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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No.1589/2004

New Delhi, this the 2nd day of March, 2005

**Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. S.A.Singh, Member (A)**

Sh. Har Giri Goswami
S/o Late Sh. D.G. Goswami
R/o 5/8, Indra Vikas Colony
Mukherjee Nagar
Delhi - 110 009.

.... Applicant

(By Advocate: Sh. Arun Bhardwaj)

Versus

1. Union of India through
Secretary, Ministry of Urban Development
& Employment,
GOI, Nirman Bhawan
New Delhi - 110 001.
2. The Secretary
Ministry of Personnel,
Public Grievances & Pensions,
GOI, North Block
New Delhi.
3. The Director General of Works
CPWD, Nirman Bhawan
New Delhi.

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4. The Controller General of Accounts
Ministry of Urban Development
& Employment,
GOI, Nirman Bhawan
New Delhi.

... Respondents

(By Advocate: Sh. D.S.Mehandru)

ORDER

✓ **By Mr. Justice V.S.Aggarwal:**

Applicant was promoted as Executive Engineer (Civil) on ad hoc basis in the year 1998. On 28.8.2002, the respondents issued an order reverting 23 ad hoc Executive Engineers (Civil) to the grade of Assistant Engineers (Civil), including the applicant.

2. The grievance of the applicant is that respondents had been issuing the orders extending the ad hoc promotion of certain Assistant Engineers (Civil) to the Executive Engineers (Civil) from time to time. Certain similarly situated persons had approached this Tribunal, challenging the reversion on the ground that they were being discriminated and their juniors have not been reverted. This Tribunal had allowed the said application holding:



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“5. At this stage, it has been pointed that the applicants have already been reverted while the juniors are still continuing on ad-hoc basis. In this connection, it is directed that the respondents will take up this matter and in case it is found that the juniors of the applicants are working on ad-hoc basis. This exercise should preferably be completed within three months of the receipt of the certified copy of the present order. O.A. is disposed of.”

3. The grievance of the applicant is that he is similarly situated. He had made a representation, which has not been adhered to. Persons junior to the applicant had been allowed to continue on ad hoc basis. In this backdrop, he claims a direction to restore his promotion as Executive Engineer as on 28.8.2002 on ad hoc basis and grant him also the benefit of the decision in OA 1060/2003 in the case of **Ram Niwas Rohilla & Others v. Union of India & Others** (decided on 11.11.2003).

4. The application is being contested. Respondents contend that in CPWD, promotion to the grade of Executive Engineer if to be made, should be as per the provisions of the Recruitment Rules of the year 1954. Revised rules were notified on 28.10.1996. In



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1954, Rules provided promotion to the grade of Executive Engineer from Assistant Engineer in the ratio that was prevailed. Under the 1954 Rules, only Degree holders were eligible to be promoted as Executive Engineer. In 1972, the Rules were amended and those Assistant Engineers, who were holding Diploma with outstanding ability and record, were also eligible for promotion to the post of Executive Engineer. Thereafter, as per the revised Rules of 1996, promotion to the grade of Executive Engineer has to be made only from amongst AEE, Assistant Engineers (who were Degree holders) and Assistant Engineers (who were Diploma holders) in the ratio of 1: 1: 1 respectively.

5. The applicant is a Diploma holder. He had been promoted on ad hoc basis. Before 1996, some Assistant Engineers, who were junior to him, were also promoted on ad hoc basis. There was a Departmental Promotion Committee meeting held for promotion. The applicant was not recommended for regular promotion.

6. CPWD Graduate Engineers' Association filed OA 2026/2000 for reversion of ad hoc Executive Engineer (Civil) and

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Executive Engineer (Electrical) who were considered and found unsuitable and ineligible by the DPC held in September, 1999.

7. This Tribunal, on 9.5.2002, had directed that respondents should take steps to fully implement the earlier decision of this Tribunal in OA 1461/1997 by ensuring that all those who were promoted on ad hoc basis but were not found fit for regularization by DPC and were continuing on ad hoc basis as Executive Engineers, should be reverted. Direction was further given that steps should be taken to convene a DPC to fill up all the vacancies falling under 1954 Rules.

8. The applicant is stated to be a Diploma holder and his case was not recommended for regular promotion. Thus, it is claimed that there is no ground to allow the application.

9. At this stage, it can well be mentioned that on 28.8.2002, an order, as already referred to above, had been passed that in pursuance of the directions of this Tribunal in OA 2026/2000, decided on 9.5.2002, the applicant, besides others, was being



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reverted. It is not in dispute nor it is being challenged that the applicant was not found suitable for regular promotion.

10. The learned counsel for the applicant does not dispute these facts. According to him, certain persons junior to applicant had been allowed to continue and, therefore, in terms of the decision of this Tribunal in OA 1060/2003, the applicant should be allowed to work as Executive Engineer.

11. It must be remembered that orders passed by this Tribunal necessarily must be honoured and obeyed. We have already referred to above the orders passed by this Tribunal in OA 2026/2000, decided on 9.5.2002. It had been directed that all those persons, who have been appointed on ad hoc basis and not found fit for regularization and are continuing, should be reverted. Subsequent order, to which the applicant refers to, passed in OA 1060/2003 does not pertain to any such controversy. The applicant has been reverted in pursuance of the directions of this Tribunal in OA 2026/2000, decided on 9.5.2002. When the reversion order had been passed, he had not cared to challenge the

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same but only after the decision of this Tribunal in OA 1060/2003, he seeks similarity in treatment. Once the applicant has been reverted in pursuance of the direction of this Tribunal and he was not found fit for regularization, we have little option to accept the contention of the applicant.

12. During the course of the submissions, it was felt that juniors to the applicant had been allowed to continue and, therefore, the applicant could not be discriminated keeping in view the clear and unambiguous orders passed by this Tribunal, which read:

"10. In the result, the application succeeds substantially and is accordingly disposed of. Respondents shall take steps to fully implement the decision of the Tribunal in OA No.1461/97 filed by B.M.Singhal followed by CP No.317/98 in the same OA by ensuring that all those who were promoted on ad hoc basis during 23.4.98, 24.4.98 and 23.9.98 but were not found fit for regularization by DPC and are continuing as ad hoc Ees are reverted and are not given any extension except by any order of the Tribunal or the Court. This shall be done within one month from the date of receipt of a copy of this order. Respondents shall also take action to convene a

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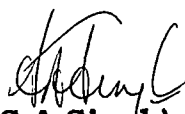
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DPC to fill up all the vacancies falling under
1954 Rules.”

13. In face of the aforesaid, the Coordinate Bench cannot set aside the said order. It is unfortunate that some persons junior to the applicant have not been reverted, who are also stated to have been found unfit for regular promotion as Executive Engineer. As those persons are not parties before us, therefore, no direction can be issued but it goes without saying that the respondents should, in all fairness, treat those persons like the applicant and similar treatment should be accorded to them.

14. With these observations, the Original Application is disposed of.


(S.A.Singh)
Member (A)


(V.S.Aggarwal)
Chairman

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