



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

O.A. No.1649/2017

This the 19th day of April, 2021

(Through Video Conferencing)

**Hon'ble Mr. A.K. Bishnoi, Member (A)
Hon'ble Mr. R.N. Singh, Member (J)**

1. Vikas Kaushik, Aged 37 years,
S/o Sh. Shiv Kumar Kaushik,
Working as Electrician, in NDMC,
Posted in Civil Sewa Kendra, Palika Kenra,
Sangli Mess Civil Service Centre, New delhi
R/o 246, Ashram Road, 20 Points Colony,
Village Budhpura, Delhi-36
 2. Lokesh Verma, Aged 39 years,
S/o Sh. Sohanpal Verma,
Working as Electrician in NDMC,
Posted in Joffery square Service Centre, New Delhi
R/o K-175, Shakur Pur, Anandvas,
New Delhi-34.
- ... Applicants

(By Advocate: Shri Yogesh Sharma)

Versus

1. New Delhi Municia; Council,
Through the Chairman/NDMC
Palika Kendra, Sansad Marg, New Delhi-I
2. Director (P)
New Delhi Municipal Council.
Palika Kendra, Sansad Marg, New Delhi-I
3. Deputy Director (Elect.)
New Delhi Municipal Council.
Palika Kendra, Sansad Marg, New Delhi-I

... Respondents

(By Advocate: Ms. Sriparna Chatterjee)

ORDER (Oral)

Hon'ble Mr. R. N. Singh, Member (J):

In the present OA, the applicants have challenged the order dated 08.02.2017, Annexure A/1, which is reportedly passed in compliance of directions of this Tribunal in OA No. 3421/2016. The impugned order dated 08.02.2017 reads as under:-

"S/Sh. Vikas Kaushik & Lokesh Verma, both are working as Electrician in Civil Engineering Wing of NDMC has approached the Hon'ble CAT, Principal Bench vide OA-3421/2016 & MA-2992/2016 seeking direction in the matter relating to their promotion to the post of Junior Engineer (Elect.) in the Electricity Department of NDMC against Department Promotion quota on the basis of following facts:

- i. That they were appointed in NDMC as Electrician w.e.f April 2008 through D.S.S.S.B and as per RRs in existence, for promotion to the post of Junior Engineer (Elect.) They are eligible for promotion in all respect, but the NDMC has not considered their names during the previous proceedings of DPC held time to time on the plea that they are working in civil Engineering Department.*
- ii. That the Chief Engineer (Elect.)- II & Consultant (P) also observed that the experience being gained by the electrician working in civil as well as electric department is similar and so this requires amendment in the RRs.*
- iii. That subsequently NDMC had issued the circular No. 1697 dated 15.06.2015 to work out the similar post of electrician, which required to be clubbed to facilitate the employees for their promotion as Junior Engineer (Elect.) by making amendments in existing RRs.*

2. The Hon'ble CAT, Principal Bench vide orders dated 05.10.2016 disposed of OA 3421/2016 at admission stage itself without issuing notice to the Respondents and without going into the merit of the case passed direction to Respondent (NDMC) to decide the representation dated 31.05.2016 made by the Applicants before the Chairman, NDMC.



3. In compliance with directions dated 05.10.2016 passed by Hon'ble CAT, Principal Bench in OA 3421/2016, the representation made by the Applicants was examined in NDMC.

4. It was observed that existing recruitment rules, duly approved & resolved by the Council vide item No. 6 (H-12), dated 21.11.2007, provides for filling up of 2/3rd posts of Junior Engineer (Elect.) by direct Recruitment and 1/3rd by departmental promotional. As per provision contained in the RRs at col. No. B (A.1.ii) 20% post will be filled up from amongst the categories of Electrician and Centrifugal Mistry having 5 years experience (Annexure-I) . In terms of existing Recruitment Rules, the Electricians working in Civil Engineering Department are not eligible for promotion as JE (E) in Electrical Department as they are not fulfilling the eligibility criteria of the post of JEE in Electrical Department.

5. Before holding DPC on 16.09.2014 for promotion to the post of JE (E) from amongst the departmental candidates, representations were given by S/Sh. Lokesh Verma & Vikash Kaushik, Electrician of Civil Engineering Department, were considered by the Competent Authority, NDMC alongwith similar representations of Pump Drivers of Civil Engineering Department. The New Delhi Palika Vidyut Pradayh Karamchhari Sangh had also time and again represented against the consideration of employees working in Civil Engineering Department for promotion under departmental quota in Electrical Engineering Department. The Competent Authority, NDMC had earlier also rejected the representation of Applicants.

6. As a promotion to a post is effected in terms of the provision of relevant RRs and the existing RRs for the post of JE(E) in Electrical Department does not provide for consideration of electrician working in Civil Engineering Department, the applicant cannot be considered for promotion to the post of JEE in the Electrical Department may be appropriately amended for consideration of promotion of Electrician in Civil Engineering Department to the post of JE (Elect.) in Electrical Department. Till the RRs are amended the claim of S/Sh. Vikas Kaushik & Lokesh Verma for promotion to the post of JE (Elect.) cannot be considered.

7. In compliance with Hon'ble CAT, Principal Bench directions dated 05.10.2016 in OA No. 3421/2016 & MA-2992/2016, the representations of S/Sh. Vikas Kaushik & Lokesh Verma has been considered with approval of the Competent Authority NDMC and is regretted."

2. The applicants have prayed for the following reliefs in the present OA:-



“(i) That the Hon’ble Tribunal may graciously be pleased to pass an order of quashing the impugned order dated 08.02.2017 (Annex.A/ 1) and pass an order declaring to the effect that the whole action of the respondents, not considering the candidature of the applicants for their promotion to the post of Junior Engineer (Elect.) under departmental quota as per circular dated 7.11.2013 is illegal, arbitrary and discriminatory and consequently, pass an order directing the respondents to consider and to promote the applicants to the posts of JE(E) from the date of promotion of similarly situated persons with all the consequential benefits.

(ii) That in case of not granting the above prayed relief (i) for any reason, the Hon’ble Tribunal may graciously be pleased to pass an order directing the respondents to notify the amended Recruitment Rules which have already been approved by Chairman NDMC for creating promotions avenue for the Electrician working in Civil Department with all the consequential benefits.

(iii) Any other relief which the Hon’ble Tribunal deem fit and proper may also be granted to the applicants.”

3. Pursuant to the notice issued by this Tribunal, the respondents have filed their counter reply. Opposing the prayers of the applicants. The applicants have also filed their rejoinder.

4. At this stage, learned counsel for the applicants submits that the present OA may be disposed of keeping in view the decision of the respondents in Para 6 of the impugned order dated 08.02.2017. Learned counsel for the respondents fairly does not oppose such request of the Learned counsel for the applicants.



5. It is evident from the impugned order dated 08.02.2017 that competent authority of the respondents have accorded approval for the Recruitment Rules (RRs) to the post of JE(E) in Electrical Department may providing herein provision for consideration of Electrician in Civil Engineering Department to the post of JE(E) in Electricity Department for promotion. More than four years have lapse, however, such decision of the Chairman, NDMC has not been given effect to by the respondents till date.

5. In the aforesaid facts and circumstances, we are of the considered view that if the present OA is disposed of with direction to the respondents to amend the RRs in terms of the aforesaid decision of the Chairperson, NDMC in a time bound manner.

6. Accordingly, the OA is disposed of with direction to the respondents to amend the RRs for the post of JE(E) in Electrical Department providing therein provision for consideration of promotion of Electrician in Civil Engineering Department to the post of JE(E) in Electricity Department, as expeditiously as possible and in any case within three months from the date of receipt of a copy of this order.

14. The OA is disposed of in the aforesaid terms. However, in the facts and circumstances, no order as to costs.

(R.N. Singh)
Member (J)

(A. K. Bishnoi)
Member (A)



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