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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn. No. OA 837 /90

Date of decision: 07.04.1992.

Shri J.S. Mangat & Others

...Applicants

Vs.

Union of India through the
Secretary, Ministry of Urban
Development

...Respondents

For the Applicants

...Shri G.K.
Aggarwal, Counsel

For the Respondents

...Mrs. Raj Kumari
Chopra, Counsel

CORAM:

The Hon'ble Mr. P.K. Kartha, Vice Chairman(J)

The Hon'ble Mr. B.N. Dhoundiyal, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*
2. To be referred to the Reporters or not? *No*

JUDGMENT

(of the Bench delivered by Hon'ble Mr. P.K. Kartha,
Vice Chairman(J))

The applicants who are working as Assistant Engineers in the CPWD are Diploma holders. They have prayed in this application that the respondents be directed to consider them for promotion from Junior Engineer to Assistant Engineer in CPWD, the earliest they were entitled to be considered if there was no quota for appointment/promotion to Assistant Engineer and to promote them on duty retrospectively with arrears with interest at 15% and all other consequential benefits including further promotions.

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2. We have heard the learned counsel of both parties and have gone through the records of the case carefully. The applicants who were appointed as Junior Engineers in the years 1954-55 were promoted as Assistant Engineers in the years 1972-73. They are claiming promotion as Assistant Engineers from 1964-65. This has been stated in the application in the form of the following chart:-

S.No.	Name	Date of JE	Date of AE	
			Existing	Claimed
1.	J.S. Mangat	13.05.55	5.12.72	13.5.65*
2.	Balbir Singh	10.09.54	10.11.72	10.09.64*
3.	A.S. Dhami	20.10.54	9.11.72	20.10.64*
4.	H.P. Bansal	11.11.54	8.12.72	11.11.64*
5.	R.K. Singh	9.4.55	27.10.72	09.04.65*
6.	R.S. Gupta	3.10.55	01.01.73	03.10.65**

3. The applicants have stated that they were promoted as Assistant Engineers under the quota system and the dates on which they were entitled to be promoted if there was no quota between Degree holders and Diploma holders would be as indicated in the above mentioned chart.

4. The applicants are basing their claim on the judgments of the Delhi High Court dated 5.11.1971 in M. Ramayya & Others Vs. U. O.I. & Others (C.W 238/1970), of the Supreme Court dated 6.1.1977 in Jagmal Singh Yadav Vs. M. Ramayya and of this Tribunal dated 9.6.1989 in M.M. Bijani and Others Vs. Union (T-236/85) ✓ of India & Others. According to them, the validity of quota basis for promotion from Junior Engineer to Assistant Engineer had been challenged in the aforesaid cases and that ultimately the quota basis has been held as illegal and without jurisdiction.

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They also contend that they are entitled to be promoted from Junior Engineers to Assistant Engineers on completion of 10 years of service as Junior Engineer on merit-cum-seniority or seniority-cum-fitness basis. They have, however, stated the legal basis for such a submission.

5. The respondents have stated in their counter-affidavit that the quotas for promotion were quashed by the Delhi High Court in its judgment dated 5.11.1971 in Ramayya's case on the technical grounds that the quotas had not been effectively determined. The Government did not go in appeal and accordingly a common seniority list of Assistant Engineers was prepared and issued in March, 1972 on the basis of continuous officiation in the grade of Assistant Engineers. However, the judgment dated 5.11.71 was challenged by graduate Assistant Engineers in the Supreme Court by filing SLP. The appeal was rejected by the Supreme Court and the judgment of the Delhi High Court was thereby upheld in judgment dated 6.1.1977. In the mean time, some of the graduate Assistant Engineers filed another petition in the Delhi High Court praying for the following relief:-

" For directions to be issued to the respondents to determine the method of recruitment under Rules (4) of the RR and for making appointment of petitioners and other graduate AEs according to the quotas so determined".

6. The above petition was dismissed by the Tribunal on 9.6.1989, as mentioned above. The respondents have contended that the application is barred by limitation. The quotas for

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recruitment to the grade of Assistant Engineers were quashed by the Delhi High Court in 1971. Even if the date of the judgment of the Supreme Court delivered in 1977 in Yadav's case were taken for the purpose of limitation, the application is barred by limitation. According to them, the judgment of the Tribunal in Bijani's case also does not help the case of the applicant, as regards the period of limitation.

7. We see force and merit in the aforesaid contention raised by the respondents. Quotas had been fixed in 1955 for making recruitment/promotion to the grade of Assistant Engineers. These quotas were quashed by the Delhi High Court in its judgment dated 5.11.1971 in Ramayya's case. However, while quashing the quotas promotions made on the basis of these quotas were not quashed. The judgment of the Delhi High Court was upheld by the Supreme Court. In Bijani's case, the applicants had prayed that the respondents be directed to determine the methods of recruitment to be applied for making appointments to Class II Engineers (Civil & Electrical) under Rule 4(C) of the Recruitment Rules of 1954. The respondents are required to determine the method or methods of recruitment for the purpose of filling any particular vacancy in the service. The Tribunal dismissed the application but directed the respondents to consider framing a proper policy in regard to the filling up of the post on the basis of competitive examination and promotion in terms of the observations contained in the judgment dated 9.6.89.

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8. It would appear from a perusal of the judgments mentioned above that the promotions already made had not been disturbed. The respondents had made the promotions to the grade of Assistant Engineer on the basis of combined seniority list of both graduate Junior Engineers and non-graduate Junior Engineers. In the facts and circumstances of the case, we do not consider it appropriate to give a direction to the respondents to give any retrospective promotion to the applicants or to adjust the inter se seniority of the applicants, as prayed for by them.

9. We see no merit in the present application and the same is dismissed.

There will be no order as to costs.

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

Carried
7/4/72
(P.K. KARTHA)
VICE CHAIRMAN (J)

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