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**Central Administrative Tribunal
Principal Bench, New Delhi.**

OA-1936/2004
MA-2263/2004
MA-420/2006

New Delhi this the 26th day of July, 2006.

Hon'ble Mr. Justice B. Panigrahi, Chairman
Hon'ble Mrs. Chitra Chopra, Member(A)

1. S.M. Dewan,
S/o Sh. G.P. Dewan,
C-735, Vikaspuri,
New Delhi.
 2. Kiran Asri,
S/o late Sh. V.N. Asri,
883, DA Flats,
Gulabi Bagh,
Delhi.
 3. Pati Ram,
S/o late Sh. Bhoop Singh,
WZ-73, Prem Nagar,
Uttam Nagar,
New Delhi.
 4. T.H. Pandey,
S/o late Sh. R.C. Pandey,
18, Vrindavan Apartment,
110 I.P. Extn. Delhi.
 5. A.R. Sinha,
S/o Sh. Brij Bahadur Singh,
Flat No.7, Upper Bela Road,
Civil Line, Delhi-54.
 6. R.K. Gupta,
S/o Sh. B.S. Gupta,
BE-136, Janakpuri,
New Delhi.
 7. Ashok Chopra,
S/o late Sh. I.N. Chopra,
D-13A, East of Kailash,
New Delhi-65.
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8. Dharam Vir Malik,
S/o Sh. Tej Bhan Malik,
13 Ajay Apartment,
Road No.42, Sarswati
Vihar, Delhi.
 9. R.N. Sharma,
S/o late Sh. S.N. Sharma,
H-234, Sarojini Nagar,
New Delhi.
 10. P.P. Singh,
S/o late Sh. Gurbachan Singh,
20, Prashant Apartment,
41-I.P. Extn. Delhi.
 11. M.S. Barmi,
S/o Sh. H.K. Burmi,
H-86, Sant Nagar Extn.,
Tilak Nagar, New Delhi-18.
 12. Tara Singh,
S/o late Sh. Mukh Ram Singh,
1/4296-A, Ram Nagar Extn.,
Mandoli Road,
Shahdara, Delhi-32.
 13. S.K. Goel,
S/o Sh. S.R. Goel,
B-3/69, Ashok Vihar
Phase-II, Delhi-52.
 14. A.K. Bhatia,
S/o Sh. L.H.L. Bhatia,
B.F. 43, Janakpuri,
Delhi-58.
 15. Parvesh Kumar,
S/o late Sh. Haveli Ram,
B-340, Hari Nagar,
New Delhi-64.
 16. Ravi Mohan,
S/o Sh. O.P. Jayna,
1479, Laxmi Bai Nagar,
New Delhi-27.
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17. A.K. Chakarvorti,
S/o late Sh. Jamini Mohan Chakravorti,
W-1,2,3, Rajouri Garden
New Delhi-27.
18. A.K. Sharma,
S/o late Sh. V.D. Sharma,
170, Maitri Apartment,
I.P. Extn. Delhi-92.
19. K.G.S. Panicker,
S/o Sh. Gopalan,
C-145, Sudhora Kalan,
Delhi Govt. Flats,
Delhi-52.
20. S.S. Gulati,
S/o Sh. J.D. Gulati,
KB-62 Old Kavi Nagar,
Ghaziabad(UP).
21. V.K. Khullar,
S/o late Sh. S.K. Khullar,
J-359, New Rajinder Nagar,
New Delhi-60.
22. B.S. Phool,
S/o Sh. Sardha Singh,
A-65-B, Ganesh Nagar,
Tilak Nagar, New Delhi-18.
23. M.K. Kapoor,
S/o late Sh. T.R. Kapur,
e-37, Panchshel Park,
New Delhi-17.
24. Harpal Singh,
S/o late Sh. Hari Singh,
C-203, Gali No.9, Ganga
Vihar, Delhi-94.
25. Padam Singh,
S/o late Sh. Hargian Singh,
27/8, St.No.10 Vishwas Nagar,
Shahdara, Delhi-32.

..... Applicants

(through Ms. Meenu Mainee, Advocate)



Versus

1. Lt. Governor,
Govt. of NCT of Delhi through
The Chief Secretary,
Govt. of NCT of Delhi,
I.P. Estate,
New Delhi.
2. The Secretary,
Deptt. of Irrigation and Flood Control,
Govt. of Delhi, 5/9 Underhill Road,
Delhi.
3. The Chief Engineer,
Irrigation & Flood Control Department,
Govt. of Delhi, ISBT, Delhi.
4. The Secretary,
UPSC,
Dholpur House,
New Delhi.

..... Respondents

(through Sh. Rishi Prakash, Advocate for respondents and Sh. S.K. Gupta,
Advocate for 11rd party)

Order (Oral)

Hon'ble Mr. Justice B. Panigrahi, Chairman

In this application the applicants have claimed the following reliefs:-

"(i) direct the respondents to produce all the records in which the case of the applicants have been considered by the Department and recommended to the Services Dept. of the Delhi Govt.

(ii) that this Hon'ble Tribunal may be further pleased to quash the note in the recruitment rules of 18.3.1982 which deprives the diploma holder Assistant Engineers appointed/regularized after arbitrary date of 18.3.1982 for promotion to the post of Executive Engineer.

(iii) that this Hon'ble Tribunal may be further pleased to quash the offending provision of ACP rules which makes educational qualification compulsory for financial benefit after 12/24 years of service.

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(iv) that this Hon'ble Tribunal may be further pleased to declare that the applicants who had been working as Assistant Engineers in satisfactory manner are eligible for promotion to the post of Executive Engineers and also eligible for the benefit of financial upgradation under ACP Scheme."

2. The applicants are the diploma holder Junior Engineers, who were promoted as Assistant Engineers prior to the cut off date but on ad-hoc basis. Their case for promotion to the post of Executive Engineer rather granting ACP benefit was not considered, therefore, the applicants filed the present O.A.

3. In this application, they have prayed to quash the note in the Recruitment Rules, which deprived the diploma holder Assistant Engineers appointed/regularized after the cut off date of 18.3.1982 for promotion to the post of Executive Engineer.


4. On a bare reading of the old Recruitment rules, any person having no degree in engineering was not entitled to promotion to the post of Executive Engineer. Therefore, they were also not granted ACP benefit even after completion of 12/24 years of service. In the meanwhile, it appears that the respondents-authority have also amended the Recruitment Rules on 24.3.2006 by which the person having diploma could be considered for the post of Executive Engineer if he is otherwise qualified. It may take some more time to examine individual cases for giving them either ACP benefit or promotion. Learned counsel for the applicant has submitted that in the meanwhile some of the applicants have already retired.

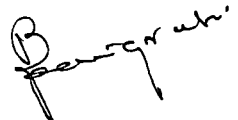
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5. In that view of the matter, we hereby direct the Respondents No. 2 to 4 to consider the case of the applicants and also the cases of those employees/officers those who have already retired from service if they are otherwise eligible to get such ACP/promotion benefit within a period of four months from the date of communication of this order.

6. Shri S.K. Gupta, learned counsel appearing for the IIIrd party have filed MA-420/2006 to be impleaded as private respondents in this case. Since this application is disposed of by the above order it also governs the IIIrd party too.

7. With the above observations, the present Original Application is disposed of. No costs.


(Chitra Chopra)
Member(A)


(B. Panigrahi)
Chairman

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