

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

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Regn. No. RA 103/1993 in
OA 1338/1989

Date of decision: 15-09-93

Shri V.K. Manglik

... Applicant

Versus

Union of India & Others

... Respondents

For the Applicant

... In person

For the Respondents

... None.

CORAM:

THE HON'BLE MR. JUSTICE S.K. DHAON, VICE CHAIRMAN
THE HON'BLE MR. B.N. DHOUNDIYAL, ADMINISTRATIVE MEMBER

JUDGMENT
(of the Bench delivered by Hon'ble Mr.
Justice S.K. Dhaon, Vice-Chairman)

This is an application seeking review of the judgment dated 29.01.1993 in OA No.1338/1989 given by a two - member Bench of this Tribunal consisting of Hon'ble Shri P.K. Kartha, Vice Chairman (as he then was) and one of us (Hon'ble Shri B.N. Dhoundiyal, Member).

2. The applicant (Shri V.K. Manglik) entered service as an Assistant Executive Engineer in the MES on 16.04.1979. He was directly recruited as a result of the combined Engineering Services Examination. He was promoted to the post of Executive Engineer on 4.4.1979 on the basis of the panel dated 27.10.1978. A DPC was held for the AEEs under the Union Public Service Commission and it recommended his promotion. In paragraph 4 of the promotion order dated 4.10.1978, it was stipulated that "the select list and the promotions made thereof are subject to change, if any, on final disposal of court

cases now pending in High Courts , challenging the validity of seniority list of AEEs". The petitioner was placed on probation for 2 years which he completed satisfactorily. In the order dated 9.4.1979 it was stated that his promotion was subject to the writ petitions pending in the High Court.

3. As a consequence of the judgment of the Supreme Court in the case of A. Janardhana Vs. Union of India, 1983 SCC(L&S) 467, the seniority list in which the petitioner's name was found place was revised. In the panel dated 13.06.1986 issued by the respondents for promotion to the post of Executive Engineer, the name of the applicant figured at S.No.134 and persons junior to him on the post of Assistant Executive Engineer were shown at places above him. The respondents had issued seniority lists of Assistant Executive Engineers on 19.11.1984 and 09.10.1985. In the seniority list of 1984, the petitioner was placed at S.No.178 (actually 183) and in the seniority list of 1985, his position had been at No.184. Feeling aggrieved, the petitioner filed this O.A. This Tribunal by a well considered judgment running into 34 pages considered all the aspects and decided the O.A.

4. In paragraph 32 of its judgment, the Tribunal observed:

" There is, however, another aspect of the matter. Some of the applicants had been duly promoted to the grade of Executive Engineer on the basis of the seniority which existed at the relevant time and before the Supreme Court delivered its judgment in Janardhana's case. These seniority lists have been redrawn or updated in the light of the judgment of the Supreme Court in Janardhana's case. In our considered opinion, justice and equity require that those who have already been promoted shall not be reverted and they shall be accommodated in the grade of Executive Engineer so as to protect the pay and allowances and the increments drawn by them in the said grade. Their pay and allowances, should be fixed accordingly. They would also be entitled to increments in the grade of Executive Engineer from the respective dates of their initial appointment in the grade of Executive Engineer. Their further promotions shall, however, be made on the basis of the seniority lists prepared by the respondents pursuance to the judgment of the Supreme Court in Janardhana's case and in accordance with the relevant recruitment rules."

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5. In paragraph 38, this Tribunal observed:

" We see no legal infirmity in the seniority lists of 1984 and 1985 or the promotions made to the grade of Executive Engineer on the basis of the said seniority lists. In Janardhana's case, the Supreme Court had quashed the 1974 seniority list of Assistant Executive Engineers and panel of 102 officers issued on 13.1.1975 and subsequent panels based on the said seniority list. The DPCs held in 1974, 1976, 1977 and 1978 based on the 1974 seniority list of Assistant Executive Engineers were quashed by the Supreme Court in Janardhana's case. In view of this, the respondents held review DPCs on the basis of the 1967-68 seniority list for the years 1974, 1976, 1977 and 1978. The adoption of the selection by the DPC was in accordance with the relevant recruitment rules".

6. In paragraph 41, the Tribunal observed that the implementation of the directions of the Supreme Court in Janardhana's case involved revision of seniority lists and preparation of fresh panels for promotion to the grade of Executive Engineer. The UPSC was associated in the task of preparation of fresh panels for promotion. There is no material on record to indicate that the DPCs chaired by Member of the UPSC acted arbitrarily or unfairly in drawing up the panels for promotion.

7. In paragraph 42, the Tribunal observed that in the conspectus of the facts and circumstances of the case, the applicant was not entitled to the reliefs sought in the application, except to the extent mentioned in paragraph 32 above.

8. In paragraph 43, the Tribunal showed compassion to the applicant in these words:

" The applicant was initially promoted to the post of Executive Engineer on 4.4.1979 on the basis of the recommendations of the UPSC chaired by a Member of the UPSC. The DPC held in 1986 selected him as Executive Engineer against the vacancies of 1983. In our opinion, he shall be accommodated in the grade of Executive Engineer for the purpose of protection of his pay and allowances and increments drawn by him and he shall not be reverted from the said grade. The increments earned by him in the post of Executive Engineer from 4.4.1979 should be protected and his pay and allowances should be fixed on that basis, if this has not already been done by the respondents. We order and direct accordingly. The application including all the MPs filed thereunder, is disposed of accordingly. There will be no order as to costs."

(S.K.)

9. The applicant has appeared in person and argued this application at considerable length. In his arguments, the applicant, merely dilated upon certain alleged errors committed by the Tribunal. He could not point out any error on the face of the record. The theme of his argument was that the review DPC was not held properly. The committee committed mistakes. The Tribunal recorded a finding that the committee was chaired by a Member of the Union Public Service Commission and it acted fairly and justly. The thrust of the other submission of the applicant was that, while re-determining the seniority, the law declared by the Supreme Court in Janardhana's case had not been followed. The Tribunal went into detail as to what was laid down in Janardhana's case and how the principles laid down in that case were applicable to the case of the applicant and in what manner those have been followed. Assuming some error had been committed by the DPC in applying the law laid down by the Supreme Court in Janardhana's case, the Tribunal committed no error apparent on the face of the record while upholding the decision of the DPC.

10. Our jurisdiction to review our judgments/orders are circumscribed by the provisions of Order XLVII Rule 1 of the Code of Civil Procedure (Section 22(2) of the Administrative Tribunal Act, 1985).

11. This Review Application has no substance and it is dismissed summarily.

(B.N.Dhundiyal)
(B.N. DHUNDIYAL)
MEMBER (A)

(S.K. Dhaon)
(S.K. DHAON)
VICE CHAIRMAN

RKS