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Central Administrative Tribunal  
Principal Bench, New Delhi.

O.A.No.2560/91

New Delhi this the 13th day of December, 1995.

Hon'ble Sh. A.V. Haridasan, Vice-Chairman(J)  
Hon'ble Sh. B.K. Singh, Member(A)

Shri B.N. Mittal,  
Assistant Engineer of CPWD(Retired),  
B-1/446, Janakpuri Delhi. Applicant

(through Sh. B.S. Jain, advocate)

versus

Director General of Works  
Central PWD Nirman Bhawan,  
New Delhi. Respondents

(None for the respondents)

ORDER(ORAL)

delivered by Hon'ble Sh. A.V. Haridasan, V.C.(J)

The applicant who was an Assistant Engineer was considered alongwith his juniors for promotion to the post of Executive Engineer in the month of November, 1990. The respondents put the recommendations of the D.P.C. in sealed cover in respect of the applicant and by order dated 12/13.11.1990 promoted his junior. The grievance of the applicant is that since no chargesheet in regard to misconduct has been served upon him, the procedure adopted by the D.P.C. in sealed cover is erroneous and unjustified. The applicant seeks direction to the respondents to open the sealed cover and to promote him if the D.P.C. had recommended his promotion and to pay him a sum of Rs.2 lakhs by way of compensation for his loss of reputation and mental agony.

The respondents in their reply have contended that the recommendations in respect of the applicant by the D.P.C. were kept in sealed cover as a vigilance

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case against him was pending/contemplated and that as the applicant retired on 31.12.90, he could not be promoted though after opening the sealed cover. It was found that the D.P.C. had recommended the applicant for promotion. The respondents contend that since the D.P.C. had recommended the promotion of the applicant, he would be entitled only to notional promotion w.e.f. 20.11.1990, but no arrears of pay and allowances would be paid on the principle of 'No work No Pay'.

When the application came up for final hearing, none appeared for the respondents. We heard Sh. B.S. Jain, advocate for the applicant and perused the application and the connected material.

The only dispute in this case is, <sup>that</sup> according to the applicant, that the respondents have done wrongly in adopting the sealed cover procedure in his case as no chargesheet had been served upon him and no vigilance case was pending against him. The respondents contend that the sealed cover procedure was rightly adopted as the vigilance case was pending/contemplated. From the contentions raised in the reply, it is not clear whether the vigilance case was pending or contemplated against the applicant. The contemplation of vigilance case is no ground for adopting the sealed cover procedure. We are of the considered view that the respondents have gone wrongly in adopting the sealed cover in respect of the applicant. However, the respondents have admitted that the applicant is entitled to be promoted notionally




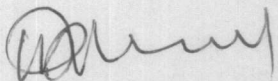
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w.e.f. 20.11.1990 when his junior was promoted. We  
are of the considered view that the <sup>non</sup> promotion of the  
applicant <sup>w.e.f.</sup> ~~would be~~ from the date when his junior was  
promoted, was unjustified and wrongly denied to him.  
Therefore, the interest of justice demands that the  
respondents pay him the arrears of pay & allowances  
w.e.f. 20.11.1990 <sup>to</sup> the post Executive Engineer. His  
retiral benefits also should be refixed. *and*

In the result, the application is disposed of  
with the direction to the respondents to issue order  
promoting the applicant w.e.f. 20.11.1990 with all  
consequential benefits, arrears of pay & allowances,  
revision of pension and other retiral benefits and pay  
the same within a period of two months from the date of  
receipt of a certified copy of this order.

There will be no order as to costs.

  
(B.K. Singh)  
Member(A)

  
(A.V. Haridasan)  
Vice-Chairman(J)

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