

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI

R.P.NO.(N) 11/97 in DA.NO. 304/96, R.P.NO.10/97 in DA.NO.303/96

Tuesday this the 15<sup>th</sup> day of JULY 1997

CORAM: Hon'ble Shri B.S.Hegde, Member (J)  
Hon'ble Shri P.P.Srivastava, Member (A)

Tribunal's Order by Circulation

The applicants are seeking review of the judgement dated 28.1.1997. The applicants are working as Junior Engineer (Civil) in the Office of the Assistant Engineer, Postal Civil Sub-Division, Nagpur and in these OAs. they are seeking direction to the respondents to revise their seniority as Junior Engineers as on 1.1.1991 for promotion to the grade of Assistant Engineer (Civil) in terms of the provisions of Rule 206(2) of the P&T Manual, Vol.IV, as well as Recruitment Rules of 1976. The grievance of the applicants is on account of inaction on the part of the respondents. In the eligibility list of Junior Engineers their names have not been included though they are otherwise qualified. As per rule, the post of Assistant Engineer (Civil) is to be filled up by direct recruitment through U.P.S.C. and by promotion of those Junior Engineers who are qualified in the departmental examination and have rendered not less than 8 years service in the grade after appointment on a regular basis. The contention of the applicants is that since they have passed the departmental examination in the year 1991, their names ought to have been included in the eligibility list but on account of inaction on the

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part of the respondents, their names did not appear in the eligibility list. After hearing the rival contentions of the parties and in view of Supreme Court decision in Satpal Antil vs. Union of India (1995) 4 SCC 419, the Recruitment Rules, 1976 as well as para 206 (2) of the P & T Manual, Vol. IV is not applicable to the Junior Engineers (Civil) in the P & T Department. Accordingly, the OA was dismissed in the light of the decision of the Supreme Court.

2. The applicant has filed Review Petition against the respondents for the declaration that the service conditions of the applicant are governed by the Recruitment Rules of 1976 and Para 206(2) of P & T Manual and it further states that the order of the Tribunal contains certain averments which are not found in the Supreme Court judgement reported in 1995 (4) SCC 419, and as such the order of the Tribunal is required to be corrected and reviewed.

3. Further, it is observed in the Supreme Court judgement that provisions in 1976 Recruitment Rules and in Para 206 of P & T Manual would not apply to the cadre of the service to which the applicant belongs. The applicants are governed by different set of rules known as Posts & Telegraphs Civil Engineering (Civil Gazetted Officers) Recruitment Rules, 1976 and Para 206 of P & T Manual governs the service of the Assistant Engineers (Wireless). For promotion under the 1976 Rules, the Junior Engineers (Civil) who have qualified in the departmental examination and have rendered not less than

eight years of service in the cadre will be eligible for promotion. Such rules for promotion do not contain any provision for determining inter se seniority for the purpose of giving promotion earlier or later with reference to date of passing the qualifying examination, etc. The applicant further contends that the judgement of the Supreme Court is in their favour.

4. It is open to the applicant to prefer an appeal to the appropriate forum against the order of the Tribunal. Parties are aware that the scope of the review is very limited. The Review Application is maintainable only if there is any error apparent on the face of the record. It is not maintainable on the same set of facts. The applicant is challenging the order of the Tribunal stating it is contrary to the Supreme Court decision. If the applicant is aggrieved, he can file an appeal not the review petition. Accordingly, the Review Petition is dismissed.



(P.P.SRIVASTAVA)  
MEMBER (A)



(B.S.HEGDE)  
MEMBER (J)

mrj.