

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

O.A.No.531/2001

Dated this Wednesday the 3rd Day of April, 2002.

Hon'ble Shri Justice Birendra Dikshit, Vice Chairman
Hon'ble Smt. Shanta Shastray, Member (A)

1. C.S. Kheora, JE (Civil)
2. S. Raja Rao, "
3. K. Sriprakash, "
4. R.D. Misal, "
5. R.V. Pawar, "
6. Shakeel Ahmed, "
7. Ravi Chandran, "
8. Khaja Moinuddin, "
GE (NW) Karanja,
P.O. Naval Station,
Karanja - 400704.
9. Babu Rajendran, JE (Civil)
10. G.B. Sonar, JE (QS&C)
GE Project (NW), Tunior PO
Naval Station, Karanja-400704.
11. V.S.R. Anjaneyulu, JE (Civil)
12. M.H. Sayed, "
13. S.M. Abbas, "
14. V. Venkateshwarlu, "
15. Y.V. Patil, "
16. S.S. Marathe, "
17. Noble Lal, "
18. T. Pandey, "
19. T.R. Sitaraman, "
20. P.P. Baiju, "
21. Smt.N.R. Lokhande, JE(E/M)
22. P.Y. Pawar, "
23. Vijay Kumar, "
24. Manawur Hussain, "
25. A. Muralidhar, "
GE (NW) Kunjali,
Dr. Homi Bhabha Road,
Navi Nagar, Colaba,
Mumbai - 400 005.
26. R.K. Jain, JE (Civil)
27. A.K. Shah, "
28. Gopi Ram, "
29. S.M. Bansode, "
30. Smt.P.G. Sheela, "
31. V.R. Athale, JE (QS&C)
32. A.C. Patil, "
33. Sanjay K. Singh, "
GE (West), Colaba,
Mumbai - 400 005.
34. V.K. Sharma, JE (E/M)

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35. Rashid Khan, JE (Civil)
36. Abdul Hakim, JE (QS & C)
37. K.L. Jose, JE (Civil)
GE (AIR FORCE) Thane,
Kolshet Road, Thane.

38. S.S. Patwardhan, JE (E/M)
39. Lade R.D., "
40. Umesh Kawlekar, "
41. Sanjay Choudhary, JE (Civil), "
42. Sujit Kumar "
43. Sunil S., "
44. Saghir Ahmed, "
45. D.K. Jagtap, "
46. P.S. Sunny, "
47. V.P. Shrivastava, JE
GE Naval Works,
Dr. Homi Bhabha Road,
Navy Nagar, Colaba,
Mumbai - 400 005.

48. R. Someswaran, JE (QS & C)
49. Harbhajan Singh, "
50. D.S. Tarani, "
51. S.S. Neigi, "
52. Gautam Soha, "
53. Mrs. Neelima P. Sule, "
54. Sameer P. Bhat, "
55. K. Sureshan, "
56. S.S. Chavan, JE (Civil),
Chief Engineer (Navy) Mumbai,
26, Assaye Bldg., Colaba,
Mumbai - 400 005.

57. N.A. Khalique, JE (QS & C)
CWE (P) Naval Works, R.S. Colaba,
Navy Nagar, Mumbai - 400005.
58. B.Y. Yusuf, JE (Civil),
CWE Karanja, P.O. Naval Station,
Karanja.
59. K.S. Kashyap, JE (QS & C)
60. J.N. Augaskar, "
61. M.B.S. Bhadouria, "
62. C.S. Joseph, "
63. I.S. Khan,
CWE (NW) Mumbai
Dr. Homi Bhabha Road, Navy Nagar,
Colaba, Mumbai - 400 005.

64. P.A. Ube, JE (Civil)
GR (P), NW Mankhurd, Cheetah Camp,
Mankhurd, Mumbai.
65. Riayaz Ahmed, JE (Civil), "
66. N. Shaikh,
CWE Naval Dock Yard, DGN & P.
Lion Gate, Mumbai.
67. S. Balkrishna Raju,
CWE Dry Dock DGN & P,
Lion Gate, Mumbai.

68. Javed Khan, JE (QS & C),
69. Brij Mohan, JE (Civil),
70. Syed Ishaq, JE (Civil).
GE (North), Santacruz,
Military Camp, Santacruz (E),
Mumbai - 400 029. Applicants.

(By Advocate Shri Peter Lobo)

Versus

1. Union of India,
through Defence Secretary,
Ministry of Defence,
North Block, New Delhi-110 011.
2. Engineer-in-Chief,
Kashmir House, Army Headquarters,
DHQ Post Office, New Delhi-110011.
3. Chief Engineer,
HQ Southern Command,
Engineers Branch, Pune-411 001.
4. Chief Engineer (Navy Mumbai)
26, Assaye Bldg., Colaba,
Mumbai - 400 005.
5. Coord & Pers Directorate/EIR,
Engineer-in-Chief Branch,
Army Headquarters, DHQ PO,
New Delhi - 110 011, Respondents.

(By Advocate Shri R.R. Shetty).

ORDER (Oral)
{ Per : Shanta Shastry, Member (A) }

This O.A. is filed against the letter dated 9.3.2001 declaring the panel for promotion of Junior Engineers (Civil) to the grade of Assistant Engineers (Civil) in the Military Engineering Services of the Ministry of Defence. According to the applicants who are 70 in number, the impugned order is based on the All India seniority as reflected in the All India seniority list of 2000-2001. This seniority list according to the applicants is defective as it contains many discrepancies like repetition of the same serial numbers, leaving

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blanks against certain columns which are very vital and showing many juniors who have joined much later than the applicants above the applicants. It is submitted by the Learned Counsel for the applicants that the respondents have failed to comply with the guidelines prescribed in this respect, vide O.M. dated 1.4.1989 of DOP&T. The learned counsel also submitted that the respondents have never issued the all India seniority list in a consolidated form. In the absence of certain information, the applicants cannot assert their position properly at any time. The learned counsel has also submitted that their representation in the past against the seniority list have gone unheeded. Applicants have referred to letters dated 20.12.1990, 11.2.1991 and 30.3.1991 which are replies given to the applicants by the respondents. Coming to the specifics the applicants submitted that they had given a detailed representation raising specific objections in respect of the all India seniority in the year 1998-99 circulated vide letter dated 20.3.1998, however, the discrepancies pointed out continued to be there. The present seniority list of 2000-2001 is similarly incomplete as it does not give information in respect of date of regular appointment to the grade of BR-I, date of first appointment in Military Engineering Services, educational qualification etc.

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in respect of some persons. Therefore, they cannot even challenge the promotions. The applicants wonder how the D.P.C. could act on such an incomplete seniority list.

2. The applicants have, therefore, sought the reliefs as in para 8 of the O.A.

3. The respondents have filed their written statement and have raised preliminary objections. According to the respondents the applicants are challenging the cause of action which arose in 1998-1999. Their application is, therefore, hit by limitation. Secondly a joint application has been filed by challenging seniority of 17 individuals without specifying as to how and where the interpolations or the supercession of the applicants has taken place between the 17 individuals and the 70 applicants. A joint O.A. cannot, therefore, lie, the applicants must make out an individual case, hence the joint application is not maintainable. Though, they are challenging the seniority of 17 individuals in the seniority list of 1998-99 and 2000-2001, these 17 individuals have not been made party respondents. The applicants are seeking to unsettle the settled position. Therefore, also the O.A. deserves to be dismissed.

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4. Coming to the merits of the case, respondents have stated that the panel in question issued by the impugned order dated 9.3.2001 is based on the all India seniority list circulated vide letter dated 20.3.1998. The D.P.C. was held on 14.2.2001 to consider the promotions of the Junior Engineers against the vacancies for 1999-2000 to 2001-2002. The respondents further submit that some of the representations made by individual applicants against the seniority list of 1998-99 had been replied to by the respondents holding that the seniority list was correctly drawn up. Respondents have drawn our attention to the letter dated 7.12.1998 which is a letter from the respondents addressed to the Chief Engineer, Colaba, Mumbai. Here the respondents have pointed out that the applications dated 9.11.1998 from 3 of the applicants viz. Shri S. Raja Rao, C.S. Kheora and M.P.Gupta were replied to, therefore, the applicants cannot come and question the seniority list of 1998 belatedly in 2001.

5. We have heard the Learned Counsel for the applicants as well as respondents. As rightly pointed out by the respondents the application is vague and a joint application is not maintainable and deserves to be dismissed as such we find that the applicants have represented in the past against the seniority list of 1998-1999, some of the applicants have also received

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replies to their representations. Thereafter the applicant have not approached this Tribunal within 6 months from having made the representation to the respondents. Thus as far as prayer regarding seniority list of 1998-1999 is concerned the relief sought will be barred by limitation. No relief can, therefore, be considered against it. It is a settled law that settled position cannot be unsettled, after a long period.

6. Coming to the seniority list of 2000-2001, we find that the applicants have not made any representation against the said seniority list and have directly come to this Tribunal without exhausting available remedies. In fact the seniority list dated 12.12.2000 produced by the applicants does not appear to be a final list in that the respondents themselves have mentioned about certain details to be filed in the seniority list. The respondents have stated that there are certain blanks in the seniority list and have asked each Command to endorse the certificates in the seniority list to the fact that all the necessary corrections have been made. The applicants, therefore, have an opportunity to agitate their grievance against the provisional seniority list of 12.12.2000. Although the last date for making representations has elapsed, we feel that the applicants can still approach the respondents with their grievance. Learned Counsel for the applicants adds that all India

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seniority list of 2000-2001 has been sent on 12.12.2000 only to the different Commands and it is not addressed to the applicants, this was however notified in March, 2001. The applicants thus had plenty of time to represent against the list but they have not done so. In the facts and circumstances of the case, in our considered view, it will be in the fitness of things for the applicants to approach the respondents pointing out their objections to the seniority list of 2000-2001. The only relief that can be granted is that we direct that the applicant shall submit their representations individually to the respondents within a period of 15 days from the date of receipt of copy of this order and the respondents shall consider these representations and decide the same before the finalisation of the seniority list of 2000-2001 of the Junior Engineers as circulated to the Commands vide letter dated 12.12.2000. The O.A. is disposed of with no order as to costs.

Shanta S.

(Smt. Shanta Shastry)
Member (A)

B. Dikshit

(Birendra Dikshit)
Vice Chairman.

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order/Judgement despatched
to Applicant/Respondent(s)
on 17/1/02

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