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RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

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Registration (O.A.) No. 443 of 1987

Jai Narain Sharma ... Applicant.

Versus

Superintending Engineer,  
CPWD, Allahabad & another ... Respondents.

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Hon'ble S. Zaheer Hasan, V.C.  
Hon'ble D.S. Misra, A.M.

(Delivered by Hon. S. Zaheer Hasan, V.C.)

This is an application under Section 19 of  
the Administrative Tribunals Act XIII of 1985.

2. The applicant, Jai Narain Sharma, was working  
as Draftsman Grade II in the scale of Rs.425-700 in the  
office of the Executive Engineer, C.P.W.D., Allahabad.  
Vide letter dated 26.11.1982 one post of Draftsman Grade  
II was upgraded to that of Draftsman Grade I and the  
sanction of the same was conveyed vide letter dated  
2.6.1983. The incumbent posted to work on this post  
did not turn up, so the Executive Engineer, C.P.W.D.,  
Allahabad promoted the applicant on this post of Drafts-  
man Gr.I on 1.3.1983. The Executive Engineer has no  
power to promote him so he asked him to work on this  
post and referred the matter to the prescribed authority  
for approval. The aforesaid authority kept mum inspite of  
several reminders and ultimately the recommendation of  
the Executive Engineer was not accepted and the aforesaid  
authority rejected the proposal of the Executive  
Engineer on 10.7.1986. The applicant worked as Draftsman

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Gr.I from 1.3.1983 to 7.5.1986 so he is claiming salary of this post minus the payment <sup>(of Grade II)</sup> already made to him. His contention is that he was not paid for the post of Draftsman Gr.I and he continued to get salary of the post of Draftsman Gr.II.

3. The defence is that there was no post of Draftsman Gr.I in this Division because the post of A.S.W. already existed and the applicant did not perform the work of Draftsman Gr.I nor there was any work in this Division for Draftsman Gr.I. The applicant was never promoted nor he was the senior-most. In para 5 of the counter affidavit it has been stated that the Executive Engineer has written to the Superintending Engineer about this promotion which was turned down as the applicant was not seniormost man and also there was no post of Draftsman Gr.I in the Division.

4. On 30.6.1983 the Executive Engineer wrote a letter to the Superintending Engineer mentioning therein that one post of Draftsman Gr.I was sanctioned and no one has joined to this post, so he intimated the Superintending Engineer that the applicant, Jai Narain Sharma, was "performing all the duties of Draftsman Gr.I, i.e. preparation of estimates, checking of E/I, S/I, R.I.S., preparation of justifications of Major & Minor works, drawing etc. with full satisfaction of the undersigned". So he strongly recommended his case for ad hoc promotion stating that the applicant was working on this post of Draftsman Gr.I from 1.3.1983. On 2.9.83 the Executive Engineer wrote a reminder to the Superintending Engineer in this regard. The applicant also made representation. The Superintending Engineer kept

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silent for about three years and ultimately on 10.7.1986 he rejected the proposal made by the Executive Engineer regarding ad hoc promotion of the applicant to the post of Draftsman Gr.I. So it has been clearly established that the applicant performed the duties, as mentioned in Annexure 'A-II' at page 8 of the paper book (letter of the Executive Engineer addressed to the Superintending Engineer dated 30.6.1983). It has further established that he worked as Draftsman Gr.I from 1.3.1983 to 7.5.1986. A post was sanctioned in Gr.I but no one joined. Normally in such cases the local head makes arrangement in the interest of work and refers the matter for approval of the proper authority in the hope that his proposal would be accepted. This proposal was rejected after a gap of three years. Of course, the Executive Engineer had no power to appoint the applicant and the applicant is not claiming any right to this promotion post. He simply wants compensation for the work done by him in Gr.I. In the name of equity, fair play and of the dignity of the post of Executive Engineer the applicant should be paid for the work done in Draftsman Gr.I for the period from 1.3.1983 to 7.5.1986. The learned counsel for the applicant has stated that the difference between the salary of Draftsman Gr.I and that of Draftsman Gr.II would hardly come between Rs.50/- and Rs.60/- per month and he was prepared to accept lesser amount. For contesting this claim for about Rs.2,000/- the Senior Standing Counsel has been engaged and counter affidavit has been filed. This contest is definitely ~~more~~ <sup>more</sup> expensive.

5. In view of the above we direct the respondents

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to pay some reasonable amount to the applicant for the work done in Draftsman Gr.I keeping in view the nature of work and the period during which he has performed the duties of Gr.I Draftsman by the order of his immediate officer. With these directions the application is disposed of with costs on parties.

*Bhaw* 26.2.88  
Member (A).

*Y. L. S.*  
Vice-Chairman.

Dated: February 26, 1988.

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