the respondents in their reply to OA had stated that the applicant's case was not considered by the DPC which met in April, 1986, for making promotion w.e.f. 15.10.84 because only those persons who were held on the strength of Bikaner on 15.10.84 were considered for promotion and those who had been posted out subsequently were not considered for promotion.

6. No doubt the applicant who was appointed as SBA on 28.7.78 at Faridkot was posted to Bikaner on 4.5.82 and was subsequently posted out to Sirsa under CWE (P) Hissar area on 8.10.85. But as per CE, Chandigarh's letter dated 3.5.85, ~~that~~ persons transferred/retired/expired or moved to other formation, would have to be accounted for promotion to HS Grade II by that formation on whose strength he was borne on 15.10.84, and without doubt on 15.10.84 the applicant was borne on the strength of CWE (P), Bikaner.

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7. The Respondents have taken the plea that CE, Chandigarh's letter dated 3.5.86<sup>85</sup> was received by them only after the issue of promotion orders dated 29.4.86, but this cannot be a ground for denying the consideration of the applicant for promotion under CWE (P), Bikaner <sup>when</sup> ~~and~~ according the Respondents' own admission in the grounds I to V of their reply, ~~that~~ persons junior to the applicant and non-eligibles have been given promotion by CWE (P), Bikaner area. Respondents' counsel Shri M.L.Verma has relied upon certain cases namely 1992 (1) SLJ 481; AIR 1996 (Dli) 21; and AIR 1995 SC 451, but in the facts and circumstances of the present case we are fully satisfied that this review application falls within the ambit of Section 22 (2)(f) read with Order 47 Rule 1 C.P.C and the rulings cited by Shri Verma, which are based on the particular facts and circumstances of those cases, are <sup>not</sup> sufficient to deny a review of the impugned judgment dated 15.3.94. In fact if persons junior to the applicant were considered for promotion, and admittedly the applicant was not even considered it would be a denial of substantive justice to him.

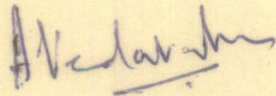
8. In the interest of justice therefore the impugned order dated 15.3.94 in OA-1023/88 is recalled. The O.A. is disposed of with a direction to the Respondents to consider the case of the applicant for promotion as

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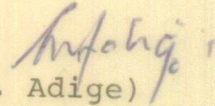
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Electrician HS Gr. II subject to his being otherwise eligible w.e.f. the date his immediate junior was promoted as Electrician HS Gr. II in CWE (P), Bikaner in accordance with extant rules and instructions and in the event of his promotion, <sup>to</sup> ~~with~~ grant <sup>him</sup> ~~of~~ such consequential benefits as would be admissible to him in accordance with the relevant instructions on the subject. These directions should be implemented within three months from the date of receipt of a copy of this judgment. No costs.



(Dr. A. Vedavalli)  
Member (J)

/GK/



(S.R. Adige)  
Member (A)