

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

DA 759/1993

MA 1365/98, MA 1952/98
and MA 2020/98

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New Delhi this the 15th day of January, 1999.

Hon'ble Shri T.N. Bhat, Member (J)

Hon'ble Shri S.P. Biswas, Member (A)

In the matter of

Shri V.K.Bhalla
working as Assistant Director(Gr.II),
G.O.Directorate,
Central Electricity Authority,
Sewa Bhawan, R.K.Puram,
New Delhi-110066

Resident of

B/E-44, Shalimar Bagh (West),
Delhi-110052

... Applicant

(Present in person)

Versus

1. Union of India through
Secretary to the Govt. of India,
Ministry of Energy
(Department of Power),
Shram Shakti Bhavan, New Delhi-1

2. The Chairman,
Central Electricity Authority,
Sewa Bhawan, R.K.Puram,
New Delhi-110066

... Respondents

(By Advocate Shri P.H.Ramchandani,
learned senior counsel)

ORDER

[Hon'ble Shri T.N. Bhat, Member (J)]

This O.A. has been filed by the applicant seeking the following reliefs:-

- " (i) To correct the date of passing of AMIE Examination from 18.2.1978 to 31.7.1977 i.e. the same date of acquiring the additional qualification as that of S/Shri Amit Ghosh and R.K. Roy.
- (ii) To give consequential benefits of seniority, and other related benefits.
- (iii) To give any other benefits as the Hon'ble Tribunal may consider appropriate keeping in view the facts and circumstances of the same.
- (iv) To award the costs of proceedings. "

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2. The applicant joined the services of the Respondents on 13.1.1971 as Supervisor. At that time he was holding Diploma in Engineering. He claims that he had passed AMIE Examination in July, 1977 and thus he became a Graduate Engineer, as AMIE Degree is considered to be equivalent to Degree in Engineering. He accordingly approached the respondents for making an entry of the additional qualification acquired by him. Since there were some discrepancies regarding the name of the applicant in the certificate and his service records, the applicant was asked to get his name corrected/ altered in the certificate of AMIE. He subsequently informed the respondents that since the initials of the name in the certificate were 'Virender Kumar' there was no real discrepancy. However, while the date of passing of AMIE Examination in respect of two other colleagues of the applicant's, namely, S/Shri Amit Ghosh and R.K.Roy was correctly shown as 31.7.1977, the applicant's date was indicated as 18.2.1978 in the official records. When the occasion to consider the various candidates for promotion to the cadre of Assistant Director arose, the applicant was not given benefit of the AMIE Degree from 31.7.1977 whereas the aforesaid two colleagues of the applicant were granted that benefit, with the result the applicant lost his rank in the combined seniority list of Technical Assistants and Graduate Supervisors. While Shri Amit Ghosh was shown at Serial No. 52 in the seniority list of Assistant Director, Grade-II, the applicant's name was shown at Serial No.83. This was so shown only because the date of acquiring the additional qualification of AMIE was wrongly taken as 18.2.1978 instead of 31.7.1977. According to the applicant, this error was committed by the respondents as a result of non-application of mind to the question of acquisition of additional qualification by the applicant.

3. The respondents have resisted the applicant's claim by filing a detailed counter. While admitting that the qualification

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of AMIE is considered as equivalent to that of Degree in Engineering, the respondents have averred that the appointment to the post of Assistant Director, Grade-II is done by selection on the basis of merit with due regard to seniority from amongst persons employed in the grade of Technical Assistants, Supervisors and Head Draftsmen. For graduate Engineer, three years continuous service in one or more of the grades is an essential qualification while in the case of Diploma holders 7 years continuous service is needed. 66.2/3% posts are to be filled by promotion of Graduate Engineers and the remaining 33.1/3% posts by promotion of Diploma holders. It is denied by the respondents that the date of passing of AMIE was wrongly shown as 18.2.1978. In this regard, the respondents have taken the plea that the certificate obtained by the applicant also bears the same date on it and, therefore, the aforesaid date was correctly mentioned as the material date of passing the AMIE Examination. A further plea taken by the respondents is that the applicant had never, during the past 13 years, made any representation and that it was too late for him to raise this question after such a long delay. It is also averred by the respondents that the applicant had sent communication dated 14.12.1978 which related only to the correctness of his name as shown in the marks sheet of AMIE and did not contain any prayer about correctness of the date of passing the AMIE i.e. 18.2.1978. The respondents have vehemently denied that the applicant had submitted any representation or verbal requests in this regard. The first representation according to the respondents was received only on 20.11.1991 i.e. after the lapse of about 13 years from 1978. The respondents have further denied that the representation dated 20.3.1982, copy whereof is annexed as Annexure-II to the OA, was ever received by the respondents.

4. The applicant has also filed rejoinder in which he has reiterated the contentions made in the OA.

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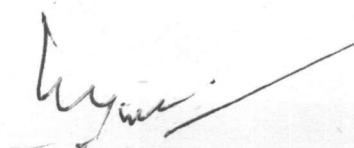
5. We have heard the arguments of the applicant, who appeared in person to argue the matter, and the learned counsel for the respondents.

6. During the course of his arguments, the applicant has placed reliance upon the copies of some representations and has stated that there is no delay in filing of this OA. He has made particular reference to his representation dated 15.12.1992 in which he has referred to some earlier representation dated 20.3.1982. Copy of the representation purported to have been made on 20.3.1982 has been annexed to the OA by the applicant but there is no proof that this representation was actually received by the respondents. We notice that all the other representations, copies of which are annexed to the OA have been made after a great delay when the matter of the applicant's seniority had already become a settled issue. These representations bear the dates in the year 1991 and 1992. The respondents have also in the Memo, dated 3.2.1992 acknowledged the receipt of only three representations dated 20.11.1991, 25.2.1992 and 15.12.1992.

7. In the aforesaid circumstances, we are convinced that the applicant has failed to prove that he had promptly made representation.

8. Even assuming that the applicant had made such a representation on 20.3.1982 there is no reason why he should have waited for another 11 years before deciding to file the OA. The mere fact that the respondents have disposed of his representations made in the years 1991 and 1992 only in 1993 could not revive/extend limitation in the instant case.

9. Even on merits the applicant does not seem to have made out a case for interference by the Tribunal. As already mentioned, the respondents have taken a specific ground that the certificate furnished by the applicant bore the date 18.2.1978. In these circumstances, it was necessary for the applicant to have produced



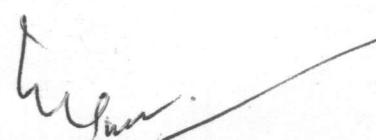
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original certificate relating to AMIE Examination or even a copy thereof, but he has failed to do so. We have no evidence on the file indicating as to what was the date of his passing the AMIE Examination.

10. That apart, as contended by the respondents, the promotion to the grade of Assistant Director, Grade-II was based on selection though seniority was to be given weight. The respondents have drawn our attention towards the guidelines on Departmental Promotion Committee wherein it is provided that while preparing year-wise panel for promotion to the higher post on selection-cum-seniority, a person who is graded Outstanding by the DPC, would supersede even his seniors. On the basis of this argument, learned counsel for the respondents states that while considering the various candidates for promotion, the applicant was placed at the correct seniority position based on his performance in the selection. The respondents have also drawn our attention towards the seniority position of the applicant from 1984 to 1991 as compared to the seniority position of his colleagues, S/Shri Amit Ghosh and R.K.Roy. We notice that in all these years both the aforesaid colleagues of the applicant were far senior to the applicant in the seniority. In the year 1984, the applicant was at Serial No.310 while S/Shri Amit Ghosh and R.K.Roy were at Serial numbers 275 and 299, respectively. Similarly, right from 1991, both of them were senior to the applicant according to the seniority list issued from time to time. In the year 1991, the applicant was at Serial No.83 while S/Shri Amit Ghosh and R.K.Roy were at Serial numbers 52 and 73, respectively. This settled position can hardly be unsettled now after a lapse of more than a decade.

11. In view of what has been held above, we find no merit in this OA, which is accordingly dismissed.

12. As the OA has been dismissed, MA 1365/98 and MA 2020/98 do not survive and the same are accordingly disposed of.



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13. As regards the MA 1952/98, this has been filed by the applicant seeking permission to place on record a synopsis prepared by the applicant. The MA is allowed as we have already taken into consideration the contentions made by the applicant during the course of his arguments which are based upon the synopsis.

14. In the circumstances of the case, we leave the parties to bear their own costs.


(S.P. Biswas)
Member (A)


(T.N. Bhat)
Member (J)

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