



**Central Administrative Tribunal
Jammu Bench, Jammu**

T.A. No. 4316/2020
(SWP No.2291/2003)

This, the 25th day of January, 2021

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Pradeep Kumar, Member (A)**

Surinder Thapa S/o Sh. Ishar Das Thapa
R/o 245-D, Puran Nagar, New Plots, Jammu
Age-42 years ... Applicant

(None for applicant)

Versus

1. State of Jammu & Kashmir
Through Commissioner-cum-Secretary to Govt.
Power Development Department,
Civil Sectt., Jammu
2. J & K Public Service Commission, Jammu
Through its Secretary ... Respondents
(Mr. Sudesh Magotra, Deputy Advocate General)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman:

The applicant was initially appointed as Junior Engineer (Electrical) in the Power Development Department (for short, PDD). At that time, he was holding diploma. In 1995, he was put in the Mechanical wing of the PDD on acquiring the degree in Mechanical Engineering. Through order dated 19.04.1995, it was directed that the applicant shall take his seniority in the

Mechanical Engineering branch, from the date of issue of the order.

2. The applicant filed SWP No.2291/2003 challenging the order dated 19.04.1995 insofar as it directed that he shall take the seniority from the date of the order. The applicant contends that he is entitled to reckon his seniority from the date of joining the services and that the impugned order is liable to be set aside.



3. The respondents filed a detailed counter affidavit. It is stated that several irregular appointments were made from one wing to another wing, in the department. It is stated that there is no Mechanical wing in the PDD at all, and despite that, an irregular order was passed. The respondents have also stated that they reserve their right to withdraw the order as well as the posting.

4. In view of re-organization of the State of Jammu, the SWP has since been transferred to this Tribunal and renumbered as TA No.4316/2020.

5. There is no representation for the applicant today. We heard Mr. Sudesh Magotra, learned Deputy Advocate General, and perused the record.

6. A perusal of the counter affidavit filed in this TA discloses that the disorderliness, if not anarchy in the PDD. Even according to the respondents, there is no post of Junior Engineer (Mechanical Engineering) in the department. Despite that, the applicant was posted as such, through the impugned order. The

only reason stated for this is that the applicant acquired the degree in Mechanical Engineering.

7. Notwithstanding the irregularities in the appointments, once the applicant has been shifted from the Electrical wing to Mechanical wing, he has to take his seniority at the bottom in the latter. In case the applicant was of the view that he cannot lose his seniority, it was open to him to decline the arrangement under the impugned order and to remain in his earlier position. On the one hand, he enjoyed the benefit of being posted in the Mechanical wing and on the other hand he challenged the same, after eight years. At any rate, the applicant has since retired from service.

8. We do not find any merit in the T.A. It is accordingly dismissed. There shall be no order as to costs.

(Pradeep Kumar)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

lg/pj/sunil/vb/ankit/neetu

