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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

✓ (DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 231/2001

R.A/C.P No.

E.P/M.A No.

1. Orders Sheet O.A 231/2001 Pg. 1 to 4
2. Judgment/Order dtd. 07/11/2002 Pg. 1 to 3 Disposed
3. Judgment & Order dtd. Received from H.C/Supreme Court
PG-1 to 2
4. O.A. 231/2001 Pg. 1 to 24
5. E.P/M.P. N.I.C. Pg. to
6. R.A/C.P. N.I.C. Pg. to
7. W.S. Filed by the Respondents Pg. 1 to 8
8. Rejoinder Pg. to
9. Reply Pg. to
10. Any other Papers Pg. to
11. Memo of Appearance Pg. to
12. Additional Affidavit Pg. to
13. Written Arguments Pg. to
14. Amendment Reply by Respondents Pg. to
15. Amendment Reply filed by the Applicant Pg. to
16. Counter Reply Pg. to

S.L.P.(C) No-9239/02

SECTION OFFICER (Judl.)

FORM NO. 4
(See Rule 42)IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ::::: GUWAHATI

ORDER SHEET

Original APPLICATION NO ... 231... OF 2001.

Applicant (s) Amresh Ch. SarmaRespondent (s) U. O. I. GovtAdvocate for Applicants (s) B.K. Sharma, S. Sarma, U.K. GoswamiAdvocate for Respondent (s) Miss U. Das

Notes of the Registry | Date | Order of the Tribunal

This application is in form
but not in time Condonation
Petition is filed not filed vide
M. P. No. C. F.
for Rs 50/- deposited vide
IPO/BD No. 66792085....

Dated 9.5.2001
By Registered 6/7/01

6.7.01

List the matter on 9-7-2001 again
for admission.K. C. Sharma
Member

Vice-Chairman

Admit, call for the records. Issue
notice on the respondents as to why the order
No. A 32014/1/2001-CW1/242 dated 19.6.2001
reverting the applicant along with 16 others
from the post of Assistant Engineer (C) to the
Jr. Engineer shall not suspended, returnable
by three weeks. Mr. A. Dab Roy, learned Sr. C.G.
S.C. accepts notices on behalf of the respondents.

In the meantime the order No. 21/2001-
CW1 bearing No. 32014/1/2001-CW1/242 dated
19.6.2001 concerning the reversion of the
applicant Mr. D.C. Sarma shall remain suspended
till the returnable date.

List on 9-8-2001 for further orders.

K. C. Sharma

Member

Vice-Chairman

① Service report are still
awaited.

2nd
8.8.01

bb

N.C.
10/7/01

9.8.01 List again on 7/9/01 to enable the respondents to file written statement.

In the meantime, the interim order dated 9.7.01 shall continue.

No. wts has been filed.

IC Usha
Member

Vice-Chairman

By
6.9.01

9.7.01

Mr. A. Deb Roy, learned Sr.C.G.S.C., seeks 4 weeks time to file written statement. Prayer is allowed.

In the meantime, interim order dated 9.7.01 shall continue.

List on 8/10/01 for order.

No written statement has been filed.

By
5.10.01

8.10.01

Written statement is yet to be filed. List again on 12.11.2001 enabling the respondents for filing of written statement. Meanwhile the interim order shall continue until further order.

IC Usha
Member

Vice-Chairman

Order dtd. 8/10/01
Communicated to the
Courtier Council.

NS
8/10/01

18/10/01

12.11.01

List the case on 13.12.2001 enabling the respondents to file written statement.

IC Usha
Member

Vice-Chairman

No written statement has been filed.

By
12.12.01

13.12.01

At the request of learned counsel for the respondents four weeks time is allowed to file written statement. List on 17.1.02 for order.

No written statement has been filed.

By
16.1.02

17.1.02

IC Usha
Member

IC Usha
Member

No written statement has been filed.

By
13.2.02

mb

IC Usha
Member

Vice-Chairman

(3)

3

O.A.231/2001

Notes of the Registry

Date

Order of the Tribunal

No. written statement
has been filed

By
13.3.02

14.2.2002

List on 14.3.2002 enabling the
respondents to file written statement.

K L Shaha
Member

Vice-Chairman

bb

14.3.2002

Mr. A. Deb Roy, learned Sr. C.G.S.
C. for the respondents stated that he
is filing written statement ~~today~~ in
course of the day. The applicant may
file rejoinder, if any, within two
weeks from today.

List the case for hearing on
11.4.2002.

K L Shaha
Member

Vice-Chairman

bb

11.4.02

Put up on 30.4.2002 as prayed
by Mr. S. Sarma, learned counsel for
the applicant.

K L Shaha
Member

Vice-Chairman

bb

20.4.02

List again on 30.5.2002 to enable
the parties to obtain necessary
instruction on the matter.

K L Shaha
Member

Vice-Chairman

pg

20/5

The case is adjourned to 3.7.2002 as
Defendant health did not permit today.

A. Deb Roy
30/5

| Notes of the Registry | Date | Order of the Trib |
|---|-----------|--|
| | 3.7. | Due to court break at Agartala, the case is adjourned to 22/7/2002. Mr A.K. Ray |
| | 22.7. | Dewan Seth did not sit today. The case is adjourned to 11/8/2002. Mr A.K. Ray |
| <i>WLS has been filed.</i> <i>By</i> <i>3.10.02.</i> | 12/9/2002 | Dewan Seth did not sit today so the case is adjourned to 4/10/2002. Mr A.K. Ray |
| <i>12.11.2002</i> <i>copy of the Judgnt has been sent to the Dftee for issuing the due to the applicant as well as to the Dr.C.G.S.C. for the Regds.</i> <i>ieh</i> | 4.10.2002 | Mr. S. Sarma, learned counsel for the applicant has stated that there is some exception order passed by the Apex Court and therefore he wants to get full instruction on the matter. The case is accordingly adjourned, and put up the case again on 7.11.2002 for hearing |
| | 8.11.2002 | <i>11/11/2002</i> Member Vice-Chairman Heard counsel for the parties. Judgment delivered in open Court, kept in separate sheets. The application is disposed of in terms of the order. No costs. |

4

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. /XXX No. 231 of 2001 . XXX

DATE OF DECISION 7.11.2002.....

Dinesh Chandra Sarma

APPLICANT(S)

Mr. B. K. Sharma, S. Sarma, U. K. Goswami & ADVOCATE FOR THE APPLICANT(S)
Ms. U. Das.

-VERSUS-

Union of India & Others

RESPONDENT(S)

Mr. A. Deb Roy, Sr. C. G. S. C. ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE MR JUSTICE D. N. CHOWDHURY, VICE CHAIRMAN.

THE HON'BLE MR K. K. SHARMA, ADMINISTRATIVE MEMBER.

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the judgment is to be circulated to the other Benches .

Judgment delivered by Hon'ble Vice-Chairman.

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.231 of 2001.

Date of Order : This the 7th Day of November, 2002.

THE HON'BLE MR JUSTICE D.N.CHOWDHURY, VICE CHAIRMAN.

THE HON'BLE MR K. K. SHARMA, ADMINISTRATIVE MEMBER.

Dinesh Chandra Sarma
Assistant Engineer (C)
Civil Construction Wing
All India Radio
Dibrugarh. Applicant.

By Advocate Mr.B.K.Sharma, S.Sarma, U.K.Goswami &
Ms. U.Das.

- Versus -

1. Union of India
Represented by the Secretary to the Govt.of India
Ministry of Information and Broadcasting
New Delhi.
2. The Director General
All India Radio
New Delhi.
3. The Chief Engineer
Eastern Zone, Akashbani Bhawan
Eden Garden, Calcutta-1. Respondents.

By Mr.A.Deb Roy, Sr.C.G.S.C.

O R D E R

CHOWDHURY J.(V.C.) :

In this application under section 19 of the Administrative Tribunal's Act, 1985 the applicant has assailed the order dated 19.6.2001 passed on behalf of the respondent No.2. By the said order the applicant was sought to be reverted from the post of Assistant Engineer (Civil) to the post of Jr. Engineer (Civil).

1. Prior to the aforesaid action of the respondents, the applicant was initially appointed as

Jr. Engineer (Civil) vide order dated 28.5.83 pursuant to selection conducted by the respondents. Thereafter the applicant was promoted to the post of Assistant Engineer (Civil) vide order dated 27.6.95 on regular basis at the strength of the recommendation of DPC. The aforementioned promotion was given effect retrospectively from 30.3.92. The decision for giving retrospective promotion to the applicant to the post of Assistant Engineer (Civil) was issued in pursuant to a judgment and order dated 6.5.94 passed by the CAT in O.A.1078 of 1989. There were numerous litigations and in pursuance of the order dated 30.1.2001 delivered by the Hon'ble Principal Bench, CAT, New Delhi in O.A.1638/95, the recommendation of the review DPCs held on 20.3.95, 10.4.95, 17.4.95 and 26.4.95 were quashed. Consequently the applicant alongwith others were reverted. The impugned order itself indicated that the said order was subject to the final outcome of the appeal pending in Hon'ble High Court, Delhi in CWP No.6891/2000 against the Full Bench decision dated 6.12.99.

2. We have heard Mr.S.Sarma, learned counsel for the applicant and also Mr.A.Deb Roy, learned Sr..C.G.S.C. for the respondents. The respondents have filed written statement. It has been stated at the Bar that the Delhi High Court also disposed the matter and the case is now pending before the Hon'ble Supreme Court. It appears that some of the persons aggrieved by

the order dated 19.6.2001 moved the Delhi High Court by way of Writ Petition and the Delhi High Court finally dismissed their application. It has been stated at the Bar that there are some interim order passed by the Apex Court maintaining status quo. It does appear to us that the impugned action of the respondents reverting the applicant to the post of Jr. Engineer (Civil) was passed by the respondents in their own. The order is passed consequent to the order of the Tribunal. Since the order is followed by the order of the High Court, we do not find any scope of interference. We can only observe that the order will be subject to the final outcome of the litigative battle pending before the Apex Court.

Subject to the observations made above, the application is disposed of. There shall, however, be no order as to costs.

Interim order dated 9.7.2001 stands vacated. But any other order passed by the Apex Court shall regulate the status of the applicant.

K.K.Sharma
(K.K.SHARMA)
ADMINISTRATIVE MEMBER

D.N.Chowdhury
(D.N.CHOWDHURY)
VICE CHAIRMAN

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Civil Appeal Nos. 2219-2222/2002

SHAYLENDRA DANIA & ORS

Appellant (s)

VERSUS

S.P.DUBEY & ORS
(Prayer for interim relief)

Respondent (s)

With

SLP(C)No.9239/2002
(With appln. for exemption from filing c/c of the impugned
judgment and with prayer for interim relief)

Date : 06/05/2002 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SYED SHAH MOHAMMED QUADRI
HON'BLE MR. JUSTICE S.N. VARIAVAFor Appellant (s) in CAS.2219-22/02: Mr. P.P. Rao, Sr.Adv.
Mr. Dhruv Mehta, Adv.
Ms. Shobha, Adv.
Ms. Anu Mehta, Adv.
for M/s K.L. Mehta & Co., Advs.in SLP 9239/02: Ms. Sunita Bhardwaj, Adv.
Mr. Umesh Sharma, Adv.
Mr. Biddhbartha Bhardwaj, Adv.
Mr. R.C. Kaushik, Adv.For Respondent (s) Mr. S.P.Dubey (R-1)-in-person
Mr. G.D. Gupta, Sr.Adv.
Mr. Ashok K. Mahajan, Adv.
Ms. Binu Tamta, Adv.
Mr. V.B. Saharya, Adv.UPON hearing counsel the Court made the following
O R D E RC.A. Nos. 2219-2222/02:Pending the disposal of the appeals, the interim
order passed on 15th March, 2002 shall continue to operate.

...2/-

However, it is clarified that the order giving effect to 1987 seniority list for the purpose of promotion shall not in any way be affected by our interim order.

All the promotions made will be subject to the result of the appeals.

Liberty to mention is granted.

S.L.P. (C) No. 9239/02:

Issue notice.

Pending further orders, the order under challenge shall remain stayed.

Tag with C.A. Nos. 2219-2222/2002.

N. Annapurna
(N. Annapurna) 7/5
Court Master

Kanwal Singh
(Kanwal Singh)
Court Master

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✓

सेन्ट्रल एडमिनिस्ट्रेटिव ट्रिब्यूनल
Central Administrative Tribunal
28 JUN 2001
गুৱাহাটী বিধিবোৰ্ড
Gauhati Bench
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GOUWAHATI BENCH

Title of the case :

D.A. No. 231 of 2000

BETWEEN

Shri Dinesh Chandra Sharma Applicant.

AND

Union of India & Ors Respondents.

I N D E X

| Sl.No. | Particulars | Page No. |
|--------|--------------|----------|
| 1. | Application | 1 to 11 |
| 2. | Verification | 12 |
| 3. | Annexure-1 | 13 |
| 4. | Annexure-2 | 18 |
| 5. | Annexure-3 | 20 |
| 6. | Annexure-4 | 22 |
| 7. | Annexure-5 | 24 |

Filed by : Miss U.Das , Advocate. Regn.No. :

File : C:\WS7\GINEH

Date : 26.6.2001.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(An application under section 19 of the Central
Administrative Tribunal Act.1985)

231
O.A. No. of 2001

BETWEEN

Dinesh Chandra Sarma,
Assistant Engineer(C),
Civil Construction Wing,
All India Radio,
Dibrugarh.

..... Applicant.

VERSUS

1. Union of India,
Represented by the Secretary to the Govt.of India,
Ministry of Information and Broadcasting,
New Delhi-1.
2. The Director General,
All India Radio,
New Delhi.
3. The Chief Engineer,
Eastern Zone, Akashbani Bhawan,
Eden Garden Calcutta-1.

..... Respondents.

PARTICULARS OF THE APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THIS APPLICATION
IS MADE:

This application is directed against the order dated 19.6.2001 issued by the respondents reverting the applicant from the Post of Assistant Engineer (Civil) to the post of Junior Engineer (Civil), superseding the earlier promotion order dated 27.6.95, by which he was promoted to the post of Assistant Engineer (Civil) w.e.f 30.3.92.

2. LIMITATION:

The applicant declares that the instant

Filed by
the applicant
Usha Das
Advocate
26/6/2001

19

application has been filed within the limitation period prescribed under section 21 of the Central Administrative Tribunal Act.1985.

6. JURISDICTION:

The applicant further declares that the subject matter of the case is within the jurisdiction of the Administrative Tribunal.

4. FACTS OF THE CASE:

4.1. That the applicant in the present O.A has challenged the order bearing No. A-32014/1/2001-CW-1 dated 19.6.2001, by which he has been sought to be reverted from the post of Asstt. Engineer(Civil) to the post of Junior Engineer(Civil). The applicant got his appointment as Junior Engineer(Civil) vide order dated 28.5.83 pursuant to selection conducted by the respondents and in the said selection his name was sponsored by the Employment Exchange. Thereafter, the applicant pursuant to an order dated 27.6.95 got his next promotion from the post of Junior Engineer (Civil) to the post of Asstt. Engineer (Civil) on regular basis and the said promotion order was issued pursuant to the recommendation made by DFC. The respondents by the said order of promotion to the Grade of Asstt. Engineer given to the applicant and other similarly situated employees has been made effective with effect from 30.3.92. It is pertinent to mention here that the said order dated 27.6.95 giving retrospective promotion to the applicant to the grade of Asstt.Engineer(Civil) was issued pursuant to a judgment and order dated 6.5.94 passed by the Hon'ble Central Administrative Tribunal in OA No. 1078/89 filed by one Mr. N.C.Baran which was subsequently upheld by the Hon'ble Apex Court. Apex Court vide its judgment dated

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9.1.95. Taking into consideration the aforesaid judgment dated 9.1.95 review DPCs were held for reviewing the earlier DPCs held after the notification of amended Recruitment Rule of 1988. It is further stated that the order dated 26.7.95 was issued after the aforesaid recommendation of review DPC and the effect of such promotion made to the applicant and others were effected retrospectively. The respondents issued yet another dated 27.6.95 conveying the decision of the review DPC held pursuant to Apex Court judgment dated 9.1.95 and by the said order some of the Asstt. Engineers and Asstt. Surveyor were reverted to the post of Junior Engineer(Civil). Surprisingly enough, the respondents issued an order dated 19.6.2001 by which the earlier order dated 27.6.95 promoting the applicant to the post of Assistant Engineer (Civil) has been canceled and the present applicant in consequence of such cancellation is sought to be reverted to the post of Junior Engineer (Civil). It is not worthy to mention here that the impugned order dated 19.6.2001 is yet to be officially communicated to the present applicant. However, the present applicant apprehending the action of the respondents in issuing the said order dated 19.6.2001, has come under the protective hands of this Hon'ble Tribunal seeking an appropriate relief .

This is the crux of the matter of the instant OA for which the present applicant has approached this Hon'ble Tribunal praying for appropriate relief. The detailed facts are given below.

4.2. That the applicant is a citizen of India and as such his entitled to all the right, protections and privileges as guaranteed under the Constitution of India and Laws framed thereunder.

4.3. That the applicant on 28.5.83 got his initial appointment to the post of Junior Engineer (Civil) under the respondents pursuant to a selection. The respondents thereafter, convene a DPC for promotion to the post of Assistant Engineer (Civil) from amongst the eligible Junior Engineer (Civil). Pursuant to the recommendation of the said DPC the respondents have issued an order bearing No. A-22013/1/95-CW.1 dated 27.5.95 by which the present applicant along with some others have been promoted to the grade of Assistant Engineer (Civil). In the said order 27.6.95 there has been a mention regarding the Judgment and Order dated 6.5.94 passed in O.A No 1078/89, by the Hon'ble Calcutta Bench of this Tribunal filed by one Sri N.C. Barman and others. It has also been mentioned regarding the subsequent dismissal of the SLP vide Judgment and Order dated 9.1.95 by the Hon'ble Apex Court, which was preferred against the said judgment and order dated 6.5.94 in O.A No 1078/89. It is noteworthy to mention here that pursuant to the said Judgment and Order dated 9.1.95, passed by the Hon'ble Apex Court, a review DPC was convened and on recommendation of the said review DPC, the applicant along with the others have been promoted to the grade of Assistant Engineer (Civil). The respondents have also mentioned that the recommendation of the earlier DPCs after the notification of amended Recruitment Rule have been reviewed and the effect of such promotion therefore was made retrospective and in the case of the applicant and the promotion was made effective w.e.f. 30.3.92 i.e., retrospective.

A copy of the said order dated 27.6.95 is annexed herewith and marked as **ANNEXURE-1**.

4.4. That the respondents thereafter, pursuant to the Annexure-1 order, issued another order bearing No A-22013/1/95-CW.1(pt) dated 27.6.95, by which the applicant was allotted his posting as Assistant Engineer (Civil).

A copy of the said order dated 27.6.95 is annexed herewith and marked as **ANNEXURE-2**.

4.5. That the respondents have issued yet another order vide No A 32014/1/95-CW-1/(II) dated 27.6.95 by which some of the Assistant Engineer (Civil) as well as Asstt. Surveyor of Works (Civil) were reverted to the post of Junior Engineer (Civil) pursuant to the recommendation of the said review DPC. As stated above the aforesaid review DPC was convened for reviewing the earlier DPC held after the commencement of amended Recruitment Rules of Assistant Engineer (Civil) and the said review DPC was convened pursuant to the Judgment and Order dated 9.1.95 passed by the Hon'ble Apex Court.

A copy of the said order dated 27.6.95 is annexed herewith and marked as **ANNEXURE-3**.

4.6. That surprisingly enough the respondents have issued the impugned order bearing No A 32014/1/2001-CW-1/942 dated 19.6.2001, by which the present applicant is sought to be reverted illegally to the post of Junior Engineer (Civil). In the said impugned order dated 19.1.2001, the respondents has mentioned regarding the Judgment and Order dated 30.1.2001, passed in OA No. 1638/95 filed by one Mr. P.K. Agarawal before the Hon'ble Principal Bench of this

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Tribunal and pursuant to which the earlier review DPC has been quashed. It has also been mentioned in the said impugned order dated 19.6.2001, that same has superseded the earlier order promoting the applicant and others, dated 27.1.95 (Annexure-1). It is noteworthy to mention here that the said impugned order dated 19.6.2001 has been stated to be communicated to all the concerned authorities but same is yet to be communicated officially to the present applicant. The applicant however, from one of his colleagues, could gather the information regarding issuance of the said impugned order and on receiving such information, he unofficially collected a copy of the same through Fax. It is therefore, the applicant craves leave of the Hon'ble Tribunal for a direction to the respondents to produce the original copy of the said impugned order dated 19.6.2001 at the time of hearing of the case.

A copy of the said impugned order dated 19.6.2001 is annexed herewith and marked as **ANNEXURE-4**.

4.7. That the applicant begs to state that the order of promotion dated 27.6.95 Annexure-1 issued by the respondents was the consequence of judgment and order dated 6.5.1984 delivered by the CAT, Calcutta Bench in OA No. 1078/89 filed by one Shri N.C. Barman and Ors. Subsequently the said judgment and order dated 6.5.94 was carried on appeal before the Hon'ble; Apex Court by way of filing Special leave Petition (SLP) and the said SLP was dismissed by judgment and order dated 9.1.95. It is noteworthy to mention here that the judgment and order dated 6.5.94 passed in OA No. 1078/89, directed the respondents to hold a review DPC taking into consideration the Recruitment Rule. The respondents preferred SLP and same was dismissed by the

Hon'ble Apex Court and pursuant to the said dismissal a review DPC was convinced and taking into consideration the recommendation of the said review DPC the applicant along with others got their due promotion to the grade of Assistant Engineer (Civil) from Junior Engineer (Civil). In the aforesaid Annexure-i order dated 27.6.95 there has been specific mentioned regarding the judgment and order dated 9.1.95 passed by the Hon'ble Apex Court. Pursuant to the aforesaid order dated 26.6.95 (Annexure -i) applicant got his promotion to the post of Assistant Engineer (Civil) with effect from 30.3.92 and the respondents now by issuing the impugned order sought to revert him illegally without affording any opportunity of hearing.

4.8 That the applicant begs to state that the respondents while issuing the impugned order dated 19.6.2001 have failed to take into consideration the judgment and order dated 9.1.95 passed by the Hon'ble Apex Court affirming the judgment of the CAT, Calcutta Bench. It is pertinent to mention here that in the said impugned order dated 19.6.2001 there has been mention regarding judgment and order dated 30.1.2001 delivered by Hon'ble Principal Bench CAT, New Delhi in OA No. 1638/95 preferred by one Mr. P.K. Agarwal. The respondents illegally quashed the recommendation of the review DPCs held on 20.3.95, 10.4.95, 17.4.95 and 26.4.95 and thereby the promotion order dated 27.6.95 (Annexure-i) has been superseded. The respondents as stated above have failed to take into consideration the judgment and order dated 9.1.95. It is also pertinent to mention here that the judgment and order dated 30.1.2001 delivered by the Hon'ble Principal Bench, in OA No, 1638/95 does not cover the case of the present applicant and hence the respondents quoting

20

the wrong judgment have issued the impugned order that too without affording any opportunity of hearing, and hence same is liable to be set aside and quashed.

4.9 That the applicant begs to state that in the annexure-4 impugned order dated 19.6.2001 the respondents themselves has mentioned the fact that the matter will take its final shape after the outcome Civil Writ Petition No. 5891/2000 against the Full Bench decision dated 6.12.99. Therefore the respondents ought not to have issued the impugned order of reversion when the matter is subjudice before the Hon'ble High Court at Delhi.

4.10 That the applicant begs to state that as stated above the impugned order dated 19.6.2001 (Annexure-4) is yet to be communicated to the present applicant officially. The applicant however, collected a copy of the same from some of his colleagues through fax. Till date the applicant is holding the post of Asstt. Engineer (Civil) under the respondents and the impugned order so far the applicant is concerned, is yet to be given affect to. It is therefore, the applicant apprehends that at any moment the respondents may serve the copy to him without affording him the reasonable opportunity of hearing. Hence, the applicant prays for an interim order from this Hon'ble Tribunal directing the respondents not to give affect the impugned order dated 19.6.2001 during the pendency of the OA and to allow him to continue in his service as Assistant Engineer (Civil). It is noteworthy to mention here that some of the similarly situated employees like that of the present applicant have preferred O.A No 1349/2001 apprehending their

21

reversion to the post of Junior Engineer (Civil) from Assistant Engineer (Civil) before the Hon'ble Principal Bench of the Hon'ble Tribunal and the Hon'ble Tribunal while issuing notices to the respondents has passed an interim order protecting their service interest vide Its order dated 25.5.2001.

The applicant inspite of his best effort could not collect a clear copy of the said order dated 25.5.2001 passed in O.A. No 1349/2001 by the Hon'ble Principal Bench of the Hon'ble Tribunal. Therefore, the applicant craves leave of the Hon'ble Tribunal to produce the same as and when available. However a typed copy (from the said fax message) as received by the applicant is annexed herewith and marked as **ANNEXURE-5**.

4.1.1 That this application filed bonafide and to secure the ends of justice.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the action/inaction on the part of the respondents in issuing the impugned order dated 19.6.2001 (annexure-4) is illegal and violative of Article 14 and 16 of the Constitution of India and hence same is liable to be set aside and quashed.

5.2. For that while issuing the impugned order dated 19.6.2001 the respondents have failed to take into consideration the earlier promotion order dated 27.6.95 which was issued pursuant to a review DPC in the light of Hon'ble Apex Court's judgment and order dated 9.1.95. When the matter has been finally settled by the Hon'ble Apex Court, the respondents ought not to have re-open the matter

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22

by issuing the impugned order dated 19.6.2001 that too when the matter is yet to be settled finally by the Hon'ble High Court.

5.3. For that the respondents have acted illegally in issuing the impugned order dated 19.6.2001 quoting the Judgment and Order dated 30.1.2001 passed by the Hon'ble Principal Bench of this Tribunal, moreso when the said Judgment does cover the case of the present applicant.

5.4. For that the applicant who is presently holding the post of Assistant Engineer (Civil) on permanent basis w.e.f. 30.3.92 could not have been reverted to the post of Junior Engineer (Civil) by issuing the impugned order dated 19.6.2001 that too without affording any opportunity of hearing.

5.5. For that in any view of the matter the action/inaction of the respondents are not sustainable in the eye of law and liable to set aside and quashed.

The applicant craves leave of the Hon'ble Tribunal to advance more grounds both legal as well as factual at the time of hearing of the case.

6. DETAILS OF REMEDIES EXHAUSTED:

That the applicant declares that he has exhausted all the remedies available to them and there is no alternative remedy available to him.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT:

The applicant further declares that he has not filed previously any application, writ petition or suit regarding the grievances in respect of which this application is made before any other court or any other Bench of the Tribunal or any other

23

authority nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above, the applicant most respectfully prayed that the instant application be admitted records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of records, be grant the following reliefs to the applicant:-

8.1. To set aside and quash the impugned order dated 19.6.2001 (Annexure-4).

8.2. To direct the respondents not to revert the present applicant who is presently holding the post of Assistant Engineer (Civil) to the post of Junior Engineer (Civil).

8.3. Cost of the application.

8.4. Any other relief/reliefs to which the applicant is entitled to under the facts and circumstances of the case and deemed fit and proper.

9. INTERIM ORDER PRAYED FOR:

Pending disposal of the application the applicant prays for an interim order directing the respondents not to give effect the impugned order dated 19.6.2001 (Annexure-4).

10. *****

11. PARTICULARS OF THE I.P.O.:

1. I.P.O. No. : 6G 792085

2. Date : 9/6/2001

3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

24

VERIFICATION

I, Dinesh Chandra Sharma, son of late R.C. Sharma aged about 40 years, at present working as Assistant Engineer (Civil) in the Civil Construction Wing All India Radio Dibrugarh, do hereby solemnly affirm and verify that the statements made in paragraphs 2, 3, 42, 47-49, 411..... are true to my knowledge and those made in paragraphs 1, 41, 43, 44, 45, 46, 470 are also true to my legal advice and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the 26th day of June of 2001.

Dinesh Chandra Sharma

Government of India
Directorate General (All India Radio)
(Civil Construction Wing)

File No.A-32014/1/95-LU.1. Date of the letter, dated 27th June, 1995

DEPARTMENT

Consequent to the Order dated 6.5.1994 delivered by the Hon'ble Central Administrative Tribunal, Calcutta Bench in O.A. No.1078/95 filed by Sh.N.C.Durman and others and the subsequent dismissal on 9.1.95 of the 'Special Leave Petition' filed in this regard by the Union of India in the Hon'ble Supreme Court of India, two DPCs were held on 20.3.95, 11.4.95, 17.4.95 and 20.4.95 for reviewing the recommendations of the DPCs held after the notification of Recruitment Rules (Amended) of 1988, for promotion to the grade of Assistant Engineer(Civil). The Director General, All India Radio is pleased to accept the recommendations of the review DPCs and promote following Junior Engineers(Civil) to the grade of Assistant Engineer(Civil) in the pay scale of Rs.2060-60-2310-E0-75-3200-101-3500/- from the date mentioned against their name.

| S.No. | Name | Date of Promotion |
|-------|-----------------------------|-------------------|
| 1. | Y.K. Sharma | 20.04.88 |
| 2. | S.T. Navghare | 20.04.88 |
| 3. | R. Putushotham | 20.04.88 |
| 4. | P.Chandrankhern Rao | 20.04.88 |
| 5. | Y.V.Chandrankhern Rao | 20.04.88 |
| 6. | Smt.Usha Gupta | 20.04.88 |
| 7. | Smt.Rokey George | 19.06.89 |
| 8. | R.K.Dua | 19.06.89 |
| 9. | Girish Chandra Suyal | 19.06.89 |
| 10. | P.Narayanan Kuttu | 19.06.89 |
| 11. | V.Srinivasan(D.O.B.3.12.56) | 19.06.89 |
| 12. | A.K.Sharma(D.O.B.2.1.57) | 19.06.89 |
| 13. | B.S.Uora | 19.06.89 |
| 14. | A.Malhotra | 19.06.89 |
| 15. | Ashish Kumar Ghosh | 19.06.89 |
| 16. | Mohd. Shaukat Ahmed | 19.06.89 |

Attested
Advocate.

Contd. from Pre-page

| S. No. | Name S/Shri | Date of Promotion |
|--------|-------------------------------|-------------------|
| 17. | S.K. Singh | 9.6.89 |
| 18. | Ms. B. Geetha Kumari | 9.6.89 |
| 19. | K. Nallaswara Rao | 9.6.89 |
| 20. | P.K. Gupta | 9.6.89 |
| 21. | VVSNV Pensed | 9.6.89 |
| 22. | P.R. Dabu | 9.6.89 |
| 23. | R.K. Dujpe | 9.6.89 |
| 24. | G.S. Iino | 2.1.90 |
| 25. | Madan Lal | 2.1.90 |
| 26. | H.H. Arbwani | 2.1.90 |
| 27. | Sudershan Kircup | 2.1.90 |
| 28. | T.D. Balakrishnan Dair | 2.1.90 |
| 29. | P.G. Hingnikar | 2.1.90 |
| 30. | H.D. Bajare | 2.1.90 |
| 31. | R. Sampat Kumar | 2.1.90 |
| 32. | Kewal Singh | 2.1.90 |
| 33. | Virpal Singh | 2.1.90 |
| 34. | Hari Singh | 2.1.90 |
| 35. | Jaqqdishwar Chand | 2.1.90 |
| 36. | Shaj Kumar Sharda | 22.6.90 |
| 37. | Smt. N.R. Narwankar | 22.6.90 |
| 38. | H.V.R. Hele | 22.6.90 |
| 39. | S.K. Aggarwal | 22.6.90 |
| 40. | S. Jyoti Kumar | 22.6.90 |
| 41. | C.V. Sonachandras | 22.6.90 |
| 42. | S.K.S. Kudumana | 22.6.90 |
| 43. | P.R. Singh | 22.6.90 |
| 44. | Rajesh Singh Yadav | 22.6.90 |
| 45. | R.S. Kudumana | 22.6.90 |
| 46. | H.S. Varma | 22.6.90 |
| 47. | M.K. R.J. | 22.6.90 |
| 48. | V. R. Patel | 22.6.90 |
| 49. | Subodh Kumar Singh | 22.6.90 |
| 50. | S. Srinivasan (D.O.B 21.7.62) | 22.6.90 |

Attested

Advocate

J. H. H. C.

Contd. 3/-

Contd. From previous

| S. No. | Name | Date of Promotion |
|--------|--|-------------------|
| 51. | A. K. Vaid | 22.6.90 |
| 52. | Vijay Kumar | 22.6.90 |
| 53. | K. K. Verma | 22.6.90 |
| 54. | L. C. Saini | 22.6.90 |
| 55. | Ved Prakash | 22.6.90 |
| 56. | Satinder Pal | 22.6.90 |
| 57. | Dai Bhagwan Kundu | 22.6.90 |
| 58. | Satyaveer Singh Panwar | 22.6.90 |
| 59. | Ashok Kumar Sachdeva | 22.6.90 |
| 60. | Prithvi Singh | 22.6.90 |
| 61. | Bal Kishan | 22.6.90 |
| 62. | Brij Bhushan | 22.6.90 |
| 63. | A. K. Sharma (Date of Birth 01.05.1961) | 22.6.90 |
| 64. | Asgar Ali | 22.6.90 |
| 65. | Mazumdar Hussain | 22.6.90 |
| 66. | Zafar Ahmed Khan | 22.6.90 |
| 67. | Pradeep Kumar (D.O.B. 22.1.63) | 22.6.90 |
| 68. | Babu Zachariah | 22.6.90 |
| 69. | Dev Dutt | 22.6.90 |
| 70. | M. M. Puranik | 22.6.90 |
| 71. | R. K. Verma | 22.6.90 |
| 72. | U. C. Aggarwal | 22.6.90 |
| 73. | Kare Singh | 22.6.90 |
| 74. | O. M. Ahuja | 22.6.90 |
| 75. | Krishan Kumar | 22.6.90 |
| 76. | Kulwinder Singh | 22.6.90 |
| 77. | P. Suri | 22.6.90 |
| 78. | P. Krishnam Kumar | 22.6.90 |
| 79. | R. K. Gopal Krishna Pillai | 22.6.90 |
| 80. | James Thomas | 22.6.90 |
| 81. | Keran Singh | 22.6.90 |
| 82. | A. K. Oberi | 22.6.90 |
| 83. | Sujit Chakraborty | 30.3.92 |
| 84. | R. L. Chatterjee | 30.3.92 |
| 85. | Fazlur Rehman | 30.3.92 |

Arrested
Advocate

7/1/92

31

Contd., from pre-page

| <u>S.No.</u> | <u>Name</u> | <u>Date of Promotion</u> |
|--------------|-------------------------|--------------------------|
| 86. | ✓ B.R. Basu | 30.3.92 |
| 87. | Nahar Singh | 30.3.92 |
| 88. | Raj Kumar | 30.3.92 |
| 89. | ✓ K.Guverdhan | 30.3.92 |
| 90. | ✓ M.Jahir Iluzana | 30.3.92 |
| 91. | Amokhay Lal | 30.3.92 |
| 92. | ✓ K.S.Kushari | 30.3.92 |
| 93. | ✓ Biswajit Basu | 30.3.92 |
| 94. | Rakesh Kumar | 30.3.92 |
| 95. | ✓ Rakesh Chander | 30.3.92 |
| 96. | ✓ Lalit Kumar | 30.3.92 |
| 97. | ✓ Harmohinder Pal Singh | 30.3.92 |
| 98. | Ashok Kumar | 30.3.92 |
| 99. | Ajai Singh | 30.3.92 |
| 100. | ✓ Smt. A.S.Muley | 30.3.92 |
| 101. | ✓ P.S.Pawar | 30.3.92 |
| 102. | ✓ Shibu Simon | 30.3.92 |
| 103. | ✓ D.C.Sharma | 30.3.92 |
| 104. | ✓ Navindra Raghav | 30.3.92 |
| 105. | Balwant Singh | 30.3.92 |
| 106. | Gunjan Pal | 30.3.92 |
| 107. | George Tirkoy | 30.3.92 |
| 108. | M.L.Dagla | 30.3.92 |
| 109. | G.L.Verma | 30.3.92 |
| 110. | ✓ Jophan Pal Nagru | 31.3.92 |

The officers mentioned at S.No.19 to 24, 36, 81 and 82 have been considered and promoted in compliance to the judgments dated 4.3.94 and 9.3.94 delivered by the Hon'ble

Attested
Advocate.

~~29~~

Central Administrative Tribunal Bench, Hyderabad in O.A.
No. 090/1990 and O.A. No. 1021/92 respectively and
judgement dated 15.12.93 delivered by Central Administrative
Tribunal, Jaipur Bench in O.A. No. 400/1992.

The Assistant Engineer(Civil) promoted
will be on probation for a period of two years in
accordance with the Government of India's Instructions
on the subject.

The assumption of charge report in respect
of the abovementioned officers may be sent to the Civil
Construction Wing (Headquarters) immediately.

This order supersedes all the orders issued after
the notification of the Recruitment Rules (amended) 1988
in respect of promotion from Junior Engineer(Civil) to
the grade of Assistant Engineer(Civil).

SD/-
(R.KRISHNASWAMY)
Suptg. Surveyor of Works-II
Tele.3710077

Amritesh
Advocate.

GOVERNMENT OF INDIA
DIRECTORATE GENERAL, ALL INDIA RAILWAY
(CIVIL CONSTRUCTION WING)

18

No. A-22013/1/95-CJ. I (pt.)

New Delhi, dated 27.06.1995.

ORDER

In continuation of OG: AIR, CCW Order No. A-32014/1/95-CJ. I dated 27.6.95, the following postings/transfers are ordered in public interest.

| S. No. | Name S/ Shri | From | To | Remarks |
|--------|--------------------|--|---------------------------------|--|
| 1. | K. Malluswara Rao | JE(C) Kurnool. | ASW(C) SSW-I Unit | Existing Vacancy |
| 2. | P.K. Gupta | JE(C) Jaipur | AE(C) Bilaspur S/O | - do - |
| 3. | VVVSIVV Prasad | JE(C) (under Shimoga Bangalore Division) | ASW(C) Guwahati Circle | - do - |
| 4. | P. R. Babu | JE(C) Vijaywada | AE(C) Agartala S/O | - do - |
| 5. | R. K. Bajpai | JE(C) Jabalpur | AE(C) Cuttack | - do - |
| 6. | G. S. Rao | JE(C) Andra | AE(C) Kohima | vice Sh. Joy Kumar already under order of transfer |
| 7. | Narain Singh | JE(C) Bhadravati | AE(C) Jullundhar | vice Sh. Rao Chopra (in partial modification of order No. A-22013/ 1/95-CJ. I, dt. 26.5.95. |
| | A.K. Giri | JE(C) Shimla | ASW(C) SSW-I Unit | Existing Vacancy |
| | <u>D.C. Sharma</u> | JE(C) Pauri (U.P.) | ASW(C) SSW-III Unit Delhi | - do - |
| 10. | Gunjan Pal | JE(C) Calcutta | AE(C) Tajpur | vice Sh. U. Raju transferred. |
| 11. | U. Raju | AE(C) Tajpur | AE(C) Dharwad | vice Sh. J. P. Komash Govt. I as JE(C). |

Attested
Advocate

S. N. V.

- 2 -

2. The assumption of charge report of the above officers as Asstt. Engineer(Civil)/Asstt. Surveyor of Works(Civil) may be furnished to this Directorate immediately.

R. Krishnaswamy 27/3
 (R. KRISHNASWAMY) 27/3
 Supdt. Surveyor of Works-II
 Tel: 3710054

Copy to:

1. Pay & Accounts Office (IRLA), Min of I&D,
AGCR Building, New Delhi.
2. Pay & Accounts Office, AIR, New Delhi.
3. PS to DG: AIR/ELin-C/Chief Engineer(Civil)-I/
Chief Architect.
4. SSW-I/SSW-II/SSW-III, CCJ, AIR, New Delhi.
5. All Superintending Engineer(Civil).
6. All Ex. Engineer(Civil).
7. Security Unit/WL Section/Vigilence Section/
All Sections of CCJ, AIR.
8. Personal file of Officers concerned.
9. Persons concerned.

S. Naray
 (M. J. Naray)
 Section Officer
 for Director General
 Tel: 3710302.

SE(C)

Guruwakhi

Arrested
Advocate.

No. A-32044/1/95-CW-L/11 New Delhi, the 27th June, 1995

ORDER

Consequent to the order dated 6.5.1995 delivered by the Hon'ble Central Administrative Tribunal, Calcutta Bench in O.A. No. 1070/89 filed by Shri N.C. Bhattacharya and others and the subsequent dismissal on 9.1.1995 of the special leave petition filed in this regard by the Union of India in the Hon'ble Supreme Court of India, review DPCs held on 20.3.1995, 10.4.1995, 17.4.1995 and 26.4.1995 for reviewing the recommendations of DPCs held after the notification of Recruitment Rules (amended) 1988 for promotion to the grade of Assistant Engineer (Civil). The Director General, All India Radio is pleased to accept the recommendations of the review DPCs held on the dates mentioned above. Consequently the following Assistant Engineers (Civil) / Assistant Surveyor of Works (Civil) stand reverted in the grade of Junior Engineer (Civil).

| <u>S.No.</u> | <u>Name</u> | <u>Present place of posting</u> |
|--------------|------------------------------------|----------------------------------|
| | S/Shri | |
| 1. | S.K. Verma | EA to SSW-I, SSW-I Unit, N.Delhi |
| 2. | S.K. Vaid | ASW(C), Civil Division-II, Delhi |
| 3. | P.K. Aggarwal | ASW(C), SSW-III Unit |
| 4. | S.K. Rohilla | AE(C), Sochha Bhawan, Delhi |
| 5. | Rakesh Jain | AE(C), S/D-II, Calcutta |
| 6. | P.K. Saha | AE(C), S/D-II, Bhubaneshwar |
| 7. | R.K. Tawar | ASW(C), Delhi Civil Circle-II |
| 8. | R. Masri Iman | ASW(C), Madras Civil Circle |
| 9. | Pradeep Kumar (D.O.P. 32.12.62) | AE(C), S/D, Jodhpur |

Attested
Advocate.

| | | |
|-----|------------------|---------------------------------|
| 10. | R.B. Bansal | ASW(C), ASW-I Unit, Delhi |
| 11. | Indeep Atkin | ASW(C), ASW-I Unit, Delhi |
| 12. | R.K. Sharma | ASW(C), SSW-III Unit, Delhi |
| 13. | D.D. Ranga | ASW(C), SSW-I Unit, Delhi |
| 14. | Anubhav Roy | ASW(C), SSW-III Unit, Delhi |
| 15. | Md. Zaheer Ahmed | AE(C), S/D, Nagpur |
| 16. | V.S. Romesh | AE(C), S/D, Darwad |
| 17. | K.K. Gopal | ASW(C), SSW-I Unit, Delhi |
| 18. | Mohd. Mohsin | ASW(C), P&M, SSW-II Unit, Delhi |
| 19. | Jagdish Chandra | ASW(C), SSW-III Unit, Delhi |
| 20. | Krishan Pal | ASW(C), SSW-I Unit, Delhi |
| 21. | S.K. Sharma | AE(C), S/D, Siri Fort |
| 22. | Rakesh Malhotra | ASW(C), P&M, SSW-II Unit, Delhi |
| 23. | K.M. Sharma | AE(C), S/D, II, MC Delhi |
| 24. | R.S. Sharma | AE(C), S/D Suratgarh |
| 25. | Panna Lal Singh | ASW(C), SSW-III Unit, Delhi |

The aforesaid officers are directed to report for further posting as Junior Engineer (Civil) to the concerned Superintending Engineer (Civil)/Superintending Surveyor of Works (Civil), if they are willing for posting in the Circle/Unit, presently posted in. Otherwise, they are directed to report to the Suptg. Surveyor of Works-I, New Delhi after giving option of three places in order of preference in accordance with the Civil Construction Wing, All India Radio No. A-32018/1/02-CW-I dated 8.7.1993 for posting as Junior Engineer (Civil). (copy enclosed)

Arrested Receipt of this order may please be acknowledged.

Advocate.

sd/-
(R. KRISHNA SWAMY)
Suptg. Surveyor of Works-II
Tele: 3710077

PRASAR BHARATI
 BROADCASTING CORPORATION OF INDIA
 DIRECTORATE GENERAL: ALL INDIA RADIO
 CIVIL CONSTRUCTION WING

NO A.32014/1/2001-CW. I/242- 6th Floor, Sroochna Bhawan
 CGO Complex, New Delhi
 19th June, 2001

1638/95
 6A

PLAG

ORDER NO. 21/2091-CW. I

In pursuance of the Order dated 30.1.2001, delivered by the Hon'ble Principal Bench, CAT, New Delhi in O.A. No.1638/95 filed by Shri P.K. Agarwal, DG: AIR is pleased to quash the recommendations of the review DPCA held on 20.3.95, 10.4.95, 17.4.95 and 26.4.95. Consequently, the following Assistant Engineer(C)/Assistant Surveyor of Works(C) stand reverted to the grade of Junior Engineer (C), with immediate effect and in supersession of this Dte's Office Order No. A 32014/1/95-CW-I dated 27.6.95:

S. No. Name

1. S/ Shri Bujit Chakraborty
2. " M. K. Chattopadhyay
3. " Apporva Banerjee
4. " B. R. Das
5. " K. Gobardhan
6. " Mohd. Jahir Huzane
7. " K. S. Kushari
8. " B. Basu
9. " Rakash Chandra
10. " Lalit Kumar
11. " H. P. Singh
12. " P. S. Pawar
13. " Shibu Simon
14. " D. C. Sharma
15. " Narendra Raghav
16. " Balwant Singh
17. " Gunjan Pal

2. This order is subject to the final outcome of the appeal pending in Hon'ble High Court, Delhi in CWP No. 6691/2000 against the Full Bench decision dated 6.12.99.

3. The officers are directed to report to their concerned SE(C)/SSW(C) immediately, for their further posting.

Attested
 Advocate.

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14

4. This issues with the approval of the competent authority.

Georgian

(A.J.S.Uppal) 22-6-85
Engineer Officer-1 to CE-1.

-copy to:-

1. PS to DGAIR/EN-IN-C/CE-1/II/Chief Arch.
2. SSW-I/SSW-II/SSW-III/DR(TFG)
3. All SE(C/E)s/EE(C/E)s/SW(C/E)s/SW-Vig. I & II
SW(P&M)
4. PAO, IRDA, M/L&B, AGCR Building, New Delhi
5. All Person concerned and their personal files
6. Shri N.G.Samar, SC/ST Association
7. Vigilance Section/Welfare Section/Security Cell
8. Spare copies (25)

(Harkinder Singh)
Deputy Director of Adm.

*Arrested
by
Advocate.*

-24-

Supplementary List

DA 1349/2001
MA 1172/2001
25.5.2001

Presently Jibi K.D.S.Rajan, learned counsel
for the applicants.

Heard.

He stated that applicants are apprehending reversion from the Assistant Engineer (Civil)/AEW(Civil) which post they have held for more than ten years. He stated that in pursuance of judgement dated 30th January, 2001 in OA 2055/1995 Jaydish Chandra and Others vs. UOI and Others wherein the respondents have been directed to consider the claims in those OAs for promotion as Assistant Engineer grade, irrespective of their date of acquisition of the degree in Engineering. Although in the same judgement it has been clarified "where such reversion becomes inevitable the same shall be done only in accordance with law." The learned counsel informed that the respondents have held a Review DPC on 24th May, 2001 may pass reversion orders of the applicants and replace them by those selected through the Review DPC.

Having regard to the claim made, we direct notices to be issued to the respondents to file reply within four weeks. Two weeks thereafter for rejoinder.

List before J.R. on 17.6.2001 for completion of pleadings.

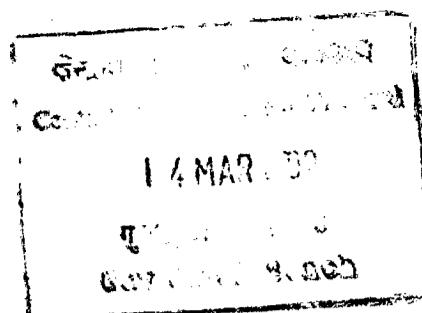
In the meanwhile, status quo as of today shall be maintained. List before Court on 8.6.2001.

Issue Date:

2001/06/11
Section Officer (J-II)
Adm. Superintendent

(V.K. Hajotra)
Member (A)

Arrested
Advocate
(Shanker Raju)
Member (A)



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :::: GUWAHATI.

Filed by

14/3/02
(A. DEB ROY)

St. C. G. S. C.

C. A. T., Guwahati Bench

O.A. NO. 231/2001

Shri Dinesh Chandra Sharma

- Vs -

Union of India & Ors.

- And -

In the matter of :

Written Statements submitted by
the respondents

The Written Statements of the respondents are
as follows :

1. That with regard to para 4.1, the respondents
beg to state that the applicant has narrated the sequence
of events relating to his service career beginning from his
entry in the grade of JE(C) and his subsequent promotion in
the grade of AE(C). The applicant has further referred to
the fact of a judgement in an O.A. No. 1078/89 filed by
Shri N.C. Burman in CAT, Calcutta. Based on the judgement
of CAT, Calcutta in the said case, review DPCs were held
after the notification of amended Recruitment Rules of 1988.

As regards the surprise expressed by the applicant
with regard to the issue of order dated 19.6.01 by which the
applicant has been reverted from the post of AE(C) to the
grade of JE(C), it may be mentioned that the reversion has

been caused following judgement deated 30.1.01 in O.A. No. 1638/95 passed by Hon'ble Principal Bench, CAT, New Delhi.

2. That with regard to para 4.2, the respondents beg to offer no comments.
3. That with regard to para 4.3, the respondents beg to ~~sixte~~ offer no comments as the para largely relates to the career details of the applicant and also the judgement given by Calcutta Bench in O.A. No. 1078/89 and the holding of review DPCS.
4. That with regard to paras 4.4 and 4.5, the respondents beg to offer no comments being a matter of record.
5. That with regard to para 4.6, the respondents beg to state that the para mostly relates to matters of record. It may be mentioned here that the copies of the order dated 19.6.01 were duly despatched to all the concerned officers.
6. That with regard to para 4.7 the respondents beg to state that the applicant again narrates mostly matters of record in this para. As regards, applicant's statement that the Department has issued the impugned order reverting him 'illegally' without affording any opportunity of hearing", it may be pointed that the order of reversion has been issued as a consequence of the order dated 30.1.01 passed by Hon'ble Principal Bench CAT, New Delhi. There is no question of providing any opportunity of hearing as the Department was

acting strictly as per the directions of the Hon'ble Court.

7. That with regard to para 4.8, the respondents beg to state that the entire issue in its perspective, it may be stated that the controversy emanated from the judgements given in O.A. No. 1078/89, filed by Shri N.C. Burman in CAT, Calcutta and another O.A. No. 1651/89 filed in CAT, Ernakulam. While the applicants' argument was that 5 years regular service for the purpose of promotion to the grade of Asstt. Engineer should be counted, in respect of graduate Junior Engineers, after obtaining the degree, the Department took the stand that 5 years experience required was irrespective of the date of acquisition of the degree. CAT, Calcutta in its order dated 6.5.94 agreed with the view point of the applicants and accordingly gave directions to hold review DPCs. Consequently, all the DPCs held in 1988, 1989, 1990 (two DPCs) and 1992, were reviewed and a number of AEs were reverted to the grade of JE vide an order dated 27.6.95.

Subsequently, the Full Bench of Principal Bench CAT, New Delhi in its judgment dated 6.12.99 took a diametrically opposite stand and questioned the very essence of Calcutta's order in O.A. No. 1078/89. The Full Bench maintained that " Calcutta Bench has erred in taking in view that the five years should commence after the acquisition of the degree. In our view, the date of acquisition of the degree, is immaterial for the purpose of eligibility of JEs. The view taken by the Calcutta Bench also works out contrary to the avowed object of the rule making authority in as much as the employees will not get any benefit out of

degree qualification."

The Full Bench has also made a significant observation that the dismissal of an SLP in limine by a non speaking order (as happened in the instant case) does not justify any inference that, by necessary implications, the contentions raised in the SLP on the merits of the case have been rejected by the Supreme Court.

Further endorsement of the above view point came vide an order dated 30.6.2000 passed by Hon'ble Vice Chairman of CAT, Cuttack Bench. It was maintained in the said order that CAT, Calcutta's order referred to above was "No longer good law. In consideration of this and in accordance with the law as laid down by the Full Bench, we allow this O.A. and quash the order of reversion of the petitioner (Sh. Saha)".

Subsequently, Hon'ble Principal Bench, CAT, New Delhi vide its order dated 30.1.2001 in O.A. No.1638/95 quashed and set aside the impugned order dated (27.6.95.) Hon'ble Bench further directed the respondents to restore the applicant as AE w.e.f. 27.6.95 and release to him all consequential financial and service benefits, including arrears of pay and seniority as Asstt. Engineer w.e.f. 27.6.95.

It is significant to note that the Hon'ble Principal Bench made it clear in its order that these direction will be subject to the ultimate outcome of the appeal against the Full Bench order dated 6.12.99 awaiting disposal in the Delhi High Court and this fact should be mentioned in the orders respondents shall issue pursuant to the above directions.

Acting on the directions of the Hon'ble Principal Bench, an order was issued on 19.6.2001 restoring the reverted Junior Engineers to the grade of AE. However, the restoration was made subject to the condition that the same will be subject to the ultimate outcome of the appeal awaiting disposal in the Delhi High Court. Thus, the direction of the Hon'ble Principal Bench was fully complied with so far as it related to the ultimate ~~of~~ outcome of the appeal pending disposal in the Hon'ble High Court.

8. That with regard to para 4.9, the respondents beg to state that the directions given by Hon'ble Principal Bench CAT, New Delhi in their order dated 30.1.01 in O.A. No. 1638/95, the Department have duly incorporated the clause in the order dated 19.6.01, that the orders issued in pursuance of CAT directions will be subject to the final outcome of the appeal pending disposal in Hon'ble High Court, New Delhi against the Full Bench decision dated 6.12.99.

9. That with regard to para 4.10, the respondents beg to state that the order dated 19.6.01, referred to by the applicant in this para, was duly dispatched to all the concerned officers. Further, it is not correct to say that the applicant is not holding the post of AE(C) as he stands reverted to the grade of JE(C) vide the order dated 19.6.01. The order has been fully given effect to and hence, there is no ground for the ~~of~~ applicant to pray for issue of an interim order directing the respondents not to give effect to the order dated 19.6.01.

10. That with regard to para 5.1, the respondents beg to state that it is wrong to describe the order dated 19.6.01 as illegal in view of the fact that the same has been issued in compliance of the order dated 30.1.01 passed by Hon'ble Principal Bench CAT, New Delhi.

11. That with regard to para 5.2, the respondents beg to state that it is again stated here that the Hon'ble Principal Bench CAT, New Delhi in their order dated 30.1.01 have quashed and set aside the impugned order dated 27.6.95 vide which a number of AE(C) were reverted to the grade of JE(C) on the basis of CAT Calcutta's order in O.A. No.1078/89. The Full Bench had taken the view that the Calcutta Bench had erred in interpreting the recruitment rules that the 5 years experience should commence after the acquisition of the degree.

12. That with regard to para 5.3, the respondents beg to state that it is emphasized that the Department has acted and issued the order dated 19.6.01 strictly as per the direction of the Hon'ble Principal Bench CAT, New Delhi.

13. That with regard to para 5.4, the respondents beg to state that the claim of the applicant that he should not be reverted to the post of AE(C) is invalid in view of the fact that the Department has only complied with the Court directive.

14. That with regard to paras 5.5 , 6 and 7, the respondents beg to offer no comments.

15. That with regard to para 8.1, the respondents beg to state that the applicant has prayed for relief by way of setting aside and quashing the Order dated 19.6.2001 vide which he among others has been reverted to the grade of Junior Engineer (C). It may be stated here that the said Order has been issued as a consequence of the Order dated 30.1.2001, passed by the Hon'ble Principal Bench, CAT New Delhi.

16. That with regard to para 8.2, the respondents beg to state that it may be mentioned here that the sanctioned strength in the grade of AE(Civil) is 268 which is reduced to 241 after effecting the 10% economy cut. Furthermore, the Staff Inspection Unit of the Ministry of Finance has recommended a strength of 162 whereas the present strength stands at 185.

17. That with regard to para 8.3, the respondents beg to state that ~~ixxmayxha~~ the interim stay may be vacated, immediately, as the continuance of the stay will result in serious administrative problems in view of the non-availability of posts in the grade of AE(C). The vacation of the stay is urgently prayed for as it will be extremely difficult to reconcile the problems cropping up on account of continued stay on reversions.

Verification.....

44

-8-

VERIFICATION

I, Shri K. Ponniah

being authorised do hereby verify
and declare that the statements made in this written
statement are true to my knowledge, information and belief
and I have not suppressed any material fact.

And I sign this verification on this 13 th
day of ~~September~~^{November}, 2002, at Guwahati.



Deponent.