

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH
NEW BOMBAY - 400 614

ORIGINAL APPLICATION NO. 7/90

Dinesh Sikand
Executive Engineer
Faculty of Civil Engineering
College of Military Engineering
C.M.E. P.O.; Pune 411031

.. Applicant

V/s.

1. Commandant
College of Military Engineering
C.M.E. PO; Pune 411031

2. Union of India through
Secretary, Ministry of Defence,
South Block; New Delhi 110011

.. RESPONDENTS

Coram: Hon'ble Shri Justice U.C. Srivastava, V.C.
Hon'ble Shri M.Y. Priolkar, Member(A)

APPEARANCES:

Shri G S Walia
Advocate
for the applicant

Shri Bhatkar for
Shri M.I. Sethna
counsel for the respondents

ORAL JUDGMENT
(PER: U C Srivastava, Vice Chairman)

DATED: 29.4.1991

The applicant who is an Executive Engineer has prayed that the respondents be directed to give effect to the recommendations of the DPC held in December 1988 by which he was empanelled for promotion vide respondents letter No.A/41022/1/88/E1R(0) dated 23rd December 1988, and further directions to post him as Superintending Engineer, with retrospective effect with other benefits. It appears that the applicant was considered by the DPC for promotion to the post of Superintending Engineer. However, he was not promoted

in view of his involvement in a court of inquiry which was ordered to investigate certain charges. A charge sheet was issued to him in June 1990, though the investigations started earlier. But the fact remains that the DPC cleared his name and he was placed in the panel. In any case even if the investigation had started earlier that would not give any ground for not appointing him as Superintending Engineer.

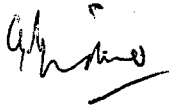
In the case of New Bank of India V. N.P. Sehgal & another, the Supreme Court has held that mere fact that pendency of disciplinary proceedings are contemplated or under consideration against an employee does not constitute a good ground for not considering *the employee for promotion, if he is in the zone of consideration*, nor would it constitute a good ground for denying the promotion if the employee is considered otherwise fit for promotion.

The same situation arises in this case also and as such the petition is allowed and the respondents are directed to promote the applicant to the post of Superintending Engineer with effect from the date on which other officers in the said panel were given posting/promotion, with all consequential benefits to which he may be entitled had he been given posting without delay. So far as the disciplinary proceedings

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proceedings are concerned the respondents may take their own action. The application is disposed of with the above directions with no order as to costs.



(M Y Priolkar)
M(A)



(U C Srivastava)
V.C.