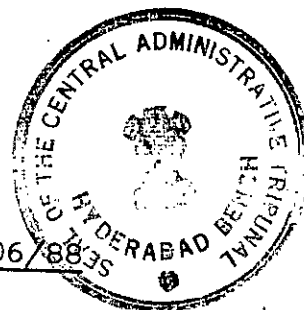


IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH

AT HYDERABAD



ORIGINAL APPLICATION NO.906/88

DATE OF JUDGEMENT 26/5 MARCH, 1992

BETWEEN

Sri A. Siteramam

.. Applicant

AND

1. The Engineer-in-Chief,
Army HQrs, Kashmir House,
Rajaji Marg,
New Delhi-110011

2. Secretary, Ministry of Defence
South Block
New Delhi-110011

3. The Chairman, Union Public
Service Commission,
Dholpur House,
Shajahan Marg,
New Delhi-110011

.. Respondents

Counsel for the Applicant

: Sri CV Kanyaka Prasad

Counsel for the Respondents

: Sri N. Bhaskara Rao, Addl.
CGSC

CORAM:

THE HON'BLE SHRI R. BALASUBRAMANIAN, MEMBER (ADMN)

THE HON'BLE SHRI T. CHANDRASEKHARA REDDY, MEMBER (JUDL.)

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especially when as many as 10 persons who were juniors to the applicant were empanelled for promotion. Absolutely there was no reason to ignore the promotion of the applicant on the basis of his record of service. The applicant apprehended that his candidature was brushed aside by the respondents without placing his name before the Departmental promotion Committee on an erroneous interpretation of his qualifications as per the basis of amendment made in 1985 under Notification S.R.90 dated 22.4.1985. Reference to this Notification will be made at the appropriate place in this judgement.

5. As the name of the applicant was not found in the list of candidates to be promoted as Additional Chief Engineers, the applicant had put a representation to the Secretary to the Govt. of India, Ministry of Defence New Delhi on 4.8.1988 stating the various factors making it clear that the elimination of the applicant's candidature was erroneous, unfair, discriminatory and therefore he was entitled to be reconsidered by the DPC and to be promoted in Feb 1988 itself to the grade of Addl. Chief Engineer and therefore requested the respondents to conduct the DPC and to rectify the error by promoting the applicant to the grade of Addl. Chief Engineer with due seniority and all consequential benefits. The applicant did not receive any reply. The posting orders were issued to the juniors who were promoted during the time. It is the case of the applicant that the action of the respondents

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which was recognised by UPSC for recruitment to superior posts. He was selected as Fellow of the Institute of Surveyors and as Fellow of the Institute of Engineers (India).

2. The applicant joined the Military Engineering Service of the Govt. of India, in 1954, having earlier served in the composite Madras State from 1950 to 1954. The applicant was appointed as Assistant Executive Engineer in the year 1962. The applicant after his promotion as Executive Engineer, was appointed as Superintending Engineer in May, 1985, in which capacity the applicant was working till his date of retirement/ 31.7.1991. This application had been filed by the applicant on 22.12.88 while he was in service as Superintending Engineer.

3. In June 1987, the All India Seniority List of Superintending Engineers was circulated by the Engineer-in-Chief, Army Head Quarters, New Delhi vide his proceedings No.A/41021/1/87 EIR dated 3.6.1987 for noting the objections, if any of their members and to make the corrections, if any, obviously for forwarding the same to the Departmental Promotion Committee for the consideration of the promotions to the grade of ~~Xixx~~ Addl.Chief Engineer.

4. The first respondent issued a list of candidates promoted as Addl.Chief Engineers vide his proceedings No.A1/41021/1/87/EIR(C) dated 18.2.1988, in which the name of the applicant was not found,

10. The second ground taken by the respondents is that the applicant is only a Diploma Holder for the purpose of his promotion in Engineer cadre in Military Engineering Service, and a Diploma holder cannot be considered for promotion to the post of Addl.Chief Engineer. So it is maintained that as per the recruitment rules to the post of Addl.Chief Engineer published vide SRO 90 dated 22.4.1985, Superintendent Engineer with two years service in the grade possessing degree in engineering or equivalent are eligible for promotion to the grade of Addl.Chief Engineer. and as the applicant did not possess the required ^{educational} qualification, was not included in the list of eligible officers to be considered for promotion to the grade of Addl.Chief Engineer, and hence the case of the applicant was not placed before the DPC. Further it is the case of the ^{respondent} ~~XXXXXXXXXX~~, that the DPC can consider only the names of the eligible officers that are placed before it as per the recruitment rules for ~~XXXXXXXXXX~~ consideration for promotion to the grade of Addl. Chief Engineer.

11. It is the case of the applicant that he was selected as Fellow of the Institute of Surveyors and as Fellow of the Institute of Engineers (India) and that the fellowships conferred on the applicant fulfils him ^{with} the required qualification for consideration to the post of Addl.Chief Engineer on promotion -- from the post of Superintending Engineer. In this regard, the Director of Personnel(B), Engineers-in-Chief's Branch, Army HQrs, New Delhi, who had

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in eliminating his name in the eligibility list of candidates forwarded to and placed before the DPC for considering the promotion to the cadre of Addl. Chief Engineer is arbitrary, discriminatory, erroneous, unfair and illegal. Hence, the present application is filed by the applicant for the reliefs already indicated above.

6. The respondents have filed counter opposing this OA.

7. Sri C.V.Kanyaka Prasad, advocate for the applicant and Sri N.Bhaskara Rao, Addl.CGSC advocate for the respondents are heard.

8. As regards the first and main prayer of the applicant in this OA is concerned, ^{namely} ~~that~~ the applicant had to be promoted to the grade of Addl.Chief Engineer with effect at least from 18.2.1988 - the date when his junior was first promoted, we make it clear that this Tribunal does not have any power to give any such direction to the respondent. Hence, this OA is liable to be dismissed as far that part of prayer is concerned.

9. It is the contention of the respondents as could be seen from the counter, that the Fellowship awarded by the Institution of Engineers (India) tantamounts to an honorary recognition as ascertained from the Institution of Engineers (India) and that, an honorary recognition cannot be accepted by any department as being equivalent to an academic degree recognised for the purpose of recruitment and appointment.

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It is stated in the said rules that the method of recruitment, age limit, qualification and other ^{that are} matters/related to the said post have been prescribed from col nos.5-14 of the schedule appended to the said notification. We have gone through the said schedule. The said schedule envisages that promotion to the post of Addl.Chief Engineer from the post of Supdt.Engineer has got to be made purely on the basis of selection. So far educational qualifications are concerned, it is mentioned therein ^{is to be made} at column 12 that the promotion/to the post of Addl.Chief Engineer from the post of Superintending Engineer with 2 years' ~~XXXXXX~~ service in the grade and possessing degree in Engineering of a recognised University or equivalent. (emphasis supplied). Admittedly, the applicant does not possess a degree in Engineering. But his contention is that he possesses qualification that is equivalent to ~~Engineering~~ Degree in Engineering and as such, he is eligible to be considered for promotion to the post of Addl. Chief Engineer. Except educational qualifications of the applicant that is in dispute, ^{that} the applicant had put up 2 years service ^{post of} in the/Superintending Engineer at the time his juniors were considered for promotion by the DPC is not disputed in this case.

In support of the contention of the applicant that he ^{possesses} / recognised professional qualification equivalent to a degree in Engineering, ^{us is} the applicant has placed before/a document titled as "List of Technical and Professional Qualifications Recognised by the Govt. of India" brought out by Ministry of Education and Social Welfare, Govt. of India, New Delhi

approached the Dy. Director General (Admn) of the Institution of Engineers (India) was clarified vide their letter dated 15.9.1987 that the applicant was directly elected as a Fellow of the said Institution in consideration of his achievements in the profession of engineering and that, they cannot comment on his eligibility for further promotion. They have further clarified that the fellowship of that Institution was not necessarily equivalent to possession of degree in Engineering. Hence, the applicant's selection as Fellow of the Institution of Surveyors and Institution of Engineers (India) cannot be treated as equivalent of possession of a ~~degree~~ degree by the applicant.

12. It is also the case of the applicant that in view of the amendment made in the recruitment rules in the year 1985, for promotion to the post of Addl. Chief Engineer, that the applicant has got a right for promotion to the grade of Addl. Chief Engineer as he is possessing the required qualification as contemplated in the said amendment with regard to the post of Addl. Chief Engineer. The Notification S.R.O.90 dated 22.4.85 issued by the Govt. of India, Ministry of Defence with regard to rules framed in exercise of the powers conferred by the Proviso to Article 309 of the Constitution by the President of India has been annexured to the OA by the applicant. In the said rules, the regular methods of recruitment to the post of Addl. Chief Engineers in Military Engineering Services have been brought out clearly.

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14. In the OA, it is pleaded that the applicant had passed only Building and Quantity Surveying. But, as already pointed out, to possess qualification equivalent to degree in Engineering, one has to pass Building, Quantity and Valuation Surveying. It is needless to point out that valuation surveying is a separate subject by itself which the applicant, had admittedly not passed. No doubt, the applicant had passed Building & Quantity Surveying. Without passing the Valuation Surveying, the applicant cannot qualify himself to possess a degree equivalent to degree in Engineering. So, as the applicant does not possess the qualification that is equivalent to degree in Engineering, the applicant certainly is not liable to be considered to the post of Addl. Chief Engineer on promotion from the post of Superintending Engineer.

15. The learned Counsel appearing for the applicant strenuously contended before us that the applicant had passed building and quantity surveying which is equivalent to degree in Engineering and so, the applicant must be deemed to possess the qualification equivalent to degree in Engineering. In this context, we may refer to the Notification dated 11.7.88 issued by the Govt. of India, Ministry of Human Resource Development, Deptt. of Education which reads as follows:

Notification (5)

No.F.18-20/83/T.12/T.7/T.13. On the recommendations of the Board of Assessment for Educational Qualifications, the Govt. of India has been pleased to recognise the Pass in the Final/Direct Final Examination of the Institution of Surveyors in (i) Building and Quantity Surveying and (ii) Valuation Surveying as

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In the introduction part of the above document it is narrated as follows:

"The List includes the qualifications, in respect of which recognition orders have been issued upto 31st December, 1978. Recognition to all these qualifications has been accorded on the advice of the Board of Assessment for Educational Qualifications, set up by the Government of India for the purpose. These qualifications have been recognised only for the purposes of employment under the Central Government."...."

It is also mentioned at para 3 that-

" All degrees/diplomas awarded by the Universities established by an Act of Parliament for State Legislature Institutions deemed to be Universities under Section 3 of the UGC Act 1956 and Institutions of National Importance declared under an Act of Parliament stand automatically recognised for purposes of employment under the Central Government. No formal orders recognising such degrees/diplomas are necessary to be issued....."

At page 9 of that Brochure under the Heading "Engineering" items 10 it reads as follows:

"Final Examination of the Institution of Surveyors (India) in any of the following Branches:-

- a) Land Surveying
- b) Hydrographics Surveying
- c) Building, quantity and valuation surveying (Emphasis is supplied)

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"two separate courses for the purpose of employment to superior posts and services under the Central Govt. in the appropriate field."

16. So, the said notification makes it clear that besides Building and Quantity Surveying, that the applicant should also pass the course in Valuation. Surveying for consideration to Superior posts and in this case to the post of Addl. Chief Engineer. So, the said Notification sets at rest the controversy raised in this case. As already pointed out, the applicant does not possess the required qualification for consideration to selection for the promotional post of Addl. Chief Engineer from the post of Superintending Engineer. Hence, we see no other alternative except to dismiss this OA. So, this OA is liable to be dismissed and is accordingly dismissed. In the circumstances of the case, we make no orders as to costs.

CERTIFIED TO BE TRUE COPY

Date.....

Court Officer

Central Administrative Tribunal
Hyderabad Bench
Hyderabad.

To

1. The Engineer-in-Chief, Army HQrs, Kashmir House, Rajaji Marg, New Delhi-11.
2. The Secretary, Ministry of Defence, South Block, New Delhi-11.
3. The Chairman, Union Public Service Commission, Dholpur House, Shajahan Marg, New Delhi-11.
4. One copy to Mr. C.V. Kanyaka Prasad, Advocate 6-1-107/12, Padmarao Nagar, Secunderabad-25.
5. One copy to Mr. N. Bhaskar Rao, Addl. CGSC. CAT. Hyd.
6. One spare copy.

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