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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

O.A.No.2482 of 1990

New Delhi: December 22, 1994.

HON'BLE MR.JUSTICE S.C.MATHUR, CHAIRMAN.

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

Shri B.D.Panjwani,
D-70, Vivek Vihar,
Delhi-110032

.....Applicant.

By Advocate Shri G.K.Agarwal.

Versus

Union of India
through

Secretary,
Ministry of Urban Development,
Nirman Bhavan,
New Delhi-11.

The Director General(Works)CPWD,
Nirman Bhavan,
New Delhi-11.

.....Respondents.

(None for the respondents)

ORDER (ORAL)

By Hon'ble Mr.Justice S.C.Mathur, Chairman.

The applicant, Shri B.D.Panjwani, seeks a direction to the respondents to promote him from the post of Assistant Engineer (Civil) to the post of Executive Engineer (Civil) in the Central Public Works Department in the vacancies which occurred in 1988.

2. The applicant admittedly does not hold a degree in Engineering but holds only a Diploma therein. According to the submissions made by the learned counsel for the applicant, a Departmental Promotion Committee met in 1989 to select the candidates for promotion to the post of Executive

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Engineer (Civil) on adhoc basis. At this stage, the applicant filed O.A.No.910/89 and obtained an interim order on 2.5.89. Again, as stated by the learned counsel, the interim order was that no promotion shall be made to the post of Executive Engineer(Civil). During the pendency of the O.A., the applicant retired from service on 31.10.89. The O.A. finally came to be disposed of on 30.4.90. It appears from paragraph 4.6 of the counter affidavit that the O.A. was partly allowed. The Tribunal directed that the statutory rules may be suitably amended. Thereafter it was provided:

" Until the rules are so amended, we further direct that no regular promotions of Diploma Holder Assistant Engineers shall be made and the adhoc promotions already made shall be regularised in accordance with the amended rules."

The present O.A. was filed on 26.11.90 making the prayer mentioned therein. In this O.A., the applicant's claim is that he would have got promotion to the post of Executive Engineer (Civil) but he failed to get it only on account of interim order passed by the Tribunal. It is on this basis that the plea of the applicant has been founded. The learned counsel also submitted that the applicant's name had been recommended by the Departmental Promotion Committee for promotion to the post of Executive Engineer (Civil).

3. The claim of the applicant has been contested on behalf of the respondents. Apart from raising the other pleas, it has been pleaded

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that the applicant himself obtained an interim order in O.A.No.910/89 and he cannot now raise any grievance based on that interim order."

4. In our opinion, the present application is absolutely misconceived. Learned counsel admitted that the rules have not so far been amended to bring them in conformity with the suggestion made by the Tribunal in its order dated 30.4.90 . The Tribunal's judgment specifically provides that no regular promotions of Diploma Holder Assistant Engineers shall be made to the post of Executive Engineer . Accordingly, at this stage we are unable to direct the respondents to give promotion to the applicant.

5. Learned counsel submitted that the direction of the Tribunal is restricted to regular promotions and it does not bar the respondents from making adhoc promotions. Adhoc promotion is made to fulfil a particular contingency. In the present case, the contingency may be of the finalisation of the amendment in the rules. However, for such contingency only those who are in service shall be considered and not those who have retired from service. Admittedly, the applicant has retired from service . In the circumstances, no direction can be issued to the respondents requiring them to give promotion to the applicant with effect from 1988 even on adhoc basis.

6. We also find substance in the submission

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raised on behalf of the respondents that the applicant has to blame himself if he failed to get adhoc appointment in the year 1989 when he filed O.A. No.910/89. If the applicant's claim is accepted that his name had been recommended for adhoc appointment by the Departmental Promotion Committee, there was no occasion for the applicant to file the said O.A. and obtain interim order. Having done so, the applicant must bear the consequences also.

7. In view of the above, the application lacks merit and is hereby dismissed.

8. Since no one appeared on behalf of the respondents, there shall be no order as to costs. Interim order, if any operating, shall stand discharged.

S.R. Adige
(S.R. ADIGE)
MEMBER (A)

S.C. Mathur
(S.C. MATHUR)
CHAIRMAN

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