

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH: GULESTAN BUILDING
6, PRESCOT ROAD, MUMBAI - 400 001

ORIGINAL APPLICATION No.74/1993

WEDNESDAY, THIS THE 8TH DAY OF JULY, 1999

SHRI JUSTICE S. VENKATARAMAN .. VICE CHAIRMAN

SHRI S.K. GHOSAL .. MEMBER (A)

1. Durvasulu Sriramachandra Murthy,
2. Pinjala Eswara Vara Prasad,
3. Kani Pakam Aruna Sahadeva Pillai,
All Assistant Surveyor of Works
(Civil)/Assistant Engineer (Civil),
Working in the Office of Chief
Engineer (Civil), Telecommunications,
West Zone, Sion,
Bombay - 400 022. .. Applicants

(By Advocate Shri A.I. Bhatkar)

Vs.

1. Union of India, through the
Secretary, Ministry of Communication,
Department of Telecommunication,
Sanchar Bhavan, New Delhi - 110 001.
2. The Chief Engineer (Civil),
Telecommunication, West Zone, Sion,
Bombay - 400 022.
3. Y. Nageshwar Rao,
Assistant Engineer (Civil),
Civil Sub-Division, Rajah Mundry,
Andhra Pradesh.
4. C.H. Mardiah,
Assistant Engineer (Civil),
C/o Chief Engineer (Civil),
South Zone, No.99, Greams Road,
Madras - 600 006. .. Respondents

(By Standing Counsel Shri V.S. Masurkar)

O R D E R

Justice S. Venkataraman, Vice Chairman :

The applicants' case is that the eligibility list for promotion from the cadre of Junior Engineers (Civil) to the cadre of Assistant Engineers (Civil) has to be prepared on the basis of date of passing the qualifying examination as per para 206 of P&T Manual and that even as per the judgement of Calcutta Bench and Madras Bench, if any Junior Engineer passes the Departmental qualifying examination in the 3rd attempt and thereafter, their seniority cannot be protected.

2. The applicants' case is that they passed the departmental qualifying examination held in October, 1987 while Respondents 3 and 4 and many others who passed the examination in December, 1987 and later have been placed above them in the eligibility list.

3. The main basis on which the applicants have claimed that they should be placed above Respondents 3 and 4 and others who passed the departmental qualifying examination later is that as per Para 206 of the P&T Manual for the purpose of promotion, the seniority has to be fixed with reference to the date of passing the qualifying the examination and not ~~seniority~~ in the gradation list. It is conceded by the learned counsel for the applicant

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that now the Supreme Court in Satpal Antil Vs. Union of India - Civil Appeal No.5383 of 1995 has held that Para 206 of P&T Manual is not applicable to the post of Junior Engineers (Civil) and that, that para applies only to Junior Telecom Officers. As such, the applicants can no longer rely on Para 206 to claim seniority.

4. The only other basis on which the applicants have sought to claim seniority on the basis of the date of passing of the qualifying examination is a judgement of the Calcutta Bench in O.A. No.599/1986, decided on 6.2.1987. He strenuously contended that in that judgement the Calcutta Bench has stipulated that if the applicants therein failed to pass the examination in the first two attempts and ~~was~~ pass the examination in the 3rd attempt, would not be eligible for protection of their seniority and that their regularisation would be made from the date of passing of the examination.

5. We have perused the gist of the directions given by the Calcutta Bench and the Madras Bench in O.A. No.5/1987, which has^{was} been extracted in the application. Those judgements were rendered in cases where Junior Engineers who had already completed 8 years of service in that grade and who had been promoted as Assistant Engineers on adhoc basis^{has} challenged the prescription^{of} of the qualification examination for promotion as Assistant

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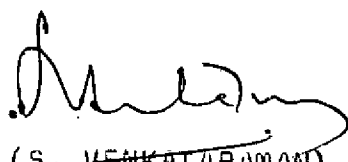
Engineers and had contended that as they became eligible for promotion even before the prescription of such examination, their regularisation should not be made dependent on passing the qualifying examination. However, the Calcutta Bench, while not granting them that relief stipulated that if they pass the examination in the first two attempts, they should be regularised from the date they were appointed on adhoc basis and that even if they do not pass in the first two attempts, they should not be reverted but should be allowed to appear in the 3rd examination. It is in that context, the Calcutta Bench observed that if they pass in the 3rd examination, then their seniority would not be protected and that regularisation in such cases will be done from the date of their passing the examination. That dispensation is applicable only to those Junior Engineers who had been promoted on adhoc basis and who had already completed 8 years of regular service prior to the introduction of the departmental examination for promotion to the post of Assistant Engineer. This is a case where the applicants ^{have} nowhere alleged that they had been promoted as Assistant Engineers on adhoc basis prior to 1987. On the other hand, they have been promoted as Assistant Engineers only in 1991 on regular basis. Merely because they happened to pass the departmental examination in October, 1987, that does not give

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them any right to seek seniority over those persons who were already holding the post of Assistant Engineer on adhoc basis and whose services came to be regularised either from the date of their adhoc appointment or from the date they passed ~~in~~ the departmental examination in December, 1987 or ~~little~~ later. The Calcutta Bench has not purported to lay down any general rule ~~that~~ in all cases, candidates passing departmental examination earlier will have to be given seniority over others passing the examination later ^{with} ~~by~~ preparing the eligibility list. There is no merit in the claim put forth by the applicants.

6. For the above reasons, this application is dismissed. No costs.


(S.K. GHOSAL)
MEMBER (A)


(S. VENKATARAMAN)
VICE CHAIRMAN

psp.