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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 184/2003

R.A/C.P No.

E.P/M.A No. 1/04

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2. Judgment/Order dtd. 27/08/2004 Pg. 1 to 9 *dismissal common order 184/038 276/03*
3. Judgment & Order dtd. 18/07/2009 Received from H.C/Supreme Court *N.P.C Pg-14811*
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5. E.P/M.P. 02/04 Pg. 2 to 6
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SECTION OFFICER (Judl.)

FORM NO.4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWALATI BENCH

ORDERSHEET

Original Application : 184/03

Misc Petition No. : _____

Contempt Petition No : _____

Review Application No: _____

Applicants:- Gani Shankar Mittal

Respondents:- H.O.I. Jom

Advocate for the Applicants:- A. Ahmed

Advocate for the Respondents:- Case

Notes of the Registry	Date	Order of the Tribunal
<p>14.8.2003</p> <p>96142999</p> <p>30.7.03</p> <p>By Registrar</p> <p>13/8/03</p> <p>Steps taken along with envelopes.</p> <p>13/8/03</p> <p>Notice prepared & sent to D/s for filing the Respondent No. 1 to 6 by Speed Post</p> <p>D/N No. 1814 to 1819</p> <p>Dtd 22/8/03</p> <p>22/8/03</p>	<p>14.8.2003</p> <p>bb</p> <p>21.8.2003</p> <p>mb</p>	<p>The matter is posted for admission on 21.8.2003. In the meantime applicant may take necessary steps.</p> <p>Vice-Chairman</p> <p>Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.</p> <p>The Hon'ble Mr. K.V. Prahaladan Administrative Member.</p> <p>Heard Mr. A. Ahmed, learned counsel for the applicant.</p> <p>The application is admitted. Call for the records. The respondents are allowed four weeks time to file written statement.</p> <p>List on 25.9.2003 for orders.</p> <p>Member</p> <p>Vice-Chairman</p>

(2)

No written statement
has been filed.

My
24.9.03

25.9.2003

Written statement has been filed
The case may now be listed for hearing.
The applicant may now file rejoinder, if any, within two weeks from today.

List the case for hearing on 21.10.2003.

K. B. Balachandran
Member

[Signature]
Vice-Chairman

bb

26.9.03

Counter reply on
behalf of Respondent
Nos. 1 & 2 has been
submitted.

21.10.2003

List the case on 30.10.2003
again for hearing.

[Signature]
Vice-Chairman

bb

30.10.2003

No Division Bench sat today.
put up the matter on 28.11.2003 for
hearing.

[Signature]
Vice-Chairman

bb

Reply has been
filed.

17.2.2004

List the case on 27.2.2004
alongwith M.P.13/2004.

K. B. Balachandran
Member

bb

27.2.2004

List the case before the next
available Division Bench.

K. B. Balachandran
Member (A)

[Signature]
Member (J)

bb

My
30.3.04

(3)

O.A.No.184/2003

3

31.3.2004 Present: Hon'ble Shri Kuldip Singh,
Judicial Member

Hon'ble Shri K.V. Prahladan,
Administrative Member.

Learned counsel for the parties
are present. Learned counsel for the
respondents prays for time to produce
the Minutes and ACRs. Prayer allowed.
List the matter before the next
available Division Bench.

K.V. Prahladan
Member(A)

[Signature]
Member(J)

6.4.04

nkm

13.5.2004

Present : The Hon'ble Sri Mukesh Kumar
Gupta, Judicial Member.

The Hon'ble Sri K.V. Prahlada-
dan, Member (A).

Reply Submitted
by the Respondent No.7.

[Signature]
The matter was heard at length. Mr.
A. Deb Roy, learned Sr. C.G.S.C. for the
respondents produced the records of DPC
which was held on 31.7.2002 wherein it is
stated that DPC considered officials for
filling ^{of nine} vacancies for the year 2002-03. The
minutes of the said DPC do not indicate
which years ACRs were considered. Similarly
we found gradation given to some officials,
recorded in the ACRs, which were produced
before us, are not in consonance with the
relevant O.M. on the subject of gradation
to be awarded. In the absence of specific
and clear materials emanating from the
concerned authorities, it would be difficu-
lt to appreciate the contentions raised
by the respondents that because of "Very
Good" being the Bench Mark, not attained
by the applicant, he could not be empanall-
ed for promotion to the post of Chief
Engineer. Therefore, Respondents should
file clear affidavit indicating the ACRs
which were considered by the said DPC.
They shall also produce the Working Sheet/
Tabulation, prepared and examined by the

Contd/-

Contd/-

13.5.2004

said DPC. This exercise shall be completed within a period of six weeks from the receipt of the order.

Adjourned for 5.7.2004.

ICV Pahlad
Member (A)

Member (J)
Member (J)

mb

22.7.04.

When the matter came up for hearing the learned counsel for the respondents submitted that an affidavit has already been filed in compliance with the order of this Tribunal dated 13.5.2004 and he also submitted that the tabulation sheet and the other required documents are available in the original file. The Respondents counsel is directed to produce the entire proceeding in a sealed cover and the registry is directed to keep the records in a sealed cover.

List before the next available Division Bench.

ICV Pahlad
Member (A)

Member (J)
Member (J)

lm

24.8.04.

Heard learned counsel for the parties. Hearing concluded. Judgment reserved.

ICV Pahlad
Member

Vice-Chairman
Vice-Chairman

Order dt. 13/5/04.
Sent to D/section
for issuing to
both parties.

18/5/04.

19.7.04

W/S Submitted by N.A.

Respondent No. 7.

Records
Received from N.A.
Envelope with Seal
Cover.

26/7/04

23.8.04

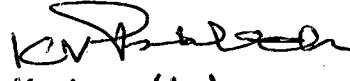
Case - 5 ready for
hearing

27.8.2004 Present: The Hon'ble Shri B.C. Verma,
Vice-Chairman (J).

The Hon'ble Shri K.V. Prahladan
Member (A).

Judgment pronounced in open Court,
kept in separate sheets.

The O.A. is dismissed in terms of
the order. No costs.


Member (A)


Vice-Chairman

bb

9.9.04

Copy of the Judgment
has been sent to
the D/Sec. for
disbursement of the fine
to the applicant
by post.

Y.S.

IN THE GAUHATI HIGH COURT

(THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA,
MANIPUR, TRIPURA, MIZORAM AND ARUNACHAL PRADESH).

(CIVIL APPELLATE JURISDICTION)

W.P(C)No. 8395 OF 2004

SHRI GAURI SHANKAR MITTAL,

Superintending Engineer,

Central Public Works Department,

Silchar Centre Circle,

Mela Road, Malugram,

Silchar -788002, Assam.

... WRIT PETITIONER.

-VERSUS-

1. The Union of India,

Represented by the Secretary ,

Ministry of Urban Development and

Poverty Alleviation, Nirman Bhawan,

New Delhi -110011.

2.The Director General, Works,
Central Public Work Department,
118-A, Nirman Bhawan,
New Delhi -110011.

3.Shri R.S. Prasad,
Chief Engineer,
Valuation Income Tax Department,
Rohit House-11th Floor,
3Tolostoy Marg,
Cannaught Palace,
New Delhi-1

4.Shri P.K.Mazumdar,
Chief Engineer,
P.W.D. Andaman and Nicobver Islands,
Portblair - 744101

5.Shri S.S. Mandal,
Chief Engineer,
SZ-1, C.P.W.D. II Floor

Rajaji Bhawan , G.Wing,
Basanti Nagar, Chennai - 600090,

6. Shri C.S. Prasad,
Chief Engineer, Eastern Zone-2
C.P.W.D. , Pant Bhawan, 7th Floor Baily Road,
Jawaharlal Nehru Marg, Patna-1, Bihar,

7. Union Public Service Commission,
Dhalpur House, Shahjahan Road,
New Delhi-11.

....RESPONDENTS.

PRESENT

THE HON'BLE MR. JUSTICE RANJAN GOGOI
THE HON'BLE MR. JUSTICE A.C. UPADHYAY

FOR THE PETITIONER : Shri S. Dutta Choudhury,
Advocate.

FOR THE RESPONDENTS: Shri B. Pathak, C.G.S.C.

Date of Hearing : 18.07.2009

Date of Judgment : Saturday, 18 July, 2009.

JUDGMENT AND ORDER

(ORAL)

RANJAN GOGOI, J.

Heard Shri S.Dutta, learned counsel for the petitioner and Shri B. Pathak, learned C.G.S.C. appearing for the Respondent Union of India.

2. This Writ Petition is directed against an order dated 27.08.2004 passed by the Gauhati Bench of the Central Administrative Tribunal in a proceeding registered and numbered as O.A. No.184 /2003. By the aforesaid order dated 27.08.2004 the O.A. No.184 /2003 filed by the writ petitioner had been dismissed. Aggrieved, this Writ Petition has been filed.

3. The Writ Petitioner Applicant being aggrieved by his non-promotion to the post of Chief Engineer in the Central Public Works Department on the basis of the proceeding of the Departmental Promotion Committee held on 31.07.2002 had moved the learned Tribunal assailing his non-selection as well as the selection and promotion of his juniors made by the orders dated 28.01.2003 and

12

10.02.2003. The primary contention of the Writ Petitioner before the learned Tribunal was that in the Annual Confidential Reports (for brevity A.C.Rs.) under consideration he had been graded as "good" in the A.C.Rs. for the years 1998-99 and 1999-2000. In the A.C.Rs. of the preceding years he was graded as "very good". Therefore, according to the Writ Petitioner/Applicant, in the subsequent A.C.Rs. of the two years he was down graded which down grading was required to be informed to him on the strength of the law laid down by the Apex Court in U.P. JAL NIGAM AND OTHERS -VERSUS- PRABHAT CHANDRA JAIN AND OTHERS [(1996) 2 SCC Page 363]. As the authority had acted on the said downgraded ^{A.C.Rs.} ~~acts~~ without communicating the same to the petitioner, the actions, as aforesaid, were assailed before the learned Tribunal.

4. The learned Tribunal in the order dated 27.08.2004 took the view that the law laid down by the Apex Court in JAL NIGAM (supra) will not be applicable to the case of the petitioner as in the said case the Apex Court had taken the view that down grading of A.C.Rs. requires communication in a situation where there was a significant variation in the

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assessment made of the years under consideration and in the ACRS of the preceding year(s). Accordingly, the Original Application filed by the Writ Petitioner was dismissed. It will be necessary for us to take notice of the fact in the impugned order dated 28.08.2004, the learned Tribunal had also taken note of a subsequent selection for the year 2003-2004 held by the Departmental Promotion Committee on 27.06.2003 although it is evident from the pleadings contained in O.A. No.184/2003 that the proceedings of the said Departmental Promotion Committee held on 27.06.2003 was not in issue before the learned Tribunal.

5. It appears that in the subsequent Departmental Promotion Committee held on 27.06.2003, the petitioner was once again not selected on account of the grading in the A.C.Rs. of the years 1998-1999 and 1999-2000, which had to be taken into consideration once again. Against the aforesaid actions, the petitioner had moved the Tribunal separately by instituting O.A. no.37 of 2004. On this occasion, the learned Tribunal relying on the decision of the Apex Court in the JAL NIGAM (supra), however, took the

view that as the petitioner was graded "very good" in the earlier years and subsequently as "good" in the two years referred to above, the same amounted to down gradation of the A.C.Rs. of the petitioner which was required to be communicated. As no such communication was made, the learned Tribunal while allowing O.A. No.37 of 2004 directed for a de novo consideration of the case of the petitioner for promotion without taking into account the grading in the A.C.Rs. of the petitioner for the years 1998-99 and 1999-2000. The aforesaid decision of the learned Tribunal was rendered on 07.10.2005.

6. Aggrieved by the said decision of the learned Tribunal in O.A. No.37 of 2004, the Union of India had moved this Court by instituting a Writ Petition which was registered and numbered as WP(C) No.3082/2006. The said Writ Petition was dismissed by an order dated 27.06.2006. While dismissing the aforesaid Writ Petition, the Division Bench of this Court took note of the decision of the Apex Court in JAL NIGAM (supra) and arrived at the conclusion that no reason had been recorded for down grading the A.C.Rs. of the petitioner for the years 1998-99

h

and 1999-2000. The Division Bench also recorded that such down grading was required to be communicated to the petitioner in the form of an advice or otherwise in terms of the decision of the Apex Court in JAL NIGAM (supra). Accordingly, the Division Bench took the view that the decision of the learned Tribunal passed in O.A.No.37 of 2004 did not require any interference. It is submitted by Sri Dutta, learned counsel for the petitioner that the aforesaid order dated 27.06.2006 passed by this Court in WP(C) No.3082/2006 was challenged before the Apex Court and that Special Leave to Appeal has been declined by the Apex Court. Shri B, Pathak, learned Departmental Counsel is not in a position to dispute the aforesaid fact. We are informed that the said decision of the learned Tribunal has been implemented and benefits found to be due has been afforded to the petitioner.

7. We have perused the judgment of the Apex Court in U.P. JAL NIGAM (supra) as well as the order dated 27.06.2006 passed by the Division Bench in WP(C) No.3082 of 2006. Though the decision in U.P. JAL NIGAM

(supra) has been extended by the Apex Court in its decision reported in (2008) 8 SCC 725 [(DEV DUTT - VERSUS- UNION OF INDIA AND OTHERS)], for the purpose of the present case it will suffice to notice that even if the down grading of the A.C.Rs. may not by itself be adverse to the petitioner the requirement of communication of such down grading as laid down by the Apex Court in U.P. JAL NIGAM (supra) was not followed in the present case. Such a requirement having been clearly laid down by the Apex Court, we are in full agreement with the decision rendered by the Division Bench of this Court hearing WP(C) No.3082/2006, in upholding the order of the learned Tribunal passed in O.A. No.37 of 2004. If that be so, there is no reason why the same view should not be taken in respect of the presently impugned order dated 27.08.2004 passed in O.A. No.184/2003.

8. We, accordingly, allow this Writ Petition by setting aside the order dated 27.08.2004 passed in O.A. No.184 of 2003. We are told that pursuant to the order of the learned Tribunal passed in O.A. No.37/2004 and the order dated 27.06.2006 passed by the Division Bench of this Court in

WP(C) No.3082 of 2006, the case of the petitioner had been considered by a Review Departmental Promotion Committee and he has been notionally promoted to the post of Chief Engineer with effect from the date of promotion of his juniors. In view of the conclusion that we have reached, as indicated above, we direct the Respondents to make a similar exercise in respect of the promotion of the petitioner to the post of Chief Engineer as in the year 2002-2003 and pass consequential orders within a period of three months from date of receipt of a copy of this order or a certified copy thereof.

9. The Writ Petition shall stand allowed as indicated above.

Sd/- A.C.UPADHYAY
JUDGE

Sd/- RANJAN GOGOI
JUDGE

Contd...

BY SPECIAL MESSENGER

URGENT

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
1034
6 AUG 2009
Guwahati Bench
गुवाहाटी न्यायपीठ

Memo No. HC. XXI-13,870-77 R.M. Dtd. 04/08/09

Copy forwarded for information and necessary action to :-

1. The Union of India, represented by the Secretary Ministry of Urban Development and Poverty Alleviation, Niraman Bhawan, New Delhi- 110011.
2. The Director General, Works, Central Public Works Department, 118-A Nirman Bhawan, New Delhi- 110011.
3. Shri R.S. Prasad, Chief Engineer, Valuation Income Tax Department, Rohit House - 11th floor, 3 Tolostoy Marg, Cannought Palace, New Delhi-1.
4. Shri P.K. Mazumdar, Chief Engineer, P.W.D. Andaman and Nicobar Islands, Portblair- 744101.
5. Shri S.S. Mandal, Chief Engineer, SZ-1, C.P.W.D., II floor, Rajaji Bhawan, G- Wagon Wing, Basant Nagar, Chennai- 600090.
6. Shri C.S. Prasad, Chief Engineer, Eastern Zone-2 C.P.W.D. Pant Bhawan, 7th floor, Baily Road, Jawaharlal Nehru Marg, Patna-1. Bihar.
7. The Union Public service Commission, Dhalpur House, Shahjahan Road, New Delhi-11.
8. The Deputy Registrar, Central Administrative Tribunal, Guwahati Bench, Guwahati-5, Rajgarh Road, Bhangagarh, Guwahati- 781005. He is requested to acknowledge the receipt of the following records. This has a reference to his letter No. 16-3/02-JA/312 Date 7.5.2009.

Enclo:-

1. O.A.No. 184/2003
Part "A" File with
Original Judgment - 8-Sheets.
2. M.P.No.1/2004 Part "A" File
With order Sheet-1.
3. M.P.No. 13/2004 Part "A" File
With order sheet -1.

50(3)
N.E.
6/8/09

By order

R.K. K. K.

Asstt. Registrar (B)
Guwahati High Court, Guwahati.

6/8/09

Memo No. HC. XXI-13,870-77 R.M. dtd 04/08/2009
received from the Registry of the Honible Gauhati
High Court, Guwahati.

at flag A

The judgment order dated 18/7/2009 passed
by the Honible Gauhati High Court in W.P(c)
No. 8395/2004 received from the ^{Registry of the} Honible Gauhati
High Court with the case records of Original Application
No 184/03 of the CAT, Guwahati Bench. The W.P(c)
No. 8395/2004 was filed by the writ petitioner
against the order dated 27/8/2004 passed by this
Honible Tribunal in O.A. No. 184/03.

The Honible High Court allowed the W.P(c)
No. 8395/2004 by setting aside the order dated
27/08/2004 passed in O.A. No. 184/2003 of the CAT,
Guwahati Bench, Guwahati.

The matter may be placed before the
Lordships for kind perusal.

Sumo
21.8.09

D.R

Sumo
18/8/09
S.O.(J)

Sumo
18/8/09

Honible ve.

Returned

11.9.09.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. / ~~XXX~~ No.184 & 276 . of 2003.

DATE OF DECISION

27-8-09

G.S.Mittal in O.A.184/2203 &

J.P.Gupta in Q.A.276/2003..APPLICANT(S).

A.Ahmed in O.A.184/2003.

G.K.Bhattacharyy & B.Choudhury in O.A.276/2003

ADVOCATE FOR THE
APPLICANT(S).

- VERSUS -

Union of India & Others..RESPONDENT(S).

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

ADVOCATE FOR THE
RESPONDENT(S).

THE HON'BLE SHRI D.C.VERMA, VICE CHAIRMAN (J).

THE HON'BLE SHRI K.V.PRAHLADAN, 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 ? X

Judgment delivered by Ho'ble Vice-Chairman (J).

[Handwritten signature]

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application Nos.184 & 276 of 2003.

Date of Order : This, the 27th Day of August, 2004.

THE HON'BLE SHRI D. C. VERMA, VICE CHAIRMAN (J).

THE HON'BLE SHRI K. V. PRAHLADAN, ADMINISTRATIVE MEMBER.

1. Sri Gauri Shankar Mittal
Superintending Engineer
Central Public Works Department
Silchar Central Circle
Malugram, Mela Road
Silchar - 788 002, Assam.. . Applicant in O.A.184/2003.

By Advocate Mr.A.Ahmed.

2. Sri Jai Parkash Gupta
Superintending Engineer
Central Public Works Department
Assam Central Circle-I
Bamunimaidan, Guwahati-21
Assam. . . . Applicant in O.A.276/2003.

By Sr.Advocate Mr.G.K.Bhattacharyya & Mr.B.Choudhury.

- versus -

1. Union of India
Represented by the Secretary
Ministry of Urban Affairs
Nirman Bhawan
New Delhi - 110 011.
2. The Director General Works
Central Public Works Department
118-A, Nirman Bhawan
New Delhi - 110 011.
3. Sri R.S.Prasad
Chief Engineer
Valuation Income Tax Department
Rohit House-11th Floor
3 Tolostoy Marg, Connaught Palace
New Delhi-1.
4. Sri P.K.Majumdar
Chief Engineer
P.W.D. Andaman and Nicobar
Islands, Port Blair - 744 101.

21

5. Sri S.S.Mandal
Chief Engineer
SZ-1, C.P.W.D., II Floor
Rajaji Bhawan, G-Wing
Basant Nagar, Chennai-600090.
6. Sri C.S.Prasad
Chief Engineer, Eastern Zone-2
C.P.W.D., Pant Bhawan
7th Floor, Baily Road
Jawaharlal Nehru Marg
Patna-1, Bihar.
7. Union Public Service Commission
Dhalpur House, Shahjahan Road
New Delhi - 11. . . . Respondents in O.A.184/2003.

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

1. Union of India
Represented by the Secretary
Ministry of Urban Development &
Poverty Alleviation, Nirman Bhawan
New Delhi - 11.
2. Director General of Works
Central Public Works Department
101-A, Nirman Bhawan
New Delhi - 110 011.
3. Secretary
Union Public Service Commission
Dholpur House, New Delhi - 110 011.
4. Sh.P.C.Arora
Chief Engineer (NEZ)
CPWD, Dhankheti
Shillong - 3. . . . Respondents in O.A.276/2003.

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

O R D E R

D.C.VERMA, V.C.(J):

Both the O.A.s have been heard and it has been noticed that the points involved in the two O.A.s are same. Hence they are being decided by a common order.

2. In both the O.A.s the applicants have been denied promotion to the post of Chief Engineer (Civil) in

Contd./2

✓

C.P.W.D.

3. In O.A. 184/2003 the applicant G.S.Mittal was considered by the DPC held on 31.7.2002 and 27.6.2003, but on both the occasions the applicant had been found unfit.

4. In O.A.276/2003 applicant J.P.Gupta was considered by the DPC held on 27.6.2003 and was found unfit.

5. In both the cases juniors to the applicant applicants have been promoted to the post of Chief Engineer (Civil) (Group-A) in the pay scale of Rs.18,400-22400/-. The DPC which was held on 31.7.2002 considered officers for promotion against twelve vacancies which pertains to the year 2002-03. In that DPC the name of applicant J.P.Gupta was not considered as sufficient number of officers were available. The applicant G.S.Mittal and many others ~~juniors to him~~ were considered and assessed.

6. In the DPC Meeting held on 27.6.2003 officers were considered for nine vacancies for the year 2003-04. In this DPC Meeting both the applicants, namely, G.S.Mittal and J.P.Gupta were considered alongwith others, ~~and~~ the two applicants were found unfit. Some juniors were found fit.

7. learned counsel for both the applicants submitted that no adverse remarks were ever communicated to any of the two applicants and record overall has been

bettered and not inferior to some of the officers who have been promoted. Placing reliance on the decision of the Apex Court in the case of U.P.Jal Nigam & Others - vs - Prabhat Chandra Jain and Others reported in 1996 (33) ATC Page 217, it has been submitted that in case of downgrading, the entry must be communicated to the concerned employee. It also submitted that if the applicants were given grading below the Bench Mark, such entry is required to be communicated to the applicants. In the case of G.S.Mittal, reliance has also been placed on a decision of the Allahabad Bench of the Tribunal in O.A.587/1997 in the case of A.K.Goel -vs- Union of India & Others decided on 24.05.2004. In the case of G.S.Mittal, reference has also been made to the 1st volume of C.P.W.D. Manual wherein it has been provided that in case it is noticed at any time that there is a fall in the standard of an officer in relation to his past performances as revealed through the assessment, his attention should be drawn to this fact so that he can be alerted for improving his performance.

8. Learned Sr.C.G.S.C., on the other hand, submitted that cases of both the applicants were assessed by the DPC consisting of Chairman/Member of the U.P.S.C. and two other Sr. officers in the light of 'Selection' promotion revised by the D.O.P. & T. vide their O.M. dated 8.2.2002. His submission is that as per the revised DPC Guidelines the DPC shall determine the merit of those



being assessed for promotion with reference to the prescribed bench-mark and accordingly grade the officers as 'fit' or 'unfit' only. Only those who are graded fit by the DPC shall be included in the select panel in order of their inter-se-seniority in the feeder grade. Those officers who are graded unfit by the DPC shall not be included in the select panel. Thus after revised Guidelines there is no supersession in promotion among those who are graded fit. The bench-mark for promotion to the grade of Chief Engineer (Civil) in the C.P.W.D. which is in the scale of Rs.18400-22400/- is "Very Good". After assessment of the ACRs the applicants were found unfit by the respective DPC, hence their names were not included in the panel. Learned Sr.C.G.S.C. also submitted that the decision in the case of U.P.Jal Nigam (Supra) ~~it~~^{is} is not applicable on the facts of the present case as in the present case there is no allegation nor any evidence to show that there has been any steep downgradation in the ACRs of the applicant.

9. We have heard Mr.A.Ahmed, learned counsel for the applicant in O.A.184/2003, Mr.G.K.Bhattacharyya, learned Sr.counsel for the applicant in O.A.276/2003 as well as Mr.A.Deb Roy, learned Sr.C.G.S.C for the respondents in both the O.A.s.

10. During the course of argument both the learned counsel for the two applicants have mainly placed reliance on the decision in the case of U.P.Jal Nigam (Supra). In the case of U.P.Jal Nigam (Supra) the Apex Court was

dealing with downgrading of entry "outstanding" grade in one year followed by "satisfactory" in the succeeding year. It was also noticed that U.P.Jal Nigam rules provided with communication of adverse entry but not of downgrading of an entry. Apex Court observed that in such situation reason for such change must be recorded and the employee must be informed about the change in the form of an advise. It was a case of extreme variation in grading so in the light of the U.P.Jal Nigam Rules the aforesaid orders were passed. The Apex Court specifically observed with regard to the system that prevail in the Jal Nigam. Thus the decision in the case of Jal Nigam is only in personam and it cannot be taken as in rem with decision of all such matters which are not covered by such rules.

11. The case of U.P.Jal Nigam came for consideration by a Division Bench of Jaipur C.A.T. in O.A.12 of 1999 in the case of Rajhuns Upadhyaya, Member, Board of Revenue, Rajasthan -vs- Union of India & Others. The Division Bench observed as below:-

" The case of U.P.Jal Nigam (supra) came to be considered by a Full Bench of this Tribunal, sitting at Mumbai, in the case of Manik Chand v. Union of India & Ors, 2002 (3) ATJ 269. The Full Bench, after considering the judgement in the case of UP Jal Nigam, held that the Supreme Court has not laid down the law that the communication of remarks which are below the bench mark, but are not adverse are required to be communicated to an employee. It was further held that the decision in U.P.Jal Nigam's case was not 'in rem' but was 'in personam'."

12. In another decision in the case of Mrs. M.R. Nath -vs- Union of India & Others reported in 2004(1) SLJ Page

7 a Division Bench of the Chandigarh C.A.T. considered ~~considered~~ a catena of decisions including the decision of U.P.Jal Nigam (Supra). The Chandigarh Bench also considered the case of B.L.Srivastava -vs- Union of India & Others decided by Principal Bench of C.A.T. and relied on behalf of G.S.Mittal. In the case of Mrs.M.R.Nath it is observed "What flows from U.P.Jal Nigam's case is that if there is any variation of change i.e. where there is a steep fall or downgrading in the remarks made by the Reviewing Officer or the Accepting Officer in relation to the remarks made by the Reporting Officer in that event, communication may be necessary."

13. Learned counsel for the applicant G.S.Mittal has placed reliance on the decision of A.K.Goel (Supra) but on facts the cited case differs from the facts of the present case. In the cited case the applicant therein had secured two "outstanding" and five "very good" for the seven relevant years and consequently the Tribunal granted the reliefs.

14. In the two cases before this Bench it is not the case of any of the two applicants that there is any steep fall in the grading or grading was, in any particular year downgraded by a Reviewing or Accepting Authority to the disadvantage of the applicants.

15. It is not denied that DPC fixes its own norms and makes an independent assessment and arrives in its grading taking into account the totality of performance.

X
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We have, therefore, ourselves examined the gradings with regard to the five assessment years, for the vacancies of 2002-03 and we have noticed that applicant G.S.Mittal was assessed in three years as "good" and in two years as "very good" and has been held unfit. In respect of those who were assessed in that year, those who could be assessed three "good", have been found unfit. So neither there is any arbitrariness nor there is any discrimination with regard to the assessment made in respect of applicant G.S.Mittal in the year 2002-2003.

16. For the assessment year 2003-04 applicant G.S.Mittal was assessed for two years as "good" and for three years as "very good". All those who have been assessed as "good" for two years have been recorded as unfit. In this DPC applicant J.P.Gupta was also assessed for three years as "good" and for two years as "very good". So the applicant J.P.Gupta has also been found unfit. On examination of the total assessment sheet it is noticed that those who have got "good" for two years have been recorded as unfit. Thus in this year also there is no arbitrariness nor there is any discrimination.

17. Reference to the C.P.W.D. Manual is only with regard to the Guidelines for recording of ACRs. The same cannot be made a basis to challenge a non-selection.

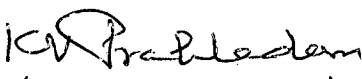
18. Learned counsel for the applicant G.S.Mittal also relied on a decision of the Hon'ble High Court, Bombay in the case of Dr.B.Gupta -vs- Union of India & Others in W.P.No.3541 of 2002 decided on 27.8.2002. We

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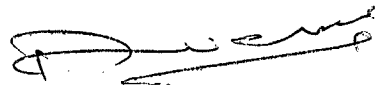
have gone through the said decision. The same differs on facts, from the facts of the present case. In that case, the remarks of the Reporting Officer was downgraded by the Reviewing Officer, which is not a case in the present O.A.

In view of the discussions made above, we find that none of the two applicants has any case of merit to challenge the promotion of the private respondents or for their non-promotion. Accordingly, both the O.A.s are found devoid of merit and are dismissed.

There shall be no order as to costs.


(K.V.PRAHLADAN)
ADMINISTRATIVE MEMBER

BB


(D.C.VERMA)
VICE CHAIRMAN

29
Filed by
Shri Gauri Shankar Mittal
Applicant
Through Dill
(As per Annexure II)
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GAUHATI BENCH AT GAUHATI.

(AN APPLICATION UNDER SECTION 19 OF THE
CENTRAL ADMINISTRATIVE TRIBUNAL ACT, 1985)

ORIGINAL APPLICATION NO. 184 OF 2003.

B E T W E E N

Sri Gauri Shankar Mittal -Applicant

-Versus-

The Union of India &

Others -Respondents

LIST OF DATES AND SYNOPSIS

Annexure-A is the Photocopy of Seniority
List of Superintending
Engineer(Civil) issued by the
Respondent No. 2 vide Office
Memorandum No. 37/8/2002-ECI
dated 25th Oct.2002.

Annexure-B & C are ² the Photocopies of Promotion orders of Superintending Engineer (Civil) to the post of Chief Engineer vide Office Order No. 30/26/2001-EC-1/EW-1 dated 28-01-2003 and 10-02-2003.

Annexure-D is the Photocopy of representation filed by the applicant vide his letter No. 575 dated 04-03-2003.

Annexure-E & F are the Photocopies of Judgment dated 22nd Nov, 2002 passed by the Hon'ble Principal Bench CAT in OA No. 539 of 2002 and Judgment dated 22-03-2000 in OA No. 1584/98 passed by the Hon'ble CAT, Principal Bench, New Delhi.

Annexure-G is the Photocopy of Office Memo. No. 20014/3/83-B/IV dated 14th Dec 1983.

This Original application is made for seeking a direction from this Hon'ble Tribunal for quashing and setting aside the Impugned Office Order No. 30/26/2001-EC-1 dated 28-01-2003 and 10-02-2003 issued by the Respondents by which Junior Persons have been promoted to the post of Chief Engineer by Superceding your applicant. Your applicant's seniority at the post of Superintending Engineer (Civil) was fixed at Serial No. 13 and seniority of the Private Respondents were fixed at Sl. No. 14, 15, 16 and 21 as per Annexure-A. The Respondents issued the promotion Orders to the post of Chief Engineer from Superintending Engineer (Civil) vide Annexure-B & C and in this list your applicant's name did not appeared and juniors have been promoted to the post of Chief Engineer. Immediately after that applicant filed a representation dated 04-03-2003 before the Respondents but till now no reply has been given. The applicant's career is all along outstanding and unblemished. There are no charge sheet pending against the applicant and no vigilance case is pending against the applicant. No communication has been made by the Respondents to the applicant.

till now regarding his falling of his over all grading or adverse remark. Hence, applicant has filed this OA for seeking a direction from this Hon'ble Tribunal to the Respondents for seniority of the applicant over his juniors and also promotion to the post of Chief Engineer will all consequential service benefits entitled to the applicant.

13 AUG
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:

GAUHATI BENCH AT GUWAHATI

(AN APPLICATION UNDER SECTION 19 OF THE
CENTRAL ADMINISTRATIVE TRIBUNAL, ACT, 1985)

ORIGINAL APPLICATION NO. 184 OF 2003

BETWEEN

Sri Gauri Shankar Mittal -Applicant

-Versus-

The Union of India & Ors. -Respondents

LIST OF DATES AND SYNOPSIS

Annexure- A Photocopy of Office Memorandum
No. 37/8/2002-ECI Dated 25th
October 2002.

Annexure- B&C Photocopies of Office Orders No.
30/26/2001-EC-1/EW-1 Dated 28-01-
2003 and 10-02-2003.

Annexure- D Photocopy of Representation dated
04-03-2003.

Annexures- E & F Photocopies of Judgments passed
by the Hon'ble Principal Bench,
C.A.T. , New Delhi.

Annexure- G Photocopy of Govt. of India O.M.
No. 200014/3/83-D IV.

(Contd.)

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This Original Application is made for seeking a direction from this Hon'ble Tribunal for quashing and setting aside the impugned Office Orders No. 30/26/2001-ECs -1/EW-1 dated 28-01-2003 and 10-02-2003 issued by the Office of the Respondents by which Junior Persons have been promoted to the post of Chief Engineer by superseding the applicant.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.
(AN APPLICATION UNDER SECTION 19 OF THE CENTRAL
ADMINISTRATIVE TRIBUNAL ACT, 1985)

ORIGINAL APPLICATION NO. 184 OF 2003.

Sri Gauri Shankar Mittal - Applicant.

-Versus-

Union of India & Others - Respondents.

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Advocate.

(Adv. A. M. S.)

Filed by
Shri Gauri Shankar Mittal
through (JL) Applicant
(Advocate)
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GAUHATI BENCH AT GAUHATI.

(AN APPLICATION UNDER SECTION 19 OF THE
CENTRAL ADMINISTRATIVE TRIBUNAL ACT, 1985.)

ORIGINAL APPLICATION NO. 184 OF 2003.

B E T W E E N

Sri Gauri Shankar Mittal,
Superintending Engineer,
Central Public Works Department,
Silchar Central Circle,
Malugram, Mela Road,
Silchar-788002, Assam.

-Applicant.

-AND-

- 1) Union Of India,
represented by the Secretary,
Ministry of Urban Affairs,
Nirman Bhawan,
New Delhi-110011.
- 2) The Director General Works,
Central Public Works Department,

2013/7
27

118-A, Nirman Bhawan,
New Delhi-110011.

3) Sri R S Prasad,
Chief Engineer,
Valuation Income Tax Department,
Rohit House-11th Floor, 3 Tolostoy
Marg, Connaught Palace,
New Delhi-1.

4) Sri P K Majumdar,
Chief Engineer,
P.W.D. Andaman and Nicobar
Islands, Port Blair-744101.

5) Sri S S Mandal
Chief Engineer,
SZ-1, C.P.W.D.,
II Floor, Rajaji Bhawan, G-Wing
Basant Nagar, Chennai-600090.

7. Union Public
Service Commission,
DRajpur House,
Shah Jahan Road,
New Delhi-11

Included as
Respondent No. 7
vide Court's order
dated 7.11.2004 passed
in M.P. No. 1/2004.

6) Sri C S Prasad,
Chief Engineer, Eastern Zone-2,
C.P.W.D. Pant Bhawan,
7th Floor, Baily Road,
Jawaharlal Nehru Marg,
Patna-1, Bihar.

- Respondents.

Sutta

DETAILS OF THE APPLICATION:

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

The instant application is made against the Impugned Office Order No. 30/26/ 2001-EC-1/EW-1 dated 28-01-2003 ^{and 10.2.2003} by which junior persons have been promoted to the post of Chief Engineer by Superceding the applicant. LI

2. JURISDICTION OF THE TRIBUNAL

The applicant declares that the subject matter of the instant application is within the jurisdiction of the Hon'ble Tribunal.

3. LIMITATION

The applicant further declares that the application is within the limitation period prescribed under Section 21 of the Administrative Tribunal Act, 1985.

Smt.

4. FACTS OF THE CASE

Facts of the case in brief are given below:

4.1] That your humble applicant is citizen of India and as such, he is entitled to all the rights and privileges and protection granted by the Constitution of India. He is now aged about 58 years.

4.2] That your applicant was appointed as Assistant Executive Engineer on 07-03-1974. He was promoted to the post of Executive Engineer in the month of May 1978. He was promoted to the post of Superintending Engineer on 25th September 1989. Now he has been posted at Silchar Central Circle on 14th May 2001 and he is handling works in the States of Nagaland, Manipur, Mizoram, Tripura and part of Assam.

4.3] That your applicant begs to state that as per seniority list of Superintending Engineer (Civil), issued by the Respondent No.2 vide Office Memorandum No. 37/8/2002-ECI dated 25th October 2002 your applicant's seniority was fixed at Serial No. 13 and the other



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seniority of the Private Respondents of the instant application were fixed at Serial No. 14, 15, 16 and 21 respectively.

Annexure-A is the photocopy of such Seniority list dated 25-10-2002.

4.4] That the applicant begs to state that the Respondents vide Office Order No. 30/26/2001-EC-1/EW-1 dated 28-01-2003 ^{and 10.2.2003} issued Promotion Orders of Superintending Engineer (Civil) (Pay Scale Rs. 14300-18300), to the Grade of Chief Engineer (Civil) (in the Pay Scale of Rs. 18400-22400). But most surprisingly you applicant's name did not appear in the said promotion list and junior to the applicant, have been promoted to the post of Chief Engineer.

Annexure-B ^C ~~is~~ the photocopies of Office Orders No. 30/26/2001-EC-1/EW-1 dated 28-01-2003 ^{and 10.2.2003}

LI

4.5 That your applicant begs to state that being aggrieved by this he immediately filed a representation to the Respondents vide his

File

letter No. 575 dated 04-03-2003 but till now no reply has been received by the applicant. Hence, finding no other alternative your applicant has filed this original application before this Hon'ble Tribunal for seeking justice in this matter.

Annexure-D is the photocopy of representation dated 04-03-2003.

4.6] That your applicant begs to state that the promotions are denied to the Central Government Officers on the ground if vigilance case is going on against him or charge sheet issued to the concerned officer is not clear or if the Confidential Reports of the Officers are not satisfactory then the Officers are found unfit for promotion. But in case of instant applicant no such vigilance cases are pending or no any charge sheet has been issued against the applicant. Your applicant's service career is unblemished and also his overall grading is all along is outstanding there are no adverse remark against him.

4.7] That your applicant begs to state that as per information from reliable source it has

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come to the knowledge of your applicant the Five Years Confidential Reports placed before the DPC for promotion of the applicant to the post of Chief Engineer is written by one person, namely, Sri C.B. Lal, the then Chief Engineer, Nagpur, Central Public Works Department, (under whom the applicant worked) whereas in two confidential reports the overall grading of the applicant has been stated as above good but not very good. It is worth to mention here that there are Five Gradings of officers, they are-

1) outstanding, 2) very good, 3) good, 4) average, 5) unfit. But in case of your applicant it has been stated as "above good but not very good". Hence, the above grading is vague and also capricious. Hence, the Hon'ble Tribunal may be pleased to call for the records of entire ACR of the applicant by which he was declared unfit for promotion to the post of Chief Engineer.

4.8) That your applicant begs to state that the fall of grading of the applicant should be communicated to the concerned employee but in the instant case nothing has been communicated to the applicant moreover vague and capricious

[Signature]

grading has been given in the ACRs of the applicant. In the case of UP Jal Nigam and others-versus-P.C. Jain & others- 1996 33 A.T.C. 217 the Hon'ble Apex Court Held a steep fall in the grading must be communicated to the concerned employee. In the instant case of the applicant the fall of grading from "outstanding " to "good " grading affecting promotion of your applicant which must be communicated to him. But in this case no communication has been made to the applicant. The other similar cases decided by the Hon'ble Principal Bench C.A.T. New Delhi has also been annexed herewith as Annexures-B & F.

4.9) That your applicant begs to state that the Respondents have issued the promotion order in the month of January 2003^{16.2.2003} by violating the service norms. Your applicant has got reason to belief that Respondents are resorting colorable exercise of power to accommodate the persons of their interest. M

4.10) That your applicant begs to state that the action of the Respondents are illegal, arbitrary, violative of the principle of natural justice. The acts of the Respondents are whimsical. It is stated that the Respondents have acted with a mala-fide intention to deprive the applicants from

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their legitimate rights.

4.11) That your applicant begs to state that he has made prima facie case against the respondents for not giving his due promotion to the post of Chief Engineer, The Principle of balance of convenience lies very much in favour of the applicants and in view of the matters the applicants pray for an interim order directing the Respondents to maintain status-quo in this case of promotion till disposal of this original Application.

4.12) That your applicant begs to state that the applicant is aged about 58 years and he is at the verge of retirement. Moreover he is serving at N.E.Region as such he is entitled for weightages for promotion in cadre posts as per Govt.of India O.M.No.20014/3/83-D IV as annexed herewith as Annexure-G.

4.13) That your applicant begs to state that as per his knowledge there no vigilance case/disciplinary proceeding pending or contemplated against him nor any adverse remark in ACR communicated to the applicant. As such, it is a fit case to interfere by this Hon'ble Tribunal to protect the interest of the applicant.

4.14] That your applicant submits that the procedure adopted by the authority in the case of applicant is improper, mala fide, illegal and without jurisdiction.

4.15] That your applicant submits that in any view of the facts and circumstances it is a fit case for passing interim order protecting the interest of the applicant.

4.16] That this application is made bona fide and for the ends of justice.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1] For that, due to the above reasons narrated in detail the action of the Respondents is in prima facie illegal, mala fide, arbitrary and without jurisdiction.

5.2] For that, there is violation of provision of existing service rule and D.O.P.T. Circular.

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- 5.3] For that, the Respondents has not shown any reason or causes for issuing promotion order January 2003 considering the promotion of the applicant. Hence, the same are liable to be set aside and quashed.
- 5.4] For that, the action of the Respondents is highly illegal, arbitrary and also violative of guidelines of Promotion Policy.
- 5.5] For that, the Respondents have violated the Articles 14, 16 and 21 of the Constitution of India.
- 5.6] For that, being a model employer the Respondents cannot deprive the promotion of the applicant without any justification and reason.
- 5.7] For that, in any view of the matter the action of the respondents are not sustainable in the eye of law and as well as fact.

Subt

The applicants crave leave of this Hon'ble Tribunal to advance further grounds at the time of hearing of this instant application.

6. DETAILS OF REMEDIES EXHAUSTED:

That there is no other alternative and efficacious remedy available to the applicants except invoking the jurisdiction of this Hon'ble Tribunal under Section 19 of the Administrative Tribunal Act, 1985.

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

That the applicant further declares that he has not filed any application, writ petition or suit in respect of the subject matter of the instant application before any other Court, authority, nor any such application, writ petition or suit is pending before any of them.

Suit

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above the applicants most respectfully prayed that your Lordship may be pleased to admit this petition, records may be called for and after hearing the parties on the cause or causes that may be show and on perusal of the records grant the following relief to the applicant.

8.1] To direct the respondents to set aside and quash the Impugned Office Order No. 30/26/ 2001-EC-1/EW-1 dated 28-01-2003 ^{and 16.2.2003} at (Annexure-B~~2~~C) issued by the Respondents. A

8.2 To direct the Respondents to promote your applicant to the Post of Chief Engineer from the date on which his juniors were promoted to the post of Chief Engineer with all consequential service benefits entitled by applicant.

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8.3) To grant such further or other relief or reliefs to which the applicant may be entitled having regard to the facts and circumstances of the case.

8.4) Grant the Cost of this application to the applicant.

9) INTERIM ORDER PRAYED FOR:

Pending disposal of the Original Application the applicant most respectfully prays for an interim order directing the Respondents to maintain status-quo in regard of promotion of Superintending Engineer to the post of Chief Engineer, till final disposal of this instant Original Application.

10) Application Is Filed Through Advocate.

11) Particulars of I.P.O.:

File

I.P.O. NO. 96-142999

Date Of Issue 30-7-03

Issued from *Amarchat*

Payable at

12) LIST OF ENCLOSURES:

As stated above.

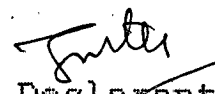
- Verification.

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VERIFICATION

I, Sri Gauri Shankar Mittal, Superintending Engineer, Central Public Works Department, Silchar Central Circle, Malugram, Mela Road, Silchar-788002, Assam the applicant of the instant case do hereby solemnly verify that the statements made in paragraphs 4.1, 4.2, 4.6, 4.7, 4.8, 4.9, 4.10 to 4.13 - are true to my knowledge, those made in paragraphs 4.3, 4.4, 4.5 - are being matters of records are true to information derived therefrom which I believe to be true and those made in paragraph 5 are true to my legal advice and rest are my humble submissions before this Hon'ble Tribunal I have not suppressed any material facts.

And I sign this verification today on this the 13th day of August 2003 at Guwahati.


Declarant
Gauri Shankar Mittal

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ANNEXURE-A

No.37/8/2002-ECI
Govt. of India
Directorate General of Works
CPWD, Nirman Bhawan

New Delhi, Dated: the 25 October, 2002

OFFICE MEMORANDUM

SUB: Issue of seniority list of Superintending Engineers (Civil)

The last seniority list of SEs (Civil) was circulated vide O.M. No.30/44/97-ECI dated 25/9/98. The up to date seniority list in the grade of SEs (Civil) as on 10/10/2002 is circulated herewith for information of all concerned. The seniority list is subject to re-adjustment, if necessary, on opening of sealed covers containing DPC recommendations. Factual errors, if any, may be brought to the notice of this Directorate within a month.

2. This Seniority List is subject to the outcome of CWP No.539/99 (A.P. Gupta & Others Vs. UOI & Others) filed before the Hon'ble Delhi High Court. etc.

Dr Rao
(DR. C.V. DHARMA RAO)
DEPUTY SECRETARY-I

Copy to:

- 1) All Chief Engineers (Civil) in CPWD/PWD, Govt. of Delhi/I.T. Deptt., Appropriate Authorities/ Ministry of Environment & Forest, New Delhi.
- 2) Engineer-in-Chief (PWD), Govt. of Delhi, New Delhi.
- 3) All SEs (Civil), CPWD/PWD Govt. of Delhi, I.T. Deptt./Appropriate Authority/ Ministry of E&F.
- 4) SE(Vigilance) I & II, CPWD.
- 5) PS to DG(W) and PS to all ADG(Works), CPWD.
- 6) CES Class I (DR) Association.
- 7) CPWD CES & CEMES Class II (DR) Association.
- 8) Section Officers, EC II/CR Cell, CPWD.

Sharma
DY. DIRECTOR (EC I)

Sharma
Sharma

- 19 -

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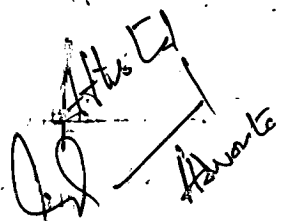
- 1 -

**SENIORITY LIST OF 2002
SUPERINTENDING ENGINEER (CIVIL), CPWD**

S.No. I/II	Name (S/Sh.) & Category	Exam	D.O.B.	Date of Apptt.as EE(C)	Date of Apptt. SE(C)	Remarks
1.	2.	3.	4.	5.	6.	7.
1)	I	Ashok Aggarwal	1972	25/11/44	7/12/78	31/12/86
2)	I	S.P. Singh-I	1972	4/1/49	7/12/78	31/12/86 Promoted as CE
3)	I	Pawan Kumar	1972	15/2/45	7/12/78	31/12/86 -do-
4)	I	L.P. Srivastava	1972	31/3/49	7/12/78	31/12/86 -do-
5)	I	O.P. Gadhhyan	1972	14/3/49	7/12/70	31/12/86 Arbitrator Calcutta
6)	I	V.K. Ghumre	1972	17/10/45	7/12/78	31/12/86
7)	I	Smt. P. Verma	1972	13/12/47	7/12/78	31/12/86
8)	I	L.C. Raha	1972	2/1/43	7/12/78	31/12/86
9)	I	D.N. Tripathy	1972	4/9/43	7/12/78	31/12/87
10)	I	Ashok K. Mittal	1972	5/10/49	7/12/78	31/12/87
11)	I	K. Krishnamurthy	1972	4/1/46	7/12/78	31/12/87
12)	I	B.N. ...	1972	4/1/45	7/12/78	31/12/87



1.	2.	3.	4.	5.	6.	7.
26)	I	G.C. Khatter 1973	14/7/47	16/4/79	31/12/88	
27)	I	K.T. Sambandhan 1973	22/12/41	16/4/79	31/12/88	Retired
28)	I	Bhartendu Bhushan 1973	25/8/39	16/4/79	31/12/88	Retired
29)	I	Lalit Mohan 1968	9/11/44	5/3/74	31/12/89	
30)	I	D. Hore 1971	12/8/49	28/4/77	31/12/89	
31)	I	M.K. Goel 1973	11/11/43	16/4/79	31/12/89	
32)	I	Suresh Kumar 1973	21/4/48	16/4/79	31/12/89	
33)	I	J.P. Gupta 1973	7/9/47	16/4/79	31/12/89	
34)	I	P.C. Arora 1973	10/8/45	16/4/79	31/12/89	
35)	I	K. Balakrishnan 1973	1/1/45	16/4/79	31/12/89	
36)	I	Virendra Sharma 1973	8/8/50	16/4/79	31/12/89	
37)	I	Pritosh Choudhuri 1973	13/2/47	16/4/79	31/12/89	
38)	I	A.L. Garg 1973	18/8/45	16/4/79	31/12/89	
39)	I	Ram Singh (SC) 1973	7/7/41	16/4/79	31/12/89	Retired
40)	I	P.N. Singh 1973	20/7/49	7/12/98	9/8/95	Expired 17/8/98
41)	I	S. Chinnaswamy (SC) 1973	5/8/48	16/4/79	31/3/91	
42)	I	K.L. Bhulania (SC) 1973	30/7/42	16/4/79	31/3/91	Retired
43)	I	S.K. Mittal 1974	22/10/52	29/2/80	31/3/91	
44)	II	Abraham Joseph 0	19/9/34	2/4/80	31/3/91	Vol.Retrd.6/92
45)	I	A.K. Trivedi 1974	1/7/51	29/9/80	31/3/91	
46)	I	Pradip K Gupta 1974	19/12/51	29/9/80	31/3/91	
47)	I	V. Subramanian 1974	8/1/49	29/9/80	31/3/91	
48)	I	J.C. Wason 1974	10/1/50	29/9/80	31/3/91	
49)	I	Rakesh Mishra 1974	1/1/53	29/9/80	31/3/91	
50)	I	V.K. Gupta-I 1974	24/10/51	29/9/80	31/3/91	



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51)	I	A.K. Bajaj	1974	5/8/50	29/9/80	31/3/91
52)	I	R. Sircar	1974	19/10/46	29/9/80	31/3/91
53)	I	R.B. Singh	1974	1/6/51	29/9/80	31/3/91
54)	I	S. Baliga	1974	26/6/51	29/9/80	31/3/91
55)	I	Bipin Chand	1974	7/3/52	29/9/80	31/3/91
56)	I	N.K. Sinha	1974	3/4/48	29/9/80	31/3/91
57)	I	S.C. Padhi	1974	1/7/50	29/9/80	31/3/91
58)	I	Rajendra Prasad	1974	11/10/48	29/9/80	31/3/91
59)	I	A.K. Sinha-II	1974	24/4/51	29/9/80	31/3/91
60)	I	Lekhraj Singh(SC)	1974	1/11/45	29/9/80	31/3/91
61)	I	M.Baladandapani (SC)	1972	30/3/47	7/12/78	31/3/91
62)	I	Kewal Chand(SC)	1973	6/6/44	16/4/79	31/3/91
63)	I	O.P. Purohit	1973	25/9/50	16/4/79	31/3/92
64)	II	C.L.N. Sharma	0	30/7/34	13/10/80	31/3/92 Retired
65)	II	Ishwar Singh	0	12/10/34	23/3/81	31/3/92 Retired
66)	II	K.A. Nankani	0	27/10/34	24/3/81	31/3/92 Retired
67)	I	P.G. Kavi	1975	22/8/42	9/11/81	31/3/92
68)	I	S.D. Prasad	1975	9/7/51	10/3/82	31/3/92
69)	I	Ashok Khurana	1975	3/2/53	10/3/82	31/3/94
70)	I	Kishori Prasad	1975	20/2/48	10/3/82	31/3/94
71)	I	V.K. Gupta-II (SC)	1975	22/8/54	10/3/82	31/3/94
72)	I	A.K. Suri	1975	6/7/43	10/3/82	31/3/94
75)	I	B.P. Aggarwal	1975	17/7/41	10/3/82	31/3/94 Retired

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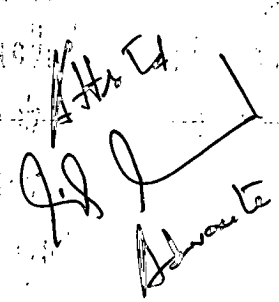
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73)	I		1975			31/3/94
74)	I		1975			31/3/94
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78)	I		1975			31/3/94
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76)	I	B.N. Nagaraja	1975	10/1/51	10/3/82	31/3/94
77)	I	S.C. Malhotra	1975	20/2/45	10/3/82	31/3/9 Expired 28/9/94
78)	I	R.S. Sheoran	1975	1/7/52	10/3/82	31/3/94
79)	I	B.B. Gupta	1975	10/5/52	15/12/76	31/3/94
80)	I	B.B. Bhatia	1975	6/1/55	11/4/82	31/3/94
81)	I	H.L. Padbanabhan	1975	17/11/49	11/4/82	31/3/94
82)	I	A.K. Sharma	1973	18/6/52	17/1/79	31/3/94
83)	I	A.P. Singh	1974	1/2/51	29/6/80	31/3/94
84)	I	Ramveer Singh	1974	2/6/46	29/9/80	31/3/94 (NBR)
85)	I	P.K. Mathur	1975	29/1/48	20/8/82	31/3/94
86)	I	M.S. Saluja	1975	18/7/51	20/8/82	31/3/94 Vol. Retired
87)	I	R.K. Govil	1975	1/1/53	3/3/83	31/3/94
88)	I	Neeraj Mishra	1976	23/9/54	3/3/83	31/3/94 (NBR)
89)	I	B.P. Kukrety	1976	23/8/50	3/3/83	31/3/94
90)	I	Satish K. Sharma	1976	8/1/52	3/3/83	31/3/94
91)	I	Vinay Kumar	1976	16/5/54	3/3/83	31/3/94
92)	I	R.K. Ghosh	1976	17/1/51	3/3/83	31/3/94
93)	I	Dharam Pal	1976	9/9/48	15/4/77	26/11/99
94)	I	S.A. Khan	1974	15/6/52	25/1/80	20/11/97
95)	I	A.N. Prasad	1975	1/5/48	11/4/82	31/3/95
96)	I	S.M. Verma	1975	6/8/51	11/4/82	31/3/95
97)	I	Shyamal Sinha	1976	14/11/49	3/3/83	31/3/95
98)	I	V.K. Motwani	1976	28/6/54	3/3/83	8/9/95
99)	I	S.N. Kale	1977	13/9/53	4/12/83	8/9/95
100)	I	Diwakar Garg	1977	9/7/56	18/12/83	5/9/95
101)	I	Dinesh Kumar	1977	23/1/55	18/12/83	5/9/95

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102) I	Sunny Kuruvilla	1977	4/3/55	18/12/82	5/9/95	
103) I	Sunder Jethwani	1977	4/4/53	18/12/83	5/9/95	
104) I	Anil Kumar Verma	1977	26/3/55	21/12/83	7/9/95	
105) I	Anil Kumar Sharma-II	1977	22/9/55	30/12/83	8/9/95	
106) I	V. Ramakrishnan	1977	1/12/50	30/12/83	8/9/95	
107) I	R.C. Gupta	1971	30/11/47	28/4/77	19/9/95	
108) I	B.N. Laha	1974	25/2/46	29/9/80	19/9/95	
109) I	V.K.Sharma-I	1977	8/4/56	30/12/83	5/9/95	
110) I	M. Annamalai(SC)	1977	1/1/55	30/12/83	6/9/95	
111) I	Tejinder Singh(SC)	1977	29/6/54	30/12/86	10/9/95	
112) I	V.K. Rokde(SC)	1977	29/1/54	30/12/86	10/9/95	
113) I	S.H.Gondana(SC)	1977	30/7/52	10/1/84	8/9/95	
114) I	P. Manickam(SC)	1977	10/4/54	10/1/84	6/9/95	
115) I	Adesh Kumar (SC)	1977	21/1/55	10/1/84	6/9/95	
116) I	Suraj Pal(SC)	1977	5/7/42	14/5/85	6/9/95	Retired
117) I	S.K. Singhal	1978	25/5/56	9/6/86	8/9/95	
118) I	R.P. Mathur	1978	4/1/53	9/6/86	8/9/95	
119) I	B.N. Malhotra	1978	22/1/56	9/6/86	8/9/95	
120) I	Mukund Joshi	1978	30/7/56	9/6/86	8/9/95	
121) I	Abhay Sinha	1978	30/6/58	9/6/86	8/9/95	
122) I	Upendra Malik	1978	2/4/57	9/6/86	9/9/95	
123) I	M.Thangamuthu	1978	3/11/55	9/6/86	31/3/97	
124) I	Rajeev Kumar	1978	6/9/56	9/6/86	29/2/97	
125) I	R.P.Golgonda(ST)	1978	2/9/56	9/6/86	2/4/97	
126) I	D.S. Kapoor	1979	21/12/56	9/6/86	31/3/97	
127) I	S.K. Srivastava	1979	18/2/58	9/6/86	31/3/97	
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128) I	Nand Lal Singh	1979	25/7/57	9/6/86	31/3/97	
129) I	Anil Kr. Garg	1979	19/6/57	9/6/86	31/3/97	
130) I	Sukhdev Singh(SC)	1977	23/1/56	30/12/83	8/9/95	
131) I	Jai Prakash(SC)	1977	5/9/51	10/1/84	8/9/95	
132) I	Surinder Kumar	1975	13/10/40	10/3/82	31/3/97	Retired
133) I	Adarsh Kumar Sharma	1977	22/9/55	30/12/83	31/3/97	
134) I	P.K.Kulshreshtha	1979	13/10/54	9/6/86	28/4/97	
135) I	P.P. Srinivasan	1979	10/8/56	9/6/86	31/3/97	
136) I	Niranjan Singh(SC)	1979	2/7/52	18/7/86	31/3/97	
137) I	Ramesh Chandra(SC)	1979	1/1/58	18/7/86	27/3/97	
138) I	M.C.T. Pareva(SC)	1979	16/7/55	18/7/86	31/3/97	
139) I	Balraj Chadha	1980	2/10/58	4/3/87	31/3/97	
140) I	A. Manicavasagam	1980	9/12/49	27/3/87	31/3/97	
141) I	Narender Kumar	1980	20/2/57	19/4/87	16/5/97	
142) I	S.M. Kohli(SC)	1980	2/3/59	19/4/87	19/5/57(NBR)	
143) I	S.L. Jain	1980	27/1/53	1/7/87	19/5/97	
144) I	V.K. Sharma-II	1980	14/12/56	1/7/87	19/5/97	
145) I	S.K. Rastogi	1980	4/9/57	1/7/87	26/5/97	
146) I	Deepak Gupta	1980	16/4/57	1/7/87	19/5/97	
147) I	B.B. Dhar	1980	25/6/55	16/8/87	30/6/97	
148) I	K.P. Abraham	1980	27/11/54	16/8/87	30/6/97(NBR)	
149) I	S.P. Singh	1980	2/3/56	16/8/87	30/6/97	
150) I	V.K. Malik	1980	7/1/58	1/1/88	7/7/97	
151) I	R.S. Rawat (ST)	1979	20/10/57	18/7/86	30/7/97	
152) I	A.K. Silekar(ST)	1979	1/7/56	18/7/86	7/7/97	
153) I	J.M. Swarup	1971	15/1/48	28/4/77	2/12/2000	

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154) I	R.K. Aggarwal	1980	20/9/58	30/6/88	18/11/2000	
155) I	S.K. Garg	1980	4/1/60	5/7/88	7/11/2000	
156) I	A.K. Garg	1981	27/3/59	5/7/88	9/11/2000(NBR)	
157) I	M.C. Bansal	1981	21/4/58	5/7/88	9/11/2000	
158) I	A.P. Mathur	1981	21/3/58	5/7/88	8/11/2000	
159) I	Deepak Thakur	1981	2/6/59	5/7/88	8/11/2000	
160) I	Akhilesh Kumar	1981	10/2/59	12/8/88	7/11/200(NBR)	
161) I	P.K. Vats	1981	27/5/60	12/8/88	7/11/2000	
162) I	N.K. Gupta	1981	17/12/54	12/8/88	9/11/2000	
163) I	Sudhir Singh	1981	7/6/58	12/8/88	8/11/2000	
164) I	P.K. Singh	1981	3/3/60	22/9/88	8/11/2000	
165) I	Adesh Kumar-II	1981	7/4/59	22/9/88	8/11/2000	
166) I	Jayesh Kumar	1981	1/6/59	22/9/88	7/11/2000(NBR)	
167) I	P.K. Aggarwal	1981	22/7/59	22/9/88	7/11/2000 (Notional)	
					7/6/2001 (Actual)	
168) I	H.N.J. Singh	1981	7/12/58	22/9/88	7/11/2000	
169) I	R.K. Duggal	1981	30/6/59	22/9/88	7/11/2000	
170) I	V.K. Jaiswal	1981	16/7/61	22/9/88	7/11/2000	
171) I	K.M. Saini	1981	8/7/59	22/9/88	8/11/2000	
172) I	R.K. Soni	1981	6/11/59	22/9/88	23/11/2000	
173) I	Rajesh Mittal	1981	4/4/61	22/9/88	28/2/2001	
174) I	S.K. Roy	1981	1/6/59	22/9/88	28/2/2001	
175) I	A.S.S. Khurana	1981	23/10/59	22/9/88	28/2/2001 (Notional)	
					27/12/2001 (Actual)	
176) I	Deepak Panwar(SC)	1981	11/6/57	28/4/89	28/2/2001	
177) I	A.K. Sharma	1982	8/7/60	28/4/89	9/4/2001	
178) I	M.P. Jaeeel	1976	22/4/53	3/3/83	25/10/2001	

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1.	2.	3.	4.	5.	6.	7.
179) I	B.B. Popli	1976	19/9/51	3/3/83	31/10/2001	
180) I	S.R. Jaurker(SC)	1981	21/4/59	24/11/88	29/10/2001	
181) I	V.T. Arasu(SC)	1981	26/3/55	24/11/88	29/10/2001	
182) I	Umesh C. Mishra	1982	1/7/59	17/8/89	9/11/2001	
183) I	R. Sampath	1982	23/12/56	17/8/89	29/10/2001	
184) I	Rajendra Kalla	1982	1/12/59	17/8/89	29/10/2001	
185) I	A.K. Pandit	1982	22/8/60	17/8/89	29/10/2001	
186) I	G. Radhakrishnan	1982	12/6/52	17/8/89	29/10/2001	
187) I	Veer Sain (SC)	1982	1/1/59	17/8/89	29/10/2001	
188) I	A.Anudeshwasan(SC)	1982	25/5/56	17/8/89	9/9/2002	
189) I	Bhagwan Singh(SC)	1982	15/3/58	17/8/89	6/9/2002	
190) I	Shailendra Sharma	1983	21/5/63	16/1/91	6/9/2002	
191) I	A.K. Rastogi	1983	6/3/60	25/7/96	9/9/2002	

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294) I		1983		17/1/83	29/10/2001	
295) I		1983		17/1/83	29/10/2001	
296) I		1983		17/1/83	29/10/2001	
297) I		1983		17/1/83	29/10/2001	
298) I		1983		17/1/83	29/10/2001	
299) I		1983		17/1/83	29/10/2001	
300) I		1983		17/1/83	29/10/2001	

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1074 July

-27-

ANNEXURE - 13

No.30/26/2001-EC-I/EW-I
 Government of India
 Ministry of Urban Development & Poverty Alleviation
 (Works Division)
 Nirman Bhawan

New Delhi, dated the 28th January, 2003.

Office Order

The President is pleased to promote the following officers working as Superintending Engineer (Civil) (pay scale 14300-18300) to the grade of Chief Engineer (Civil) in the pay scale of Rs.18,400 to 22,400 in Central Public Works Department from the date they assume the charge of the post and until further orders:-

1. Smt. P. Varma
2. Sh. R. Krishnamurthy
3. Sh. B.N. Gupta
4. Sh. R.S. Prasad
5. Sh. P.K. Mazumdar

2. Consequent upon promotion of these five officers as Chief Engineer (Civil), the Competent Authority has ordered the following postings/transfers in the grade of Chief Engineer (Civil) with immediate effect in the public interest:-

S. N.	Name of the Officer. (S/Shri)	Present place of posting.	Where posted.	Remarks.
1.	Smt. P. Varma (13.12.47) On promotion.	DW(P&WA), New Delhi.	Chief Engineer(CDO), New Delhi.	Against a vacant post.
2.	R. Krishnamurthy (4.1.46) On promotion.	SE(TCC), Trivandrum.	Chief Engineer(South Zone-I), Chennai.	Vice Sh. T.P. H. Menon promoted as ADG (Works).
3.	B.N. Gupta (3.5.44) On promotion.	SE (HUDCO), New Delhi.	Chief Engineer(NZ-I), Chandigarh.	Against a vacant post.
4.	R.S. Prasad (15.11.49) On promotion.	DW(PM), New Delhi.	CE(Valuation), New Delhi.	Vice Sh. S.P. Lalla promoted as ADG (Works).
5.	P.K. Mazumdar (2.3.47) On promotion.	SE(Inquiry-I), New Delhi.	CE(A&N), Port Blair.	A newly encadred post.

Contd...2/-

At 21
 22
 23

- 28 -

6
ANNEXURE - 1

No.30/26/2001-EC-I/EW-I
Government of India
Ministry of Urban Development & Poverty Alleviation
(Works Division)

New Delhi, dated the 10th February, 2003.

Office Order

The President is pleased to promote S/Shri S.S. Mandal and C.S. Prasad working as Superintending Engineer (Civil) (pay scale Rs.14300-18300) to the grade of Chief Engineer (Civil) in the pay scale of Rs.18,400 to 22,400 in Central Public Works Department from the date they assume the charge of the post and until further orders.

2. Consequent upon the promotion of these two officers as Chief Engineer (Civil), following postings/transfers in the grade of Chief Engineer (Civil) in Central Public Works Department are ordered herewith in public interest:-

S. N.	Name of the Officer. (S/Shri)	Present place of posting.	Where posted.	Remarks.
1.	S.B. Jhamb Chief Engineer (Civil)	CE(South Zone-II), Hyderabad.	Chief Engineer(PWD), Zone-I, NCT of Delhi.	Vice Sh. K.K. Verma, promoted as Engineer- in-Chief, PWD, Delhi.
2.	R. Krishnamurthy Chief Engineer (Civil)	CE(South Zone-I), Chennai.	CE(South Zone-II), Hyderabad.	Vice Sh. S.B. Jhamb, transferred.
3.	S.S. Mandal On promotion.	SE, PWD, New Delhi.	CE(South Zone-I), Chennai.	Vice Shri R. Krishnamurthy, transferred.
4.	C.S. Prasad On promotion.	SE(MAP) Zone, New Delhi.	CE(Eastern Zone-II), Patna.	Vice Sh. L.C. Raha, retired.

upto the
date of
signature

Chief Engineer
(Civil)

Mehar Singh
(Mehar Singh)

Under Secretary to the Govt. of India

To

1. Director General (Works), Central Public Works Department.(Shri J.N. Bhawani Prasad).
2. ADG (SZ), Chennai/ADG(EZ), Kolkata/Engineer-in-Chief, PWD, Delhi.
3. Shri S.B. Jhamb, Chief Engineer (Civil).
4. Shri R. Krishnamurthy, Chief Engineer (Civil).

Contd...2/-

Attd
Adm

ANNEXURE-D 63

To
The Director General of Works
C.P.W.D., A Wing
Nirmal Bhawan
New Delhi-110 011.

(Through Proper Channel).

Subject: Promotion of Er. G.S. Mittal from
Superintending Engineer to Chief
Engineer.

Sir,

As per the promotion order issued, Shri R.S. Prasad and Shri P.K. Mazumder who are junior to me are promoted from Superintending Engineer to Chief Engineer in last week. I have taken to shock that I have not been promoted when my juniors are promoted. None of the time I was given any indication by my controlling Officer either verbally or written that I am not fit for promotion. No vigilance case is pending against me. Moreover I am working in hard area controlling works at Manipur, Nagaland, Tripura and Mizoram since May 2001. I am always working with sincerity and dedication.

I shall be highly obliged if the reasons for not promoting are known to me for consolation.

It is further requested the next DPC for the vacancies of 2003-2004 may please be taken up and the vacancies arising after 1st April 2003 may not be filled up from the present remaining panel.

I shall be highly obliged.

Thanking you,

Yours faithfully

(Er. G.S. Mittal) 9/3/03
Superintending Engineer
Silchar Central Circle
CPWD, Silchar - 2.

Advance copy to the Director General of Works
CPWD, Nirmal Bhawan, New Delhi - 11 for his
kind consideration please.

Attested
J. D. / Shree G

- 30 -

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

ANNEXURE - P
61

O.A. NO.539/2002

This the 22nd day of November, 2002.

HON'BLE SMT. LAKSHMI SWAMINATHAN, VICE-CHAIRMAN (J)

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

Dinesh Kumar Baxi,
R/O D-506, Pragati Vihar Hostel,
New Delhi-110003.

... Applicant

(By Shri G.K.Aggarwal, Advocate)

-versus-

1. Union of India through
Secretary, Ministry of Urban
Development & Poverty Alleviation,
Nirman Bhawan, New Delhi-110011.
2. Director General (Works),
Central Public Works Department,
Nirman Bhawan, New Delhi-110011.
3. Secretary,
Union Public Service Commission,
Shahjehan Road,
New Delhi-110011.
4. Ashok Kumar Sharma, SE(C)
5. C.Radhakrishnan, SE(C)
(4 & 5 to be served thr. Resp.2)

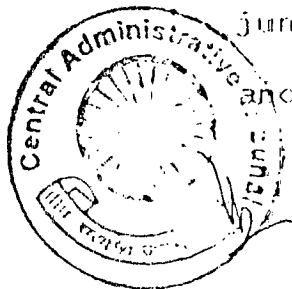
... Respondents

(By Shri Madhav Panikar & Mrs. B.Rana, Advocates)

O R D E R

Hon'ble Shri V.K.Majotra, Member (A) :

Applicant is aggrieved by his non-promotion as regular Superintending Engineer (Civil) [SE(C)] from next lower grade of Executive Engineer (Civil) [EE(C)] through DPCs for the years 2000-2001 and 2001-2002 while his juniors were promoted vide Annexure A-1 dated 26.2.2001 and Annexure A-2 dated 25.10.2001.



A.H.S. Ed
Adm. G

31-

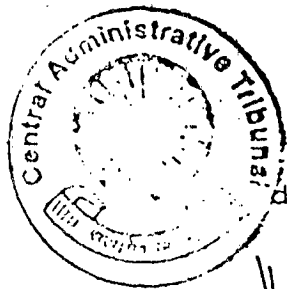
2. According to applicant, uncommunicated adverse reports were taken into account for denying regular promotion to him through DPCs for the years 2000-2001 and 2001-2002; that assessment below benchmark was unsupported by material on record and that he was denied promotion at both DPCs not on comparative merit but for the reason that his ACRs were graded below the benchmark, without being communicated to him. Applicant has sought the following reliefs :

- "(i) Quash and set aside Applicant's non-promotion from Executive Engr (Civil) to Superintending Engineer (C) through DPCs for 2000-01, 2001-02,
- (ii) Order review of Applicant's non-promotion at DPC for 2000-01 and, if necessary, for 2001-02 also, by ignoring uncommunicated 'adverse ACRs' (para 4.03 of this OA refers), with consequences including antedated promotion with back wages as on duty for all purposes, grant any other relief with costs."

3. The learned counsel of applicant himself stated that the following reference has been decided in a Full Bench reference by the Mumbai Bench of the Tribunal in OA No.559/2001 : Manik Chand v. Union of India & Ors. on 23.7.2002 (2002 (3) Administrative Total Judgments 268) :

"In the case of selection, where a particular bench mark has been prescribed, whether any gradings in the ACR which fall short of bench mark need to be communicated to the reportee even though the grading/report perse may not be adverse."

The reference was answered in the negative.



4. The learned counsel stated that whereas each downgrading or a fall in grading is not to be

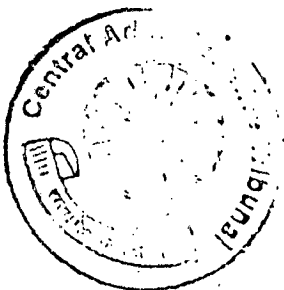
A. H. K. L.
A. H. K. L.

communicated to the concerned employee, a steep fall in the grading must be communicated even as per the judgment in the case of U.P. Jal Nigam v. Prabhat Chandra Jain, 1996 (1) SCSLJ 335. The learned counsel of applicant stated that fall from 'outstanding' to 'good' grading involving fall of two steps is a steep fall affecting the promotion of a candidate which must be communicated and not acted upon by the authorities at the time of promotion of the person concerned.

5. On the other hand, the learned counsel of respondents stated that steep fall is drastic variation from 'outstanding' entry for one year to 'poor' in the next year. Variation from 'outstanding' to 'good' cannot be considered as steep fall and has not to be communicated and has to be taken into consideration as falling below the benchmark.

6. In the present case, we have perused the relevant records of applicant. His gradings from 1989-90 to 2000-2001 are as follows :

1989-90	:	Average
1990-91	:	-
1991-92	:	Fair and Adverse (communicated)
1992-93	:	i) 3 months - Good ii) 9 months - Very Good
1993-94	:	Very Good
1994-95	:	i) 5 months - Very Good ii) 7 months - Very Good
1995-96	:	Very Good
1996-97	:	Fair
1997-98	:	Fair
1998-99	:	Good
1999-2000	:	Very Good
2000-01	:	Very Good

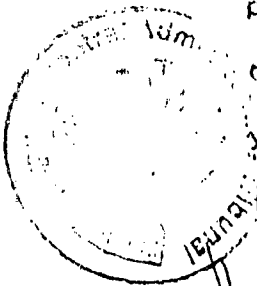


Bench

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7. Respondents have stated that due to legal constraints on account of court cases, DPC could not be convened for making regular promotion to the grade of SE(C) from February, 1997. It was held for promotion on selection by merit basis to fill up 24 vacancies pertaining to the year 2000-2001. Pending amendment to the recruitment rules, UPSC had approved that EE(C) in the revised pay scale of Rs.1000-15200 with ten years' regular service in the grade would be eligible for consideration for promotion to the grade of SE(C). In this selection, ACRs from 1989-90 to 1998-99 were taken into consideration. The next DPC for ten vacancies of the year 2001-2002 was held in October, 2001. The promotion was made on selection by merit basis with 'very good' as the benchmark, but records for five years from 1996-97 to 2000-2001 were taken into consideration. Applicant was considered along with other eligible officers for promotion on both occasions but was not recommended by the DPC for promotion to the grade of SE(C).

8. So far as the selection for the period 2001-2002 is concerned, as applicant had been graded as 'fair' during the initial two years, i.e., 1996-97 and 1997-98 and as 'good' in 1998-99, the question of any fall in his gradings does not exist and in our view, no fault can be found with exclusion of applicant from the panel for promotion to the grade of SE(C) for vacancies of the year 2001-2002. As respects vacancies for the year 2000-2001, wherein ACRs from 1989-90 to 1998-99 were taken into consideration, it is observed that applicant



Attested
[Signature]

had been graded as 'very good' continuously for three years from 1993-94 to 1995-96. Then, continuously, for two years, 1996-97 and 1997-98 he was graded as 'fair' and these 'fair' ACRs were not communicated to him. The question for our consideration is whether fall from 'very good' grading to 'fair' can be treated as a steep fall requiring communication to the concerned. It has been held in the case of U.P.Jal Nigam (supra) that any downgrading or steep fall in the grading is necessarily to be communicated to the employee concerned. An extreme variation in gradation such as 'outstanding' in one year followed by 'satisfactory' in the succeeding year is certainly adverse requiring compulsory communication to the concerned employee. The ratio in the case of U.P.Jal Nigam has been considered in Rajinder Kumar v. Union of India & Ors., 91 (2001) Delhi Law Times 170 (DB). It has been observed in this case that the Apex Court in U.P.Jal Nigam's case had found a drastic variation from 'excellent' entry in one year to 'poor' next year and held that competent authority ought to have recorded reasons for such steep downgradation and communicated it to the concerned employee to improve his performance. Fall from 'excellent' entry to 'poor' next year is certainly steep but a fall from consistent 'very good' grading continuously for three years to a 'fair' grading for the next two years is also steep in our view. A steep fall need not necessarily be absolutely perpendicular. Even if it is almost perpendicular, it is steep. A steep hill or steep stairs are not absolutely perpendicular but have an unreasonably inconvenient gradient. Consistent 'very good' gradings continuously

Attended
F.L. Adm. 6

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- 6 -

for three years followed by 'fair' gradings, do fall in the category of drastic/steep variation and are necessarily to be communicated. In the present case, the 'fair' grading for the years 1996-97 and 1997-98 following 'very good' gradings continuously for three years from 1993-94 to 1995-96 was not communicated and applicant could not attain the benchmark of 'very good' in the DPC proceedings dated 25.10.2001.

9. On the facts and circumstances of the case, we are of the view that the case of applicant for promotion from EE(C) to SE(C) through DPC for 2000-2001 should be reviewed. Applicant's ACRs 1996-97 and 1997-98 should be communicated to applicant. Applicant should represent against the remarks therein and respondents should dispose of his representation, if any, against such remarks, and a review DPC for posts for the year 2000-2001 should be held to consider applicant's promotion as stated above.

10. In the result, this OA is disposed of with a direction to respondents to communicate applicant's ACRs for the years 1996-97 and 1997-98 within two months from the date of receipt of a copy of this order. It will be open to applicant to represent against these remarks within one month of the date of communication of the same to him and in the event applicant does represent, respondents should dispose of that representation in accordance with the rules and instructions within three months of its receipt. If upon disposal of that representation, any change in applicant's ACRs is

Approved
[Signature]
Adminstr

necessitated. respondents should consider applicant's case for promotion as SE(C) with effect from the date his immediate junior was promoted on the basis of DPC held on 25.10.2001. No costs.

(V. K. Majotra)
Member (A)

/as/

(Smt. Lakshmi Swaminathan)
Vice-Chairman (J)



CERTIFIED TRUE COPY
Dated.....

Secretary (J-1)
Section Officer (J-1)
Tribunal
Delhi

Attended
Admitted

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ANNEXURE - F

Central Administrative Tribunal
Principal Bench

O.A. No. 1584 of 1998

New Delhi, dated this the 22nd March, 2000

Hon'ble Mr. S.R. Adige, Vice Chairman (A)
Hon'ble Mrs. Lakshmi Swaminathan, Member (J)

O.A. No. 1584 of 1998

Shri S.M. Verma,
S/o Shri Jaimini Verma,
R/o E-32, Guru Nanak Road,
Adarsh Nagar,
Delhi-110033.

... Applicant

(Applicant in Person)

Versus

1. Union of India through
the Secretary,
Ministry of Urban Affairs & Employment,
Nirman Bhawan,
New Delhi-110011.
2. Director General (Works),
C.P.W.D., Nirman Bhawan,
New Delhi-110011.

.. Respondents

(By Advocate: Shri M.K. Bhardwaj proxy
counsel for Shri A.K. Bhardwaj)

O.A. No. 1886 of 1995

Shri S.M. Verma,
S/o Shri Jaimini Verma,
R/o E-32, Guru Nanak Road,
Adarsh Nagar,
Delhi-110033.

... Applicant

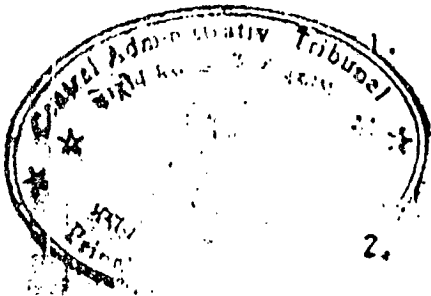
(Applicant in Person)

Versus

1. Union of India through
the Secretary,
Ministry of Urban Affairs & Employment,
Nirman Bhawan,
New Delhi-110011.
2. Director General (Works),
C.P.W.D., Nirman Bhawan,
New Delhi-110011.

.. Respondents

(By Advocate: Shri M.K. Bhardwaj proxy
counsel for Shri A.K. Bhardwaj)



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Attached
File

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ORDER

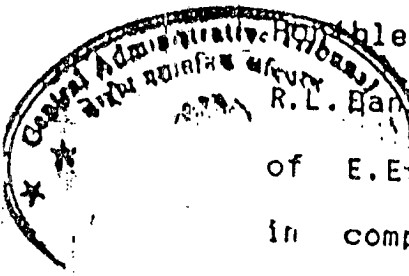
BY HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

As these two O.As deal with the same matters, they are being disposed of by this common order.

O.A. No. 1886/95

2. In this O.A. applicant impugns respondents' order dated 5.7.95 (Annexure A-1) and seeks regular promotion as Superintending Engineer (S.E.) w.e.f. 4.9.95, the date his junior Shri B.B. Bhatia was promoted. Applicant also prays that the conduct of certain officers, against whom he has alleged impropriety, violation of rules and regulations and misuse of official position be investigated into.

3. Admittedly the posts of S.E. are filled 100% by promotion from the grade of Executive Engineers (E.E) by selection method from amongst E.Es with 7 years regular service in the grade through a D.P.C. headed by a Member, UPSC. Since the seniority in the feeder grade i.e. E.E. could not be finalised for a long time owing to prolonged litigation, promotion to the grade of S.E. was being made on ad hoc basis since 1982. Pursuant to the Hon'ble Supreme Court's judgment dated 8.5.92 in R.L. Bhatia's case (No. 1438/81) the seniority list of E.Es/SEs was finalised on 20.10.94 (Annexure A-2) in compliance with C.A.T., P.B's order dated 9.6.94 in O.A. No. 1765/92.



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Affidavit
J.S. / Adv. G.

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x3

4. It is not denied that in the aforesaid order dated 9.6.94 respondents had been directed to complete the process of review/regularisation of ad hoc promotions upto the level of S.E. (Civil) as on 1.1.94 by 20.10.94 pursuant to the which DPCs were held in UPSC in October, 1994 to prepare yearwise panels of E.E. (Civil) for promotion to the grade of S.E. (Civil) for the vacancies from 1982 to 1993-94 and these proceedings concluded on 10.10.94.

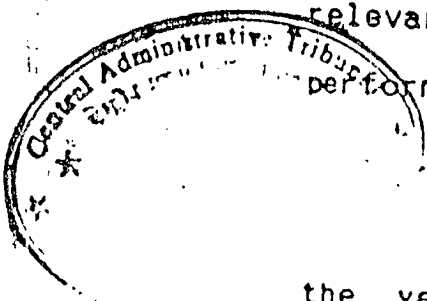
5. Respondents in their reply have stated that applicant was also considered by the yearwise DPCs for promotion as S.E. (Civil) but on account of his service record he was superseded in the years 1991-92; 1992-93 and 1993-94 as he failed to obtain the minimum bench mark of Very Good for promotion as S.E.

6. We have heard both sides.

7. We note that applicant in Paragraph 4 (x) of his O.A. has urged, and respondents in the corresponding paragraph of their reply have not denied that the CRs for the preceding 7 years were relevant for the purpose of assessing applicant's performance.

8. We have perused applicant's ACRs. For the year 1987-88 his overall grading is 'Very Good'. For the year 1988-89 it is the same. For the year 1989-90 also it is the same. For the year 1990--91,

2



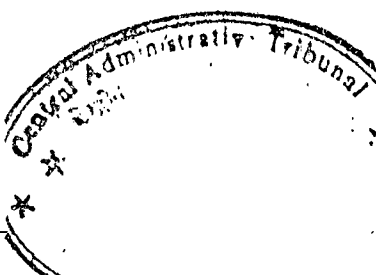
After trial
J. I. *Advocate*

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we note that remarks have been recorded for the period 1.4.90 to 31.11.90 during which applicant has been graded overall as 'Very Good'. For the period 1.11.90 to 31.3.91 no remarks have been recorded as he worked under different reporting officers for less than 3 months each. For the year 1.4.91 to 31.3.92 he has been graded as a 'Very Good' officer. For the year 1992-93 he has been graded overall as 'Good' while for the year 1993-94 he has again been graded as 'Very Good'.

9. It is clear from the foregoing that except for the year 1992-93 when applicant was overall graded merely as 'Good', he has been overall graded as 'Very Good' right from 1987-88 till 1993-94, and but for that one year's grading as 'good', he would have achieved the bench mark of 'Very Good' for promotion as S.E. In the case of U.P. Jal Nigam & Others Vs. P.C. Jain and Others 1996 (1) SCALE page 624, the Hon'ble Supreme Court has held as follows:

"We need to explain these observations of the High Court. The Nigam has rules, whereunder an adverse entry is required to be communicated to the employee concerned, but not down grading of an entry. It has been urged on behalf of the Nigam that when the nature of the entry does not reflect any adverseness that is not required to be communicated. As we view it the extreme illustration given by the High Court may reflect an adverse element compulsorily communicable, but if the graded entry is of going a step down, like falling from 'Very Good' to 'Good' that may not ordinarily be an adverse entry since both are a positive grading. All what is required by the Authority recording confidentials in the situation is to record reasons for such down grading on



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Attested
J.P. / [Signature]

5-41-
the personal file of the officer concerned, and inform him of the change in the form of an advice. If the variation warranted be not permissible, then the very purpose of writing annual confidential reports would be frustrated. Having achieved an optimum level the employee on his part may slacken in his work, relaxing secure by his one time achievement. This would be an undesirable situation. All the same the sting of adverseness must, in all events, be not reflected in such variations, as otherwise they shall be communicated as such. It may be emphasised that even a positive confidential entry in a given case can seriously be adverse and to say that an adverse entry should always be qualitatively damaging may not be true. In the instant case we have seen the service record of the first respondent. No reason for the change is mentioned. The down grading is reflected by comparison. This cannot sustain.

10. It is true that the aforesaid ruling was made in the context of the U.P. Jal Nigam Rules, but it cannot be denied that the rules applicable to applicant require that adverse entry be communicated, but not downgrading of an entry. In the light of the aforesaid ruling the downgrading of applicant's ACR for the year 1957-93 to Good from the previous years ACR of Very Good should have been communicated to applicant before those downgraded remarks were actually recorded, and applicant should have been given an opportunity to represent, but this was not done in the present case.

11. We are aware that the DPC is not bound by the over-all grading given in the ACRs and is to make its own assessment of the work of the candidates. We are also aware that the Tribunal cannot substitute its own assessment for that of a

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Attested
Jil
Advocate

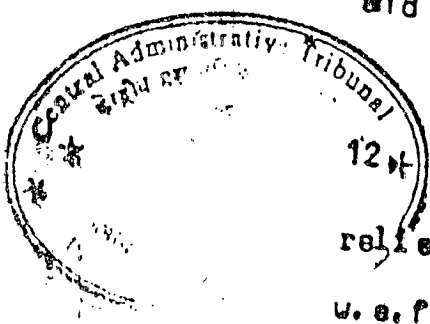
regularly constituted CPC. However, in the facts and circumstances of this particular case, when applicant has undebly been graded overall as 'Very Good' during six of the seven years which are relevant, and in the single year when he was rated as 'good' this down grading in the entry was not communicated to him, we feel it is a fit case to call upon respondents to communicate the downgraded entry to applicant within six weeks of receipt of a copy of this order, and grant applicant six weeks thereafter to file a representation, if any against the same. Thereafter respondents will dispose of that representation in accordance with rules and instructions and if the downgraded entry is upgraded, respondents shall consider applicant's case for promotion as S.E(Civil) with effect from the date his junior Shri S.B. Bhatia was so promoted by order dated 4.9.95. We direct accordingly and call upon respondents to implement these directions in full as expeditiously as possible and preferably within 6 months from the date of receipt of a copy of this order. In case applicant is so promoted he shall be entitled to all consequential benefits flowing therefrom including arrears of pay and allowances and seniority.

O.A.No.1584/1998

In this O.A. also applicant seeks identical relief as in O.A.No.1886/95 namely promotion as S.E. w.e.f. 4.9.95 with consequential benefits including pay and allowances (with arrears) from 4.9.95 as also interest @ 18% p.a. w.e.f. 1.1.98 and costs.

13. As the main relief sought in O.A.No.1584 of 1998 is already covered by our directions in paragraph

11 above in relation to O.A.No.1886/95 no separate orders are required on O.A. No.



[Handwritten signatures and initials]

1594/98, and indeed applicant should not have filed the second O.A. seeking the same relief which he has sought in the first.

14. Under the circumstances both O.As are disposed of in terms of the directions contained in paragraph 11 above. The prayer for interest and costs is rejected as we find no good grounds to award the same. No costs.

(Mrs. Lakshmi Swaminathan)
Member (J)

(S.R. Adige)
Vice Chairman (A)

gl.



CERTIFIED TRUE COPY
Dated: 29/12/2000
Principal Bench, New Delhi
Central Administrative Tribunal
New Delhi, 110 001

Advocate
Advocate

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ANNEXURE-G

ANNEXURE-G

-61-

NO. 20014/3/83-D-IV
Government of India
Ministry of Expenditure

New Delhi, the 14th Dec. '83

Copy of Min. of Def. O-M.-No.4(19)83/D Civ-I
dt. 11.1.89

OFFICE MEMORANDUM

Subject: Allowance and Facilities for civilian
employees of the Central Govt. servants
in the states and Union Territories of
the North Eastern Region - Improvement
thereon-

The need for attaching and retaining the
services of competent officers for service in the
North Eastern Region comprising the State of Assam,
Meghalaya, Manipur, Nagaland and Tribal and the
Union Territories of Arunachal Pradesh and Mizoram
had been engaging the attention of the Govt. for
some time. The Govt. had appointed a committee
under the Chairmanship of Secretary, Department of Per-
sonnel and Administrative Reforms, to review the

45- 79

existing allowances and facilities admissible to the various categories, of civilian Central Govt. Employees serving in this region and to suggest suitable employment. The recommendations of the committee have been carefully considered by the Govt. and the Government is now pleased to decide as follows:

(1) Tenure of Posting/deputations:

There will be a fixed tenure of posting of 3 years at a time for officers with service of 10 years or less and of 2 years at the time for officers with more than 10 yrs. of service. periods of leave, training, etc. In cases of 15 days per year will be excluded in counting the tenure period of 2/3 years. Officers, on completion of the fixed tenure of service mentioned above, may be considered for posting to station of their choice as far as possible.

The period of deputation of the central Govt. employees to the states/Union Territories of the North Eastern Region will generally be for 2 years.

Attended
J.L. [Signature]
Advocate

which can be extended in excecotional cases in
of public services as well as when
when the employees concerned is prepared to stay
long. The addissible deputation allowances will
also be continue and be paid during the period
of deputation of extended.

- (ii) Weightage for central deputation/training
abroad and special mention in confidential
records.

Satisfactory performances of duties for the
prescribed tenure in the North Eastern shall
be given due recognition in the case of eligible
officers in the

- (a) promotion in cadre posts.
(b) Deputation to Central tenure posts, and
(c) Courses of training abroad.

The general requirement of at least three
years services in a cadre post between two Central

tenure deputation may be relaxed to two years in deserving case of meritorious & services in the North East.

A specific entry shall be made in CR of all employees who rendered a full tenure of service in the North Eastern Region to that effect.

(iii) Special (Duty) allowances:

Central Govt. civilian employees who have All India transfer liability will be granted a special (duty) allowance at the rate of 25 per cent of basic pay subject to a ceiling of Rs.400/-per month on posting to any station in the North Eastern Region. Such of those employees who are exempt from payment of income tax will, however, not eligible for this special (duty) Allowances. Special (Duty) Allowances will be in addition to any special pay and/or deputation(duty) allowances already being drawn subject to the condition that the total of such special (Duty) allowances like special compensatory (Remote Locality) Allowances

Attended
J. R.
Advocate

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Tripura

The rates if the allowance will be as follows:-

- a) Difficult area 25% of pay subject to a minimum of 50/- and a maximum of 150/-P.m.
- b) Other areas:
Pay upto Rs.20/- Rs40/-P.m.
Pay above Rs.20/-15%of basic pay subject to a maximum of Rs.150/-P.m.

There will be no change in the existing rates of special compensatory allowances admissible in Arunchal Pradesh, Nagaland and Mizorem and the existing rate of Disturbance allowances admissible in specified areas of Mizoram.

(V) Travelling allowances on first appointment

The relaxation of the present rules (BR-103) that the existing allowance is not admissible for

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Attested
J. S. [Signature]
[Signature]

journays enlsted connection with intitial
appointed; in case of journays for initial
appointment to a post in the North Eastern Region
for travelling allowances limited to by bus
fare/second class rail fare for road/mailling
in case of first 400 Kms. for the Govt.
Servant himself will be available.

(VI) Travilling allowance for journey on
Trnasfer.

In relaxation of orders below SR-II, on
transfer to a station in the North-Eastern Region,
the family of the Govt. servant does not accomaby
him the Government servant will be paid travelling
allowances on tour for self only for transit period
to join the post and will be permitted to carry
personnel effects upto 1/3 of his entitlement
at Govt. cost or have a equivalent of carrying
1/3rd of his entitlement of the difference in
weight of the personnel effect actually
carrying and 1/3rd of his entitlement as the case
may be in line of the cost of transportation of
baggage. In case the famiky accomoanies the

Govt. servant on transfer, the Govt. servant will be entitled to the existing admissible travelling allowances including the cost of transportation as charges of the admissible weight of the baggage actually carried. The above provisions will also apply for the return journey on transfer back from the North Eastern Region.

(VII) Rate of millage for transportation of Personnel effects

In the relaxation of orders below SR lie for transportation of the personnel effects on transfer between two different stations in the North Eastern Region, higher rate of allowances admissible for transportation in 'A' class cities subject to the actual expenditure incurred by the Govt. servant will be admissible.

(VIII) Joining time with leave:

In the case of Govt. servants proceeding on leave from a place of posting in North Eastern Region, the period of travelling excess of two days

from the station of posting to outside that region will be treated as joining time. The outside will be admissible on return from leave.

(ix) Leave travel concession

A Govt. servant who leaves his family behind at the old duty station or another selected place of residence for the family will have to option to avail of the existing leave travel concession of journey to home town once in a block period of 2 years or in lieu thereof, facility of travel or himself once a year from the station of posting in the north eastern region to his home town or place where the family is residing and in facility for the family (restricted to his and two dependee children only) also to travel once a year to employee at the station of posting in the north eastern region. In case the

the cost of travel for the initial stage (400 Kms will not be born by the officer.

Attended
Adm to

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officers drawing pay of Rs. 2250/- or above and their families i.e. spouse and two dependent children (to 13 years for boys and 24 years for girls) will be allowed travel between Imphal/Silchar/Agartala and Calcutta and vice-versa, while performing journeys mentioned in the preceding paragraph.

(X) Children Education Allowances/Postal Subsidy

Where the children do not accompany the Govt. servant to the North Eastern Region, children Education Allowances up to class XII will be admissible in respect of children studying at the last station of posting of the employee concerned. If children studying in schools are put in hostels at the last station of posting or any other station, the Govt. servant concerned will be given hostel subsidy without other restrictions.

2. The above orders except in sub para (iv) will also be mutatis mutandis apply to Central Govt. employees posted to Andaman and Nicobar Islands.

3. These orders will take effect from 1st Nov. 93 and will remain in force for a period of three years upto 31st Oct. 1986.

4. All existing special allowance, facilities and concessions extended by any special orders by the Ministries/Departments of the central Govt. to their own employees in the North Eastern Region will be withdrawn from the date of effect of the orders contained in this office memorandum.

5. Separate orders will be issued in respect of other recommendation of the committee referred to in paragraph 1 as and when decisions are taken by them by the Govy.

6. In so far as persons serving in the India Audit & Accounts Deptt. are concerned, these orders issue after consultation with comptroller and Auditor General of India.

Sd/-

(S.C. Mahalik)

Jt. Secy. to the Govt. of India

Atk. Enl
Jt. Secy. to the Govt. of India

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

IN

O.A.No.184/2003

Shri G.S.Mittal

Applicant

Versus

Union of India & Others

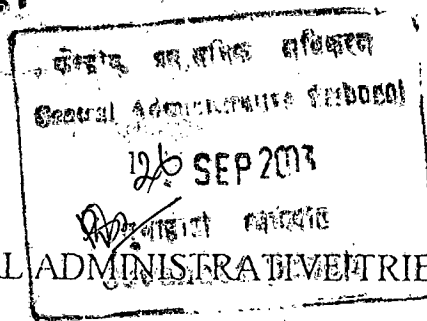
Respondents

COUNTER REPLY ON BEHALF OF RESPONDENTS 1, & 2

MOST RESPECTFULLY SHOWETH

That I, **J. P. GUPTA** working as Superintending Engineer
(Civil), Assam Central Circle, CPWD, Guwahati under the office of the
Directorate General of Works, CPWD, Nirman Bhawan, New Delhi do hereby
solemnly affirm and state as under:-

1. That I am well conversant with the facts and circumstances of the case
and I am fully competent to swear this counter reply against the OA. I
have been authorised to file the counter reply on behalf of
Respondents 1. and 2.
2. That the deponent has read and understood the contents of the OA filed
by the applicant.
3. That the averments of the applicant, in the aforesaid application which
are not specifically admitted, are denied.



Filed by

(A. DEB ROY)

St. C. C.

G. A. T. C. W. Bench

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25/9/03

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4. That in order to have proper appreciation of the facts of the case, the answering respondents crave leave to submit the following preliminary objections and brief facts of the case before giving the para- wise reply to the application:

Preliminary Objections

1. This OA seeks to quash the office orders dated 28.1.2003 and 10.2.2003 issued by the respondents in pursuance of the recommendations of the DPC held on 31.7.2002, in UPSC for selection of officers for regular promotion to the grade of Chief Engineer (Civil) (Group 'A' , Scale of pay Rs. 18,400-22,400) in Central Public Works Department. By seeking directions to quash the office orders mentioned above , the applicant is actually challenging the recommendations of the duly constituted DPC which was chaired by Chairman, UPSC and was vested with full mandate, under the rules and /instructions of the Government regarding holding of DPC, issued by Department of Personnel and Training's under O.M.No.22011/5/86-Estt.(D) dated 10.4.89, to devise its own method and procedure for objective assessment of the suitability of the candidates to consider them for regular promotion from the grade of Superintending Engineer (Civil) to the grade of Chief Engineer (Civil) on the basis of their service records. The applicant cannot be permitted to sit in judgment over the DPC in assessing his suitability for promotion to the grade of Chief Engineer(Civil).

2. The applicant has no cause of action because it is well settled that in promotion by 'selection', one has no right to promotion but only the right to be considered for promotion on one's turn along with other eligible officers. The applicant was considered for promotion by the DPC but on the basis of his service record he could not be recommended for promotion to the grade of Chief Engineer (Civil) whereas his juniors with comparatively better record of service and conforming to the prescribed bench mark of 'very good' were recommended and promoted.
3. Non selection for promotion is not a matter of judicial relief unless such determination is mala fide.
4. The application is bad in law for non impleading of all proper and necessary parties who have been promoted as Chief Engineer(Civil) on regular basis vide the impugned office order dated 28.1.2003.

Brief Facts of the Case

- (i) The post of Chief Engineer (Civil) in CPWD in the pay scale of Rs. 18,400-500-22,400 (revised) is filled on the basis of "Selection" from amongst Superintending Engineer (civil) with 8 years regular service in the grade (including service, if any, rendered in the non functional selection grade) or 17 years regular service in Group A posts of the service out of which 4 years regular service should be in the grade of Superintending Engineer(Civil). A copy of the relevant Recruitment Rules notified on 29.10.96 is at Annexure R-1.

(ii) In terms of the revised guidelines on procedure to be followed by DPCs issued under Department of Personnel and Training OM No. 35034/7/97 - Estt(D) dated 8.2.2002 (Para3.3) the bench mark prescribed for promotion to the posts in revised pay scale (grade) of Rs. 12,000-16,500 and above (which includes the posts at the level of Chief Engineer (Civil) in CPWD) where the mode of promotion is by 'selection' shall continue to be 'very good' and that the DPC shall, for promotion, grade officers as 'fit or 'unfit' only with reference to the bench mark of 'very good'. Only those who are graded as 'fit' shall be included in the select panel prepared by the DPC in order of their inter-seniority in the feeder grade. A copy of the OM dated 8.2.2002 is placed at Annexure R-2.

(iii) A meeting of the DPC was held in UPSC on 31.7.2002 for selection of officers for promotion to the grade of Chief Engineer(Civil) in CPWD, against the 12 vacancies of the year 2002-2003. The DPC, after considering the character rolls of the senior most eligible officers that included the applicant, recommended 12 officers in the normal panel and 2 officers in the extended panel, to be appointed in the order stated, if the officers included in the regular panel at Sl.No.1 and Sl.No.3 were not available for promotion or retired on superannuation during the year 2002-2003. The applicant was assessed as 'unfit' by the DPC. However, a number of his juniors were assessed as 'fit' and included in the panel. The recommendations of the DPC was approved by the Appointments Committee of the Cabinet (ACC) and promotion orders in respect

of the officers included in the panel were issued vide the impugned orders dated 28-1-2003 & 10-2-2003

(iv) The applicant was considered for promotion by the DPC but was assessed as not 'fit' for promotion on the basis of his service record with reference to the prescribed benchmark and has therefore not been promoted . On the other hand, his juniors, on account of their comparatively better service record, have been assessed as fit for promotion by the DPC with reference to the prescribed bench mark, and have been promoted with the approval of the competent authority. In view of the factual position explained above the applicant has no case to approach this Hon'ble Tribunal and this application is non maintainable and is therefore liable to be dismissed with costs in favour of the respondents.

PARAWISE REPLY

1. The impugned office orders mentioned in this para have been issued consequent to the acceptance and implementation by the competent authority, the recommendations of the duly constituted DPC held in the UPSC on 31.7.2002, to draw panels for regular promotion to the grade of CE(Civil), in accordance with the relevant rules and instructions of the Govt. The orders do not suffer from any legal infirmity that would justify legal intervention of this Hon'ble Tribunal. Law is well settled that the applicant cannot substitute his own assessment for that of a regularly constituted DPC.
2. Jurisdiction of this Tribunal is not disputed.

3. This is a matter for arguments.
4. Facts of the case
 - 4.1 Matter of record.
 - 4.2 Matter of record.
 - 4.3 The seniority list of SE(Civil) issued under OM dated 25-10-2002 and the position of the applicant vis- a -vis the private respondents in the said seniority list is a matter of record.
 - 4.4 The contents of this para are matter of record. In reply, it is submitted that in promotion by 'selection', the applicant has no right to promotion but only the right to be considered for promotion in his turn alongwith other eligible officers. The applicant was considered by the DPC held on 31-7-2002 for promotion to the grade of Chief Engineer(Civil) but on the basis of his service records he was not assessed as 'fit' for promotion by the DPC. However, a number of his juniors were assessed as 'fit' for promotion by the DPC, with reference to the bench mark of 'very good', on basis of their service records and were therefore promoted with the approval of competent authority by the impugned office orders.
 - 4.5. The representation submitted by the applicant dated 4.3.2003 is a matter of record. In reply it is submitted that on the basis of his service record (Character Rolls) the applicant has not been able to qualify for selection for promotion to the grade of Chief Engineer (Civil) in the year 2002-03.

- 4.6. In reply to this paragraph it is submitted that the applicant has not been promoted to the grade of Chief Engineer (Civil) on account of not some vigilance case pending against him but on the basis of his record of service that has been examined and assessed by the DPC and who have graded him as not fit for promotion during the year 2002-03, ~~and also in 2003-04~~. Absence of 'adverse' remarks against an officer is not enough to entitle him to be selected for appointment to a post, promotion to which is made on 'selection' basis. The ACRs should reflect the positive merit of the officer concerned and it should meet the requirement of bench mark prescribed for promotion to the higher post. The assessment of the officer is the function of the DPC. Hence averments are denied.
- 4.7. The contents of this paragraph are wrong and denied. The applicant is not supposed to have access of his Character Rolls which are confidential and are maintained under the custody of the answering respondents. The existing rules /instructions and guidelines for DPC, issued under OM dated 10.4.89, lay down that the duly constituted DPC is fully competent to devise its own method and procedure for carrying out objective assessment of the suitability of the candidates considered for promotion. The DPC is not bound by the overall grading given in the ACRs but it has to make its own assessment of the work of the officer to be considered for promotion based on his ACRs. Hence averments are denied.

4.8. The averments made in this paragraph are denied. In reply it is submitted that the citations quoted by the applicant in this para are misconceived and misplaced and do not advance the claim of the applicant who was not a party in those cases. The Hon'ble Supreme Court judgment in the case of UP Jal Nigam pertains to the regulation of the system of writing ACRs prevailing in UP Jal Nigam. It is not a judgement in rem but is applicable only to the employees /parties concerned and not to the applicant who is an employee of Central PWD under Central Govt. and is governed by different set of Service Rules and rules for writing and maintenance of Annual Confidential Reports. It is submitted that any grading below the 'bench mark' prescribed for promotion to the grade of Chief Engineer, in the ACR of the applicant is not an 'adverse' entry and therefore as per the existing instructions of the Central Govt. on the communication of adverse entries in the ACR, there is no legal requirement that the said grading should have also been communicated to the applicant before considering his case for promotion to the next higher grade. Besides, the grading of the applicant in the ACR is given by his superior officers on the basis of his performance during a particular year, whereas the assessment of the DPC is based on the overall performance of the officer as reflected in his ACRs over the period considered by the DPC and is for the purpose of deciding his suitability for promotion.

The Tribunal order dated 22.11.2002 cited by the applicant

(Annexure-E of the OA) has been challenged by the respondents by filing a Civil Writ Petition in the High Court of Delhi and the same is pending adjudication. The Tribunal's order dated 22.3.2000(Annexure F of the OA) has since been implemented by the respondents after dismissal of their appeals against their order in High Court of Delhi and Supreme Court. Hence averments are denied.

4.9 The contents of this paragraph are wrong and denied. The allegations of the applicant against the Respondents are without any basis. The Respondents crave leave of this Hon'ble Tribunal to put the applicant to strict examination to prove his allegations.

4.10 The contents of this paragraph are wrong and denied. In promotion by selection, the applicant has no right to promotion but only the right to be considered in his turn along with other eligible officers.

4.11 The contents of this paragraph are wrong and denied. In reply it is submitted that the officers recommended by the DPC , held in July, 2002 for promotion to the grade of Chief Engineer(Civil) have already been promoted. Therefore, the applicant's contention to maintain status quo is not sustainable.

4.12 The Govt. of India OM dated 14th December, 1983 regarding allowances and facilities of Central Government civilian employees posted in North Eastern Region is matter of record. The applicant has been posted in North East (Silchar) in May, 2001 only. The case of the applicant for promotion to the grade of Chief Engineer(Civil) has been considered by the

duly constituted DPC held in UPSC on the basis of the existing instructions on the subject. Hence averments are denied.

4.13 In reply to this paragraph it is submitted that the non-promotion of the applicant is not due to the presence of any vigilance case against him or any adverse remarks in his ACRs. The applicant could not be promoted against the vacancies of the year 2002-03 on the basis of his service records which was considered by the duly constituted DPC, who assessed him as "unfit" for promotion with reference to the prescribed bench mark.

4.14. The contents of this paragraph are wrong and denied in view of the submissions made in the preceding paragraphs.

4.15. In view of the factual position explained above the applicant has no case to approach this Hon'ble Tribunal and this application is non maintainable and is therefore liable to be dismissed with costs in favour of the respondents.

4.16. The contents of this paragraph need no reply in view of the submissions made in the preceding paragraphs.

5. GROUNDS

In view of the submissions made herein above, none of the grounds mentioned by the applicant in sub paragraphs 5.1 to 5.7 is maintainable and the present application being devoid of any merit is liable to be dismissed with costs in favour of the respondents.


6. Needs no reply in view of the submissions made in the preceding paragraphs.

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7. The averments made in this paragraph are denied for want of knowledge.

8&9. In view of the factual position and reply on merits furnished herein above with legal submissions made therein, none of the reliefs prayed for by the applicant is legally admissible to him. The present OA being devoid of any merit is liable to be dismissed with costs. It is prayed accordingly.

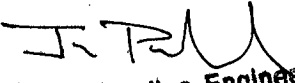
10 to 12. The contents of these paragraphs need no reply being formal in nature.


Superintending Engineer
Assam Central Circle-I
C.P.W.D., Guwahati-21

VERIFICATION

I, **J. P. GUPTA**, working as Superintending Engineer (Civil) in Assam Central Circle, CPWD Guwahati under the office of Director General of Works, CPWD, Nirman Bhawan, New Delhi do hereby verify that the contents of the above counter reply are true and correct to my knowledge which is derived from the office records and upon information contained therein. Nothing material has been concealed there from.

Verified at Guwahati on this 19th day of September, 2003.


Superintending Engineer
Assam Central Circle-I
C.P.W.D., Guwahati-21

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रजिस्ट्री सं. डी.एल.-33004/96

REGD. NO. D.L.-33004/96

भारत का राजपत्र The Gazette of India

असाधारण
EXTRAORDINARY

भाग II—खण्ड 3—उप-खंड (1)
PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

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No. 361]

NEW DELHI, TUESDAY, OCTOBER 29, 1996/KARTIKA 7, 1918

शहरी कार्य और रोजगार मंत्रालय

(शहरी विकास विभाग)

अधिसूचना

नई दिल्ली, 28 अक्टूबर, 1996

स.का.नि. 500(अ).—राष्ट्रपति, संविधान के अनुच्छेद 309 के परनुक दाय प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय इंजीनियरी समूह "क" भर्ती नियम, 1954 (सं. का.नि.आ. 1841, तारीख 21 मई, 1954) और केन्द्रीय इंजीनियरी सेवा वर्ग-1 भर्ती नियम, 1961 (सं. स.का.नि. 233, तारीख 10 फरवरी, 1961) को अधिक्रान्त करते हुए, उन बातों के सिवाय जिन्हें ऐसे अधिक्रमण से पहले किया गया है या करने का लोप किया गया है, निम्नलिखित नियम बनाते हैं, अर्थात् :—

1. संक्षिप्त नाम और प्रारंभ—(1) इन नियमों का संक्षिप्त नाम शहरी कार्य और रोजगार मंत्रालय (शहरी विकास विभाग), केन्द्रीय इंजीनियरी (सिविल) समूह "क" सेवा नियम 1996 है।

(2) ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।

2. परिभाषाएं—इन नियमों में, जब तक कि संदर्भ से अन्यथा अपेक्षित न हो,

(क) "नियत दिन" से वह तारीख अभिप्रेत है जिसको ये नियम प्रवृत्त होते हैं,

(ख) "आयोग" से संघ लोक सेवा आयोग अभिप्रेत है,

(ग) "नियंत्रक प्राधिकारी" से भारत सरकार का शहरी कार्य और रोजगार मंत्रालय अभिप्रेत है,

(घ) "विभागीय प्रोन्नति समिति" से ऐसी समिति अभिप्रेत है, जिसका गठन किसी भी श्रेणी में प्रोन्नति या उसकी पुष्टि पर विचार करने के लिए किया गया है,

(ङ) "इयूटी पद" से अनुसूची-1 में सम्मिलित कोई पद अभिप्रेत है,

(च) "सरकार" से भारत सरकार अभिप्रेत है,

(छ) "श्रेणी" से सेवा की श्रेणी अभिप्रेत है,

(ज) "नियमित सेवा" से किसी श्रेणी के संबंध में उस श्रेणी में नियमित नियुक्ति के लिए विहित प्रक्रिया के अनुसार नियमों के अधीन उसके चयन और नियुक्ति के पश्चात् उस श्रेणी में की गई सेवा की अवधि या अवधियां

अभिप्रेत हैं और जिसके अन्तर्गत निम्नलिखित अवधि या अवधियां भी हैं :—

(1) नियम 6 के अधीन नियुक्त किए गए व्यक्तियों के मामलों में उनकी प्पेछता के प्रयोजन के लिए गणना में लिया गया,

(2) जिसके दौरान आफिसर उस श्रेणी में इयूटी पद यदि वह छुटी पर होने के या अन्यथा किसी कारण से ऐसा पद धारण करने के लिए उपलब्ध रहा होता वो धारण करता।

(झ) "अनुसूची" से इन नियमों से संलग्न अनुसूची अभिप्रेत है,

(ञ) "अनुसूचित जातियां और अनुसूचित जनजातियां" के वही अर्थ होंगे जो भारत के संविधान के अनुच्छेद 366 के क्रमशः खंड (24) और खंड (25) में उनके लिए समनुदिष्ट हैं और "अ.पि.व." से अन्य पिछड़ा वर्ग अभिप्रेत है और उसका वही अर्थ होगा तथा वह उसी प्रकार लागू होगा जैसा कि कार्मिक और प्रशिक्षण विभाग के कार्यलय ज्ञापन संख्या 36012/22/93-स्थापन (एस.सी.टी.) तारीख 8 सितम्बर, 1993 में अधिकथित है, और

(ट) "सेवा" से नियम 3 के अधीन गठित केन्द्रीय इंजीनियरी सेवा (सिविल) समूह "क" सेवा अभिप्रेत है।

3. सेवा का गठन—अनुसूची-1 से यथाविनिर्दिष्ट सेवा में सम्मिलित सभी इयूटी पद केन्द्रीय इंजीनियरी (सिविल) समूह "क" सेवा का गठन करेंगे।

4. ग्रेड, संख्या और इसका पुनर्विलोकन—(1) इन नियमों के प्रारंभ होने की तारीख को सेवा के विभिन्न ग्रेडों में सम्मिलित इयूटी पद, उनकी संख्या और वेतनमान वे होंगे जैसे कि अनुसूची-1 में विनिर्दिष्ट है।

(2) उपनियम (1) में किसी बात के होते हुए भी सरकार :—

(क) समय-समय पर आदेश द्वारा विभिन्न श्रेणियों में इयूटी पदों की संख्या में ऐसी अवधि के लिए जैसी उसमें विनिर्दिष्ट की जाए अस्थायी परिवर्धन या परिवर्तन कर सकेगी,

(ख) आयोग के परामर्श से, सेवा में ऐसे पदों की सम्मिलित कर सकेगी जिन्हें अनुसूची-1 में सम्मिलित पद उनकी हैसियत या वेतनमान के समतुल्य समझे जा सकें या उक्त अनुसूची में सम्मिलित किसी ह्यूटी पद को सेवा से अपवर्जित कर सकेगी।

(ग) आयोग के परामर्श से, खंड (ख) के अधीन सेवा में सम्मिलित ह्यूटी पद पर किसी अधिकारी की अस्थायी रूप से या अधिस्थायी रूप से नियुक्ति कर सकेगी और सदृश श्रेणी में निरंतर नियमित सेवा को ध्यान में रखते हुए उसकी ज्येष्ठता नियत कर सकेगी।

5. सेवा के सदस्य—(1) निम्नलिखित व्यक्ति सेवा के सदस्य होंगे :—

(क) नियम 6 के अधीन ह्यूटी पद पर नियुक्त व्यक्ति, और

(ख) नियम 7 के अधीन ह्यूटी पद पर नियुक्त व्यक्ति।

(2) उपनियम (1) के खंड (क) के अधीन नियुक्त व्यक्ति, ऐसी नियुक्ति पर अनुसूची-1 के अधीन उसे लागू समुचित श्रेणी में सेवा का सदस्य माना जाएगा।

(3) उपनियम (1) के खंड (ख) के अधीन नियुक्त व्यक्ति ऐसी नियुक्ति की तारीख से अनुसूची-1 के अधीन उसे लागू समुचित श्रेणी में सेवा का सदस्य होगा।

6. सेवा का आरंभिक गठन—(1) इन नियमों की प्रारंभ की तारीख को केन्द्रीय इंजीनियरी सेवा, समूह "क" में नियमित आधार पर समूह "क" ह्यूटी पद धारण कर रहे सभी विद्यमान अधिकारी अपनी-अपनी श्रेणियों में सेवा के सदस्य होंगे।

(2) इन नियमों के आरंभ से पूर्व उप नियम (1) में निर्दिष्ट अधिकारियों की नियमित निरंतर सेवा को सेवा में उनकी प्रोन्नति, पुष्टि और पेंशन के लिए परीक्षा, ज्येष्ठता और अर्हक सेवा के प्रयोजन के लिए गणना में लिया जाएगा।

(3) वह सीमा जिस तक नियंत्रण प्राधिकारी इस नियम के उपबंधों के अनुसार सेवा की विभिन्न श्रेणियों की प्राधिकृत नियमित संख्या में पदों को भरने के लिए समर्थ नहीं है तो उन्हें नियम 7 और नियम 8 के उपबंधों के अनुसार भरा जाएगा।

7. सेवा का भावी अनुसूचना—नियम 6 के अधीन आरंभिक गठन के पश्चात् अनुसूची-1 में निर्दिष्ट किसी भी श्रेणी में रिक्त ह्यूटी पद निम्नलिखित रीति से भरे जाएंगे, अर्थात् :—

(i) सहायक कार्यपालक इंजीनियर की श्रेणी में सभी रिक्तियां अनुसूची 3 में शैक्षणिक अर्हता और आयु सीमा के आधार पर आयोग द्वारा संचालित सम्मिलित इंजीनियरी सेवा परीक्षा के परिणाम के आधार पर सीधी भर्ती द्वारा भरी जाएंगी,

(ii) कार्यपालक इंजीनियर और उससे ऊपर की श्रेणियों में सभी रिक्तियां अनुसूची-2 में विनिर्दिष्ट न्यूनतम अर्हक सेवा सहित अगली निचली श्रेणी के अधिकारियों में प्रोन्नति द्वारा भरी जाएंगी।

(iii) (क) सहायक कार्यपालक इंजीनियर से कार्यपालक इंजीनियर के पद और अधीक्षण इंजीनियर (कनिष्ठ प्रशासनिक श्रेणी) की अधीक्षण इंजीनियर (चयन श्रेणी) के लिए प्रोन्नति के मामलों के सिवाय प्रोन्नति के लिए अधिकारियों का चयन अनुसूची-4 में यथाविनिर्दिष्ट विभागीय प्रोन्नति समिति द्वारा योग्यता के आधार पर किया जाएगा,

(ख) कार्यपालक इंजीनियर के पद पर पदोन्नति के लिए सहायक कार्यपालक इंजीनियर के चयन उनकी ज्येष्ठता के क्रम में उपयुक्तता के अधीन रहते हुए किया जाएगा,

(ग) अधीक्षण इंजीनियर (कनिष्ठ प्रशासनिक श्रेणी) की अधीक्षण इंजीनियर (चयन श्रेणी) के पद पर नियोजन उनकी उपयुक्तता के आधार पर ज्येष्ठता के क्रम में, सरकार द्वारा समय-समय पर जारी किए गए मार्गदर्शक सिद्धान्तों के अनुसार उनके सम्पूर्ण कार्य अनुभव और अन्य संबंधित बातों को ध्यान में रखते हुए किया जाएगा,

(iv) यदि किसी पद पर नियुक्त व्यक्ति का उच्च पद पर पदोन्नति के प्रयोजन के लिए विचार किया जाता है, उस श्रेणी में ज्येष्ठ सभी व्यक्तियों की बाबत भी इस बात के होते हुए भी कि वे विहित पात्रता सेवा पूरी नहीं करते हैं, विचार किया जाएगा, यदि कभी एक वर्ष से अधिक नहीं है और वे अपनी

परीक्षा की अवधि यदि विहित हो गई है सफलतापूर्वक पूरी कर ली है।

(v) केन्द्रीय इंजीनियरी सेवा (सिविल) समूह "क" और केन्द्रीय इंजीनियरी सेवा (वैद्युत और यांत्रिकी) समूह "क" के सामान्य काठर के पद, मुख्य इंजीनियर और अधीक्षण इंजीनियर के पदों के लिए अपनी-अपनी विभागीय पदोन्नति समिति द्वारा पैनलित अधिकारियों की नियुक्ति द्वारा भरे जाएंगे।

8. ह्यूटी पदों को प्रतिनियुक्ति द्वारा भरण—नियम 7 में किसी बात के होते हुए भी, जहां सरकार की यह राय है कि ऐसा करना आवश्यक या समीचीन है वहां ऐसे कारणों को लेखबद्ध करते हुए, आयोग के परामर्श से किसी भी श्रेणी में ऐसी अवधि के लिए जो तीन वर्ष से अधिक न हो। जिसका विशेष परिस्थितियों में पांच वर्ष की अवधि तक विस्तार किया जा सकता है जैसा सरकार उचित समझे, प्रतिनियुक्ति पर स्थानांतरण द्वारा ह्यूटी पद भरा जाएगा। इस नियम के अधीन सेवा की किसी श्रेणी में नियुक्ति के लिए अर्हता, अनुभव और अर्हक सेवा का प्रत्येक अवसर पर आयोग के परामर्श से सरकार द्वारा विनियमन किया जाएगा।

9. ज्येष्ठता—(1) नियम 6 के अधीन ह्यूटी पद पर नियुक्त सेवा के सदस्यों की अपेक्षित ज्येष्ठता, इन नियमों के प्रारंभ की तारीख की यथा विद्यमान रूप में होगी :

परन्तु यदि उक्त तारीख को किसी ऐसे सदस्य की ज्येष्ठता विनिर्दिष्टता अवधारित नहीं की गई थी, यह इन नियमों के प्रारंभ होने से पूर्व सेवा के सदस्यों को यथा लागू ज्येष्ठता नियतन को विनियमित करने वाले नियमों के आधार पर अवधारित की जाएगी।

(2) नियम 6 के अधीन नियुक्त व्यक्तियों से भिन्न सेवा में भर्ती व्यक्तियों की ज्येष्ठता समय-समय पर इस निमित्त सरकार द्वारा जारी सामान्य अनुदेशों के अनुसार अवधारित की जाएगी।

(3) ऊपर उपनियम (1) और उपनियम (2) के अधीन आने वाले मामलों में ज्येष्ठता सरकार द्वारा आयोग के परामर्श से अवधारित की जाएगी।

10. परीक्षा—(1) प्रत्येक अधिकारी, या तो सीधी भर्ती या पदोन्नति द्वारा सेवा में नियुक्ति पर दो वर्ष की अवधि के लिए परीक्षा पर रहेगा :

परन्तु नियंत्रक प्राधिकारी समय-समय पर इस निमित्त जारी अनुदेशों के अनुसार परीक्षा अवधि का विस्तार कर सकता है—

परन्तु यह और कि परीक्षा की अवधि के विस्तार के लिए कोई विनियमन परीक्षा की आरंभिक अवधि की समाप्ति के पश्चात् आठ सप्ताह के भीतर लिया जाएगा और उक्त अवधि के भीतर ऐसा करने के कारणों के साथ संबंधित अधिकारी को लिखित में संसूचित किया जाएगा।

(2) परीक्षा की अवधि पर या उसकी किसी विस्तारित अवधि के पूरा होने पर अधिकारी यदि स्थायी नियुक्ति के योग्य माना गया है तो समय-समय पर जारी सरकार के आदेशों के निबंधनों के अनुसार उसकी पुष्टि के लिए विचार किया जाएगा।

(3) यदि, यथास्थिति, परीक्षा की अवधि या उसकी किसी विस्तारित अवधि के दौरान सरकार की यह राय है कि कोई अधिकारी स्थायी नियुक्ति के योग्य नहीं है तो सरकार अधिकारी को यथास्थिति सेवा मुक्त कर सकेगी या उसे उसकी नियुक्ति से पूर्व उसके द्वारा धारित पद पर प्रत्यावर्ति कर सकेगी।

(4) सरकार, परीक्षा की अवधि या उसकी किसी विस्तारित अवधि के दौरान, किसी अधिकारी से प्रशिक्षण के ऐसे पाठ्यक्रम के करने या ऐसी परीक्षा अथवा परीक्षण (जिसके अन्तर्गत हिन्दी परीक्षा भी सम्मिलित है) उत्तीर्ण करने की अपेक्षा कर सकेगी जैसी सरकार परीक्षा को संतोषप्रद पूरा करने के लिए शर्त के रूप में आवश्यक समझे।

(5) परीक्षा से संबंधित अन्य मामलों के विषय में, सेवा के सदस्य समय-समय पर इस निमित्त सरकार द्वारा जारी किए गए आदेशों और अनुदेशों द्वारा शासित होंगे।

11. सेवा में नियुक्ति—सेवा में की सभी नियुक्तियां, सेवा की विभिन्न श्रेणियों में ह्यूटी पदों के लिए नियंत्रक प्राधिकारी द्वारा की जाएंगी।

12. तैनाती—सेवा में नियुक्त अधिकारी भारत या विदेश में कहीं भी सेवा करने का दायी होगा।

13. रक्षा सेवाएं या रक्षा से संबंधित पदों पर सेवा करने का दायित्व सेवा में नियुक्त कोई अधिकारी, यदि ऐसा अपेक्षित हो, चार वर्ष से अत्यन्त अवधि के लिए जिसके अन्तर्गत प्रशिक्षण पर बिताई गई अवधि भी है, यदि कोई है, किसी रक्षा सेवा या भारत की रक्षा से संबंधित पद पर सेवा करने का दायी होगा।

परन्तु ऐसे अधिकारी से,—

- (i) सेवा में नियुक्ति की तारीख से दस वर्ष की समाप्ति के पश्चात् या सेवा में उसके सम्मिलित होने की तारीख से यथापूर्वोक्त सेवा करने की अपेक्षा नहीं की जाएगी,
- (ii) यथापूर्वोक्त सेवा करने के लिए साधारणतया अपेक्षा नहीं की जाएगी यदि उसके चालीस वर्ष की आयु पूरी कर ली है।

14. निरर्हता—वह व्यक्ति—

- (क) जिसने ऐसे व्यक्ति से जिसका पति या पत्नी जीवित है, विवाह किया है, या,
- (ख) जिसने अपने पति या अपनी पत्नी के जीवित होते हुए किसी व्यक्ति से विवाह किया है,

उक्त पद पर नियुक्ति का पात्र नहीं होगा:

परन्तु यदि केन्द्रीय सरकार का यह समाधान हो जाता है कि ऐसा विवाह ऐसे व्यक्ति और विवाह के अन्य पक्षकार को लागू स्वीय विधि के अधीन अनुज्ञेय है और ऐसा करने के लिए अन्य आधार है तो वह किसी व्यक्ति को इस नियम के प्रवर्तन से छूट दे सकेगी।

15. सेवा की अन्य शर्तें—ऐसे विषयों की बाबत सेवा के सदस्यों की ऐसी शर्तें, जिनके इन नियमों में कोई विनिर्दिष्ट उपबंध नहीं किया गया है वही होंगी जैसा समय-समय पर केन्द्रीय सरकार के समतुल्य एक के अधिकारियों को लागू होगी।

16. शिथिल करने की शक्ति—जहाँ केन्द्रीय सरकार की यह राय है कि ऐसा करना आवश्यक या समीचीन है, वहाँ वह उसके लिए जो कारण हैं उन्हें लेखबद्ध करके तथा संघ लोक सेवा आयोग से परामर्श करके, इन नियमों के किसी उपबंध को किसी वर्ग या प्रवर्ग के व्यक्तियों की बाबत, आदेश द्वारा शिथिल कर सकेगी।

17. व्यावृत्ति—इन नियमों की कोई बात, ऐसे आरक्षण आयु सीमा में छूट और अन्य रियायतों पर प्रभाव नहीं डालेगी, जिनका केन्द्रीय सरकार द्वारा इस सम्बन्ध में समय-समय पर निकले गए आदेशों के अनुसार अनुसूचित जातियों, अनुसूचित जन-जातियों, भूतपूर्व सैनिकों और अन्य विशेष प्रवर्ग के व्यक्तियों के लिए उपबंध करना अपेक्षित है।

अनुसूची-1

(नियम 3 देखिए)

स्तंभ (3) में दर्शित किए गए पदों में कुछ विभागों में जैसे आय-कर आदि और केन्द्रीय इंजीनियरी (सिविल) समूह "क" काडर में सम्मिलित है, स्वीकृत पद भी सम्मिलित है।

क्र.सं.	इयूटी पद और श्रेणी का नाम	पदों की सं.	वेतनमान
1.	मुख्य इंजीनियर (सिविल)	40	5900-200-6700
2.	अधीक्षण इंजीनियर (सिविल)	**	4500-150-5700
3.	अधीक्षण इंजीनियर (सिविल) (कनिष्ठ प्रशासनिक श्रेणी)	130@	3700-125-4700-150-5000
4.	कार्यपालक इंजीनियर (सिविल)	494@	3000-100-3500-125-4500
5.	सहायक कार्यपालक इंजीनियर (सिविल)	60	2200-75-2800-द.रो.-100-4000
6.	सहायक कार्यपालक इंजीनियर (सिविल)	20	2200-75-2800-द.रो.-100-4000

(छुट्टी आरक्षित)

*1996 में, कार्यभार के आधार पर परिवर्तन किया जा सकता है।

@ 4500-150-5700 रु. के वेतनमान में अकृत्यिक चयन श्रेणी पद भी सम्मिलित है।

** कनिष्ठ प्रशासनिक श्रेणी (श्रेणी चयन) अकृत्यिक है और इस श्रेणी में पदों की अधिकतम संख्या ज्येष्ठ इयूटी पदों के पन्द्रह प्रतिशत के बराबर होगी (अर्थात् ज्येष्ठ वेतनमान और सेवा में ऊपर के स्तर पर सभी इयूटी पद और चयन श्रेणी (अकृत्यिक) में पदों की अधिकतम संख्या कनिष्ठ प्रशासनिक श्रेणी में स्वीकृत पदों की संख्या तक सीमित होगी)।

टिप्पण : मुख्य इंजीनियर के तीन पद और अधीक्षण इंजीनियर के छह पदों केन्द्रीय इंजीनियरी (सिविल) समूह "क" सेवा तथा केन्द्रीय इंजीनियरी वैद्युत और यांत्रिकी समूह "क" सेवा के लिए सामान्य काडर पद हैं।

अनुसूची-2

[नियम 7(ii) देखिए]

केन्द्रीय इंजीनियरी (सिविल) समूह "क" सेवा की विभिन्न श्रेणियों में सम्मिलित इयूटी पदों की प्रोन्नति पर अधिकारियों की नियुक्ति के लिए ठीक निम्न श्रेणी में भर्ती पद्धति, प्रोन्नति क्षेत्र और न्यूनतम अर्हक सेवा

क्र. सं.	इयूटी पद और श्रेणी का नाम	भर्ती पद्धति	चयन क्षेत्र, प्रोन्नति के लिए न्यूनतम अर्हक सेवा और शैक्षिक अर्हता
(1)	(2)	(3)	(4)
1.	मुख्य इंजीनियर (सिविल)	प्रोन्नति द्वारा	श्रेणी में आठ वर्ष की नियमित सेवा सहित अधीक्षण इंजीनियर (सिविल) जिसके अन्तर्गत सेवा भी है, यदि कोई अकृत्यिक चयन श्रेणी में कोई भी या सेवा समूह "क" पदों से सत्रह वर्ष की नियमित सेवा जिसमें से चार वर्ष की नियमित सेवा अधीक्षण इंजीनियर (सिविल) की श्रेणी में होनी चाहिए।
2.	अधीक्षण इंजीनियर (सिविल) (अकृत्यिक) और अन्य (चयन श्रेणी)	संपूर्ण कार्य संबंधित मामलों को ध्यान में रखते हुए ज्येष्ठता और और उप-युक्तता के आधार पर नियुक्ति द्वारा	अधीक्षण इंजीनियर (सिविल) (कनिष्ठ प्रशासनिक श्रेणी) जो परीक्षा जिसके आधार पर अधिकारी को भर्ती किया गया था के आगामी वर्ष से संगणित वर्ष की पहली जुलाई को समूह "क" सेवा के चौदहवें वर्ष में प्रवेश कर चुके हैं या सहायक इंजीनियर से प्रोन्नति अधिकारी के मामलों में जो ज्येष्ठ वेतनमान में प्रोन्नति की तारीख से संगणित समूह "क" में भी वर्ष सेवा कर चुका है।
3.	अधीक्षण इंजीनियर (सिविल) (कनिष्ठ प्रशासनिक श्रेणी)	प्रोन्नति द्वारा	श्रेणी में पांच वर्ष की नियमित सेवा सहित कार्यपालक इंजीनियर (सिविल) किसी मान्यताप्राप्त विश्वविद्यालय की सिविल इंजीनियरी में डिग्री या समतुल्य।
4.	कार्यपालक इंजीनियर (सिविल)	प्रोन्नति द्वारा	(i) श्रेणी में चार वर्ष की नियमित सेवा सहित सहायक कार्यपालक इंजीनियर (सिविल) से 33 1/2 प्रतिशत। (ii) श्रेणी में आठ वर्ष की नियमित सेवा सहित सहायक इंजीनियर (सिविल) से 33 1/2 प्रतिशत और सिविल इंजीनियरी डिग्री या कोई अन्य समतुल्य अर्हता।

(1)	(2)	(3)	(4)
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(iii) श्रेणी में दस वर्ष की नियमित सेवा सहित सहायक इंजीनियर (सिविल) से 33 1/2 प्रतिशत और मान्यताप्राप्त विश्व-विद्यालय या संस्था से वैद्युत या यांत्रिक इंजीनियरी में डिप्लोमा या समतुल्य अर्हता रखने वाला।

5. सहायक कार्यपालक इंजीनियरी (सिविल) आयोग द्वारा संचालित इंजीनियरी परीक्षा के माध्यम से सीधी भर्ती द्वारा।

अनुसूची-3

[नियम 7(1) देखिए]

संघ लोक सेवा आयोग द्वारा संचालित की गई प्रतियोगिता परीक्षा के आधार पर केन्द्रीय इंजीनियरी सेवा (सिविल) समूह "क" के पदों पर सीधी भर्ती के लिए न्यूनतम शैक्षिक अर्हता और आयु सीमा।

(क) अभ्यर्थी के पास—

(1) निम्नलिखित से सिविल इंजीनियरी में डिग्री :

(i) केन्द्रीय या राज्य विधान मण्डल के अधिनियम द्वारा भारत में निर्गमित कोई विश्वविद्यालय, या

(ii) संसद् के अधिनियम, द्वारा स्थापित शैक्षिक संस्था या विश्वविद्यालय के अनुदान आयोग अधिनियम, 1956 की धारा 3 के अधीन सम विश्वविद्यालय के रूप में घोषित, या

(2) ऐसी अन्य समतुल्य अर्हता जिसे उक्त परीक्षा में प्रवेश के प्रयोजन के लिए सरकार द्वारा मान्यता दी गई है या दी जा सकेगी, या

(3) ऐसी विदेशी विश्वविद्यालय/महाविद्यालय/संस्था से इंजीनियरी में डिग्री/डिप्लोमा और ऐसी शर्तों के अधीन जैसी इस प्रयोजन के लिए सरकार द्वारा समय-समय पर मान्यताप्राप्त हो सके।

टिप्पण :

(1) असाधारण मामलों में आयोग उपर्युक्त में से कोई अर्हता न रखने वाले अभ्यर्थी को शैक्षिक रूप से अर्हित मान सकता है परन्तु आयोग का यह समाधान हो कि उसने अन्य संस्थाओं द्वारा संचालित परीक्षा उत्तीर्ण कर ली है, जिनका स्तर आयोग की राय में परीक्षा में उसके प्रवेश को न्यायोचित ठहरता है।

(2) ऐसा अभ्यर्थी जो विदेशी विश्वविद्यालय से जो कि सरकार द्वारा मान्यताप्राप्त नहीं है डिग्री प्राप्त करके।

(ख) जिस वर्ष परीक्षा संचालित की जा रही है उस वर्ष 1 अगस्त को अभ्यर्थी ने 20 वर्ष की आयु पूरी कर ली है लेकिन 28 वर्ष की आयु पूरी न की हो।

अनुसूची-4

[नियम 7(4) देखिए]

केन्द्रीय इंजीनियरी (सिविल) समूह "क" से छठे में प्रोन्नति और पुष्टि के मामलों पर विचार करने के लिए समूह "क" विभागीय प्रोन्नति समिति की संरचना

क्र. ह्यूटी पद का नाम समूह "क" विभागीय प्रोन्नति समिति (प्रोन्नति पर विचार करने के लिए)

(1)	(2)	(3)	(4)
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1. मुख्य इंजीनियर (सिविल) 1. अध्यक्ष/सदस्य संघ लोक सेवा आयोग—अध्यक्ष लागू नहीं होता

(1)	(2)	(3)	(4)
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2. संकर्म महानिदेशक—सदस्य

3. सचिव/विशेष सचिव/अपर सचिव, शहरी कार्य और रोजगार मंत्रालय—सदस्य

2. अधीक्षण इंजीनियर (सिविल) (अकृत्यिक चयन श्रेणी)

1. संकर्म महानिदेशक—अध्यक्ष लागू नहीं होता
2. अपर सचिव/संयुक्त सचिव, शहरी कार्य और रोजगार मंत्रालय—सदस्य

3. अधीक्षण इंजीनियर (सिविल) (कनिष्ठ प्रशासनिक श्रेणी)

1. अध्यक्ष/सदस्य संघ लोक सेवा आयोग—अध्यक्ष
2. संकर्म महानिदेशक/संकर्म अपर महानिदेशक—सदस्य
3. अपर सचिव/संयुक्त सचिव, शहरी कार्य और रोजगार मंत्रालय—सदस्य

4. कार्यपालक इंजीनियर (सिविल)

1. अध्यक्ष/सदस्य संघ लोक सेवा आयोग—अध्यक्ष
2. संकर्म महानिदेशक/संकर्म अपर महानिदेशक—सदस्य
3. संयुक्त सचिव, शहरी कार्य और रोजगार मंत्रालय—सदस्य

5. सहायक कार्यपालक इंजीनियर (सिविल)

1. संकर्म महानिदेशक संकर्म अपर महानिदेशक—अध्यक्ष लागू नहीं होता
2. संयुक्त सचिव, शहरी कार्य और रोजगार मंत्रालय—सदस्य
3. निदेशक/उप सचिव—सदस्य

टिप्पण :

(1) संघ लोक सेवा आयोग के अध्यक्ष या सदस्य से भिन्न किसी सदस्य की अनुपस्थिति, विभागीय प्रोन्नति में ते की कार्यवाहियों को अधिमन्य नहीं करेगी, यदि समिति के अधिक स अधिक सदस्य इसकी बैठक में हाजिर हुए थे।

(2) पुष्टि से संबंधित विभागीय प्रोन्नति समिति की कार्यवाहियां अनुमोदन के लिए आयोग को भेजी जाएंगी; यदि फिर भी, ये आयोग द्वारा अनुमोदन नहीं की जाती हैं, तो विभागीय प्रोन्नति समिति की एक नए सिरे से बैठक, जिसकी संघ लोक सेवा आयोग के अध्यक्ष या सदस्य द्वारा अध्यक्षता की जानी है, होगी।

[फ. सं. 8/5/95-ईसी-1/ईडब्ल्यू-1]

बि. एस. मिन्हास, संयुक्त सचिव

MINISTRY OF URBAN AFFAIRS AND EMPLOYMENT

(Department of Urban Development)

NOTIFICATION

New Delhi, the 28th October, 1996

G. S. R. 500(E).—In exercise of the powers conferred by the proviso to article 309 of the Constitution and in supersession of the Central Engineering Services Group 'A' Recruitment Rules, 1954 (No. SRO-1841, dated the 21st May, 1954), and the Central Engineering Services Class-I Recruitment Rules, 1961 (No. GSR-233, dated the 10th February, 1961), except as respects things done or omitted to be done before such supersession, the President hereby makes the following rules, namely:—

1. Short title and commencement:—(1) These rules may be called the Ministry of Urban Affairs and Employment (Department of Urban Development) Central Engineering (Civil) Group 'A' Service Rules, 1996.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions:—In these rules, unless the context otherwise require:—

- (a) "appointed day" means the date on which these rules come into force;
- (b) "commission" means the Union Public Service Commission;
- (c) "controlling authority" means the Government of India in the Ministry of Urban Affairs and Employment;
- (d) "departmental promotion committee" means a Committee constituted to consider promotion or confirmation in any Grade;
- (e) "duty post" means a post included in Schedule-I;
- (f) "Government" means the Government of India;
- (g) "grade" means a grade of the service;
- (h) "regular service" in relation to any grade means the period or periods of service in that grade rendered after selection and appointed thereto under the rules according to the prescribed procedure for regular appointment to that grade and includes any period or periods:—
 - (1) taken into account for the purpose of seniority in case of those appointed under rule 6
 - (2) during which an officer would have held a duty post in that grade but for being on leave or otherwise not being available for holding such post;
- (i) "Schedule" means a Schedule appended to these rules;
- (j) "Scheduled Castes and Scheduled Tribes" have the same meaning as assigned to them in clauses (24) and (25) respectively of article 366 of the Constitution of India, and "OBC" means Other Backward Classes having the same meaning and applicability as laid down in Department of Personnel and Training O.M. No. 36012/22/93-Estt. (SCT), dated the, 8th September, 1993; and
- (k) "service" means the Central Engineering (Civil) Group "A" Service constituted under rule 3.

3. Constitution of the Service.—All the duty posts included in the Service as specified in Schedule-I shall constitute the Central Engineering (Civil) Group 'A' Service.

4. Grade, strength and its review.—(1) The duty posts included in the various grades of the service, their numbers and scales of pay, on the date of commencement of these rules, shall be as specified in Schedule-I.

(2) Notwithstanding anything contained in sub-rule (1), the Government may,

- (a) from time to time, by order make temporary additions or alterations to the strength of the duty posts in various grades, for such period as may be specified therein;

(b) in consultation with the Commission, include in the Service such posts as can be deemed to be equivalent in status, grade or pay scale to the posts included in Schedule-I or exclude from the Service a duty post included in the said Schedule;

(c) in consultation with the Commission, appoint an officer to a duty post included in the Service under clause (b) to the appropriate grade in a temporary capacity or in a substantive capacity, and fix his seniority in the grade after taking into account continuous regular service in the analogous grade.

5. Members of the Service.—(1) The following shall be the members of the Service:—

- (a) persons appointed to duty posts under rule 6; and
- (b) persons appointed to duty posts under rule 7.

(2) A person appointed under clause (a) of sub-rule (1) shall, on such appointment, be deemed to be a member of the Service in the appropriate grade applicable to him under Schedule-I.

(3) A person appointed under clause (b) of sub-rule (1) shall be a member of the Service in the appropriate grade applicable to him under Schedule-I from the date of such appointment.

6. Initial constitution of the service.—(1) All existing officers holding Group 'A' duty posts on regular basis in the Central Engineering Service, Group 'A' on the date of commencement of these rules shall be the members of the Service in the respective grades.

(2) The regular continuous service of Officers referred to in sub-rule (1) before the commencement of these rules shall count for the purpose of probation, seniority, qualifying service for promotion, confirmation and pension in the service.

(3) To the extent the controlling authority is not able to fill up the posts in authorised regular strength of various grades in the service in accordance with the provisions of this rule, the same shall be filled in accordance with the provisions of rules 7 and 8.

7. Future maintenance of the service.—The vacant duty posts in any of the grades referred to in Schedule-I, after the initial constitution under rule 6, shall be filled in the following manner, namely:

- (i) all the vacancies in the grade of Assistant Executive Engineer shall be filled by direct recruitment on the basis of the results of the Combined Engineering Services Examination conducted by the Commission on the basis of educational qualifications and age limits specified in Schedule-III;
- (ii) all the vacancies in the grades of Executive Engineer and above shall be filled by promotion from amongst the officers in the next lower grade with minimum qualifying service as specified in Schedule-II.
- (iii) (a) The selection of officer for promotion shall be made by the departmental promotion committee as specified in Schedule-IV, by selection on merit except in the case of promotion of the Assistant Executive Engineer to the post of the Executive Engineer and of the Superintending Engineer (Junior Administrative Grade) for appointment to the post of the (Superintending Engineer selection grade);
- (b) selection of the Assistant Executive Engineer for promotion to the post of the Executive Engineer shall be in the order of their seniority subject to rejection of the unfit;
- (c) placement of the Superintending Engineer (Junior Administrative Grade) in the post of Superintending Engineer (selection grade) shall be made in the order of seniority based on their suitability taking into account their overall performance, experience and other related matters as per Guidelines issued by the Government from time to time;
- (iv) if any officer appointed to any post in the service is considered for the purpose of promotion to the higher post, all persons senior to him in the grade shall also be considered notwithstanding that they do not fulfil the prescribed eligibility service, if

the shortfall is not more than one year and they have successfully completed their probation period, if prescribed.

- (v) the post of Chief Engineer and Superintending Engineer borne on the Common Cadre of Central Engineering Service (Civil) Group 'A' and Central Engineering Service (Electrical and Mechanical) Group 'A' shall be filled by appointment of Officers empanelled by the respective departmental promotion committee for the posts of Chief Engineer and Superintending Engineer.

8. **Filling of duty posts by deputation.**—Notwithstanding anything contained in rule 7, where the Government is of the opinion that it is necessary or expedient so to do, it may for reasons to be recorded in writing and in consultation with Commission, fill-up a duty post in any grade by transfer on deputation for a period not exceeding three years, which may in special circumstances be extended upto five years, as the Government may think fit. The qualifications, experience and the qualifying service for appointment to any grade of the Service under this rule shall be decided by the Government in consultation with the Commission on each occasion.

9. **Seniority.**—(1) The relative seniority of members of the service appointed to a duty post under rule 6, shall be as obtaining on the date of commencement of these rules :

Provided that if the seniority of any such member had not been specifically determined on the said date, the same shall be determined on the basis of the rules governing fixation of seniority as applicable to the members of the service prior to the commencement of these rules.

(2) The seniority of persons recruited to the Service, other than those appointed under rule 6, shall be determined in accordance with the general instructions issued by the government in this behalf from time to time.

(3) In the cases not covered under sub-rule (1) and sub-rule (2) above, the seniority shall be determined by the Government in consultation with the Commission.

10. **Probation.**—(1) Every Officer on appointment to the Service either by direct recruitment or by promotion shall be on probation for a period of two years :

Provided that the controlling authority may extend the period of probation in accordance with the instructions issued by the Government in this behalf from time to time :

Provided further that any decision for extension of a probation period shall be taken within eight weeks after the expiry of initial period of probation and communicated in writing to the concerned Officer together with reasons for so doing within the said period.

(2) On completion of the period of probation or any extension thereof, officer shall, if considered fit for permanent appointment, be considered for confirmation in terms of the orders of the Government issued from time to time.

(3) If, during the period of probation or any extension thereof, as the case may be, Government is of the opinion that an officer is not fit for permanent appointment, Government may discharge the officer or revert him to the post held by him prior to his appointment in the Service, as the case may be.

(4) During the period of probation or any extension thereof, an officer may be required by Government to undergo such courses of training or to pass such examinations or tests (including examination in Hindi) as the Government may deem fit, as condition for satisfactory completion of probation.

(5) As regards other matters relating to probation, the members of the Service shall be governed by the orders or instructions issued by the Government in this behalf from time to time.

11. **Appointment to the service.**—All appointments to the Service shall be made by the controlling authority for all the duty posts in various grades of the Service.

12. **Posting.**—Officers appointed to the Service shall be liable to serve anywhere in India or abroad.

13. **Liability to serve defence services or posts connected with defence.**—Any Officer appointed to the Service, if so required, shall be liable to serve in any defence service or post connected with the defence of India, for a period of not less than four years including the period spent on training, if any :

Provided that such Officers—

(i) shall not be required to serve as aforesaid after the expiry of ten years from the date of appointment to the Service or from the date of his joining the Service;

(ii) shall not ordinarily be required to serve as aforesaid if he has attained the age of forty years.

14. **Disqualification.**—No person—

(a) who has entered into or contracted a marriage with a person having a spouse living, or

(b) who having a spouse living, has entered into or contracted a marriage with any person,

shall be eligible for appointment to the service :

Provided that the Central Government may, if satisfied that such marriage is permissible under the personal law applicable to such person and the other party to the marriage and that there are other grounds for so doing, exempt any person from the operation of this rule.

15. **Other conditions of the service.**—The conditions of service of members of the service in respect of matters for which no specific provision has been made in these rules, shall be the same as are applicable, from time to time, to officers of equivalent rank of the Central Government.

16. **Power to relax.**—Where the Government is of the opinion that it is necessary or expedient so to do, it may, by order, for reasons to be recorded in writing, and in consultation with the Commission, relax any of the provisions of these rules with respect to any class or category of persons.

17. **Saving.**—Nothing in these rules shall affect reservations, relaxation in age limit and other concessions required to be provided for the Scheduled Castes, the Scheduled Tribes, Other Backward Classes, Ex-Servicemen and other special categories of persons in accordance with the orders issued by the Government from time to time in this regard.

SCHEDULE—I

(See rule 3)

Posts indicated in column (3) also include posts sanctioned in some departments such as Income Tax etc. and are encadred in the Central Engineering (Civil) Group 'A' Service.

Sl. No.	Name of the duty post and grade	No. of posts*	Scale of pay
(1)	(2)	(3)	(4)
1.	Chief Engineer (Civil)	40	5900-200-6700
2.	Superintending Engineer (Civil) Non-functional-Selection Grade	4500-150-5700	
3.	Superintending Engineer (Civil) (Junior Administrative Grade)	130@	3700-125-4700-150-5000
4.	Executive Engineer (Civil)	494@	3000-100-3500-125-4500
5.	Assistant Executive Engineer (Civil)	60	2200-75-2800-EB-100-4000
6.	Assistant Executive Engineer (Civil) (Leave Reserve)	20	2200-75-2800-EB-100-4000

* In 1996, subject to variation dependent on workload.

@ Includes non-functional selection grade posts also in the pay scale of Rs. 4500-150-5700/-

** The junior administrative grade (grade selection) is non-functional and the maximum number of posts in this grade shall be equal to fifteen per cent of the senior duty posts (i.e. all duty posts at the level of senior time scale and above in the Service) and the maximum number of posts in the selection grade (non-functional) shall be limited to the number of posts sanctioned in junior administrative grade.

Note : Three posts of Chief Engineer and six posts of Superintending Engineers are common cadre posts for the Central Engineering (Civil) Group 'A' Service and the Central Engineering Electrical and Mechanical Group 'A' Service.

SCHEDULE—II

[See rule 7(ii)]

Method of recruitment, field of promotion and minimum qualifying service in the immediate lower grade for appointment of officers on promotion to duty posts included in the various grades of the Central Engineering (Civil) Group 'A' Service.

Sl. No.	Name of duty post and grade	Method of recruitment	Field of selection, minimum qualifying service and educational qualification for promotion
(1)	(2)	(3)	(4)
1.	Chief Engineer (Civil)	By promotion	Superintending Engineer (Civil) with eight years regular service in the grade (including service, if any rendered in the non-functional selection grade) or seventeen years regular service in group A posts of the service out of which four years regular service should be in the grade of Superintending Engineer (Civil).
2.	Superintending Engineer (Civil) (Non-functional) (Selection Grade)	By appointment on the basis of seniority and suitability taking into account the overall performance and other related matters.	Superintending Engineer (Civil) (Junior administrative grade) who have entered fourteenth year of Group A service on the first of July of the year calculated from the year following the year of examination on the basis of which the Officer was recruited or who have rendered nine years Group A service calculated from the date of promotion to the senior time scale in the case of officers promoted from Assistant Engineer.
3.	Superintending Engineer (Civil) (Junior Administrative Grade)	By promotion	Executive Engineer (Civil) with five years regular service in the grade and possessing degree in Engineering from a recognised University or equivalent.
4.	Executive Engineer (Civil)	By promotion	(i) 33 1/3 per cent from Assistant Executive Engineer (Civil) with four years regular service in the grade; (ii) 33 1/3 per cent from Assistant Engineers (Civil) with eight years regular service in the grade and possessing degree in Civil Engineering or any other equivalent qualification. (iii) 33 1/3 per cent from Assistant Engineer (Civil) with ten years regular service in the grade and possessing Diploma in or Engineering from a recognised University or Institution or any other equivalent qualification.
5.	Assistant Executive Engineer (Civil)	By direct recruitment through	

(1)	(2)	(3)	(4)
		Engineering Services Examination conducted by the Commission.	

SCHEDULE—III

[See rule 7(i)]

Minimum educational qualification and age limit for direct recruitment to posts in Central Engineering Service (Civil) Group 'A' on the basis of competitive Examination to be conducted by the Union Public Service Commission.

(A) A candidate shall possess :—

(1) a degree in Civil Engineering from;

(i) a University incorporated by an Act of the Central or State Legislature in India; or

(ii) an educational Institution established by an Act of Parliament or declared to be deemed as University under section 3 of the University Grant Commission Act, 1956, or

(2) Such other equivalent qualification as have been or may be recognised by the Government for the purpose of admission to the said examination; or

(3) A degree/diploma in Engineering from such foreign University/College/Institution and under such conditions as may be recognised by the Government for the purpose from time to time.

NOTES :

(1) In exceptional cases, the Commission may treat a candidate, not possessing any of the above qualifications, as educationally qualified provided that the Commission is satisfied that he has passed examinations conducted by other Institutions the standard of which in the opinion of the Commission, justified his admission to the examination.

(2) A candidate who is otherwise qualified by virtue of his having taken a Degree from a foreign University which is not recognised by Government, may also apply to the Commission and may be admitted to the examination at the discretion of the Commission;

(B) A candidate shall have attained the age of 20 years but not have attained the age of 28 years on the 1st day of August of the year in which the examination is held.

SCHEDULE—IV

[See rule 7(iii)]

Composition of Group 'A' departmental promotion committee for considering cases of promotion and confirmation in the Central Engineering (Civil) Group 'A' Service.

Sl. No.	Name of the duty post & grade	Group 'A' Departmental Promotional Committee (for considering promotion)	Group 'A' Departmental Promotional Committee (for considering confirmation)
(1)	(2)	(3)	(4)
1.	Chief Engineer (Civil)	1. Chairman/Member Union Public Service Commission—Chairman 2. Director General of Works—Member 3. Secretary/Special Secretary/Additional Secretary, Ministry of Urban Affairs and Employment—Member	Not applicable

(1)	(2)	(3)	(4)
2. Superintending Engineer (Civil) (Non-functional) (Selection Grade)	1. Director General of Works—Chairman 2. Additional Secretary/ Joint Secretary, Ministry of Urban Affairs and Employment—Member	Not applicable	
3. Superintending Engineer (Civil) (Junior Administrative Grade)	1. Chairman/Member Union Public Service Commission—Chairman 2. Director General of Works/Additional Director General of Works—Member 3. Additional Secretary/ Joint Secretary, Ministry of Urban Affairs and Employment—Member	Not applicable	
4. Executive Engineer (Civil)	1. Chairman/Member Union Public Service Commission—Chairman 2. Director General of Works/Additional Director General of Works—Member 3. Joint Secretary Ministry of Urban Affairs and Employment—Member.	Not applicable	
5. Assistant Executive Engineer (Civil)	1. Director General of Works/ Additional Director General of Works—Chairman 2. Joint Secretary, Ministry of Urban Affairs and Employment—Member 3. Director/Deputy Secretary —Member.	Not applicable.	

Note:

1. The absence of a Member, other than the Chairman or a Member of the Union Public Service Commission shall not invalidate the proceedings of the Departmental Promotion Committee if more than half the members of the Committee had attended its meetings.

2. The proceedings of the Departmental Promotion Committee relating to confirmation shall be sent to the Commission for approval. If, however, these are not approved by the Commission, a fresh meeting of the departmental promotional committee to be presided over by the Chairman or a Member of the Union Public Service Commission, shall be held.

[F. No. 8/5/95/ECI/EWI]

B.S. MINHAS, Jr. Secy.

अभिसूचना

नई दिल्ली, 28 अक्टूबर, 1996

सा.का.नि. 501(अ).—राष्ट्रपति, संविधान के अनुच्छेद 309 के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, और केन्द्रीय वैद्युत और यांत्रिक इंजीनियरी सेवा समूह "क" भर्ती नियम, 1954 (सा.का.नि. सं. 1843, तारीख 21 मई, 1954) केन्द्रीय वैद्युत इंजीनियरी सेवा समूह "क" भर्ती नियम, 1958 (सा.का.नि. सं. 36, तारीख 31 दिसम्बर, 1958), और कार्यपालक इंजीनियर केन्द्रीय इंजीनियरी और केन्द्रीय वैद्युत इंजीनियरी सेवा (समूह "क") ज्येष्ठता का विनियमन नियम, 1976 (सा.का.नि. सं. 892, तारीख 8 जून, 1976) को अधिकांश करते हुए सिवाय उन बातों के जिन्हें ऐसे अधिक्रमण से पूर्व किया गया है या करने का लोप किया गया है, निम्नलिखित नियम बनाते हैं, अर्थात्:—

1. संक्षिप्त नाम और प्रारंभ—(1) इन नियमों का संक्षिप्त नाम शहरी कार्य और रोजगार मंत्रालय (शहरी विकास विभाग), केन्द्रीय इंजीनियरी (वैद्युत और यांत्रिक) समूह "क" सेवा नियम, 1996 है,

(2) ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।

2. परिभाषाएँ—इन नियमों में, जब तक कि संदर्भ से अन्यथा अपेक्षित न हो:—

(क) "नियत दिन" से वह तारीख जिसको ये नियम प्रवृत्त होते हैं, अभिप्रेत है

(ख) "आयोग" से संघ लोक सेवा आयोग अभिप्रेत है,

(ग) "नियंत्रक प्राधिकारी" से भारत सरकार का शहरी कार्य और रोजगार मंत्रालय अभिप्रेत है,

(घ) "विभागीय प्रोन्नति समिति" से ऐसी समिति अभिप्रेत है, जिसका गठन किसी भी श्रेणी में प्रोन्नति या उसकी पुष्टि पर विचार करने के लिए किया गया है,

(ङ) "ह्यूटी पद" से अनुसूची-1 में सम्मिलित कोई पद अभिप्रेत है,

(च) "सरकार" से भारत सरकार अभिप्रेत है,

(छ) "श्रेणी" से सेवा की श्रेणी अभिप्रेत है,

(ज) "नियमित सेवा" से किसी श्रेणी के संबंध में उस श्रेणी में नियमित नियुक्ति के लिए विहित प्रक्रिया के अनुसार नियमों के अधीन उसके चयन और नियुक्ति के पश्चात् उस श्रेणी में की गई सेवा की अवधि या अवधियाँ अभिप्रेत हैं और जिसके अन्तर्गत निम्नलिखित अवधि या अवधियाँ भी हैं:—

(1) नियम 6 के अधीन नियुक्त किए गए व्यक्तियों के मामलों में उनकी ज्येष्ठता के प्रयोजन के लिए गणना में लिया गया,

(2) जिसके दौरान आफिसर उस श्रेणी में ह्यूटी पद यदि वह छुटी पर होने के या अन्यथा किसी कारण से ऐसा पद धारण करने के लिए उपलब्ध रहा होता तो धारण करता।

(झ) "अनुसूची" से इन नियमों से संलग्न अनुसूची अभिप्रेत है,

(ञ) "अनुसूचित जातियाँ और अनुसूचित जनजातियाँ" के वही अर्थ होंगे जो भारत के संविधान के अनुच्छेद 366 के क्रमशः खंड (24) और खंड (25) में उनके लिए समनुदिष्ट हैं और "अ.पि.व." से अन्य पिछड़ा वर्ग अभिप्रेत है और उसका वही अर्थ होगा तथा वह उसी प्रकार लागू होगा जैसा कि कार्मिक और प्रशिक्षण विभाग के कार्यालय ज्ञापन संख्या 36012/22/93-स्थापन (एस.सी.टी.) तारीख 8 सितम्बर, 1993 में अधिकृत है, और

(ट) "सेवा" से नियम 3 के अधीन गठित केन्द्रीय इंजीनियरी सेवा (वैद्युत और यांत्रिक) समूह "क" सेवा अभिप्रेत है।

3. सेवा का गठन—अनुसूची-1 से यथाविनिर्दिष्ट सेवा में सम्मिलित सभी ह्यूटी पद केन्द्रीय इंजीनियरी (वैद्युत और यांत्रिक) समूह "क" सेवा का गठन करेंगे।

4. ग्रेड, संख्या और इसका पुनर्विलोकन.—(1) इन नियमों के प्रारंभ होने की तारीख को सेवा के विभिन्न ग्रेडों में सम्मिलित ह्यूटी पद, उनकी संख्या और वेतनमान वे होंगे जैसे कि अनुसूची-1 में विनिर्दिष्ट है।

(2) उपनियम (1) में किसी बात के होते हुए भी सरकार :—

- (क) समय-समय पर आदेश द्वारा विभिन्न श्रेणियों में इयूटी पदों की संख्या में ऐसी अवधि के लिए जैसी उसमें विनिर्दिष्ट की जाए अस्थायी परिवर्धन या परिवर्तन कर सकेगी।
- (ख) आयोग के परामर्श से, सेवा में ऐसे पदों को सम्मिलित कर सकेगी जिन्हें अनुसूची-1 में सम्मिलित पद उनकी हैसियत या वेतनमान के समतुल्य समझे जा सकें या उक्त अनुसूची में सम्मिलित किसी इयूटी पद को सेवा से अपवर्जित कर सकेगी।
- (ग) आयोग के परामर्श से, खंड (ख) के अधीन सेवा में सम्मिलित इयूटी पद पर किसी अधिकारी की अस्थायी रूप से या अधिष्ठायी रूप से नियुक्ति कर सकेगी और सदृश श्रेणी में निरंतर नियमित सेवा को ध्यान में रखते हुए उसकी ज्येष्ठता नियत कर सकेगी।

5. सेवा के सदस्य—(1) निम्नलिखित व्यक्ति सेवा के सदस्य होंगे :—

(क) नियम 6 के अधीन इयूटी पद पर नियुक्त व्यक्ति, और

(ख) नियम 7 के अधीन इयूटी पद पर नियुक्त व्यक्ति।

(2) उपनियम (1) के खंड (क) के अधीन नियुक्त व्यक्ति, ऐसी नियुक्ति पर अनुसूची-1 के अधीन उसे लागू समुचित श्रेणी में सेवा का सदस्य माना जाएगा।

(3) उपनियम (1) के खंड (ख) के अधीन नियुक्त व्यक्ति ऐसी नियुक्ति की तारीख से अनुसूची-1 के अधीन उसे लागू समुचित श्रेणी में सेवा का सदस्य होगा।

6. सेवा का आरंभिक गठन—(1) इन नियमों की प्रारंभ की तारीख को केन्द्रीय वैद्युत और यांत्रिक इंजीनियरी सेवा, समूह "क" में नियमित आधार पर समूह "क" इयूटी पद धारण कर रहे सभी विद्यमान अधिकारी अपनी-अपनी श्रेणियों में सेवा के सदस्य होंगे।

(2) इन नियमों के आरंभ से पूर्व उप नियम (1) में निर्दिष्ट अधिकारियों की नियमित निरंतर सेवा को सेवा में उनकी प्रोन्नति पुष्टि और पेंशन के लिए परीक्षा ज्येष्ठता और अर्हक सेवा के प्रयोजन के लिए गणना में लिया जाएगा।

(3) वह सीमा जिस तक नियंत्रण प्राधिकारी इस नियम के उपबंधों के अनुसार सेवा की विभिन्न श्रेणियों की प्राधिकृत नियमित संख्या में पदों को भरने के लिए समर्थ नहीं है तो उन्हें नियम 7 और नियम 8 के उपबंधों के अनुसार भरा जाएगा।

7. सेवा की भावी अनुरक्षण—नियम 6 के अधीन आरंभिक गठन के पश्चात् अनुसूची-1 में निर्दिष्ट किसी भी श्रेणी में रिक्त इयूटी पद निम्नलिखित रीति से भरे जाएंगे, अर्थात् :—

- (i) सहायक कार्यपालक इंजीनियर की श्रेणी में सभी रिक्तियां अनुसूची-3 में विनिर्दिष्ट शैक्षणिक अर्हता और आयु सीमा के आधार पर आयोग द्वारा संचालित सम्मिलित इंजीनियरी सेवा परीक्षा के परिणाम के आधार पर सीधी भर्ती द्वारा, या परीक्षा की किसी स्कीम के अधीन जो समय-समय पर आयोग के परामर्श से सरकार द्वारा अधिसूचित की जाए, भरी जाएंगी,
- (ii) सेवा के कार्यपालक इंजीनियर और उससे ऊपर की श्रेणियों में सभी रिक्तियां अनुसूची-2 में विनिर्दिष्ट न्यूनतम अर्हक सेवा सहित अगली निचली श्रेणी के अधिकारियों में प्रोन्नति द्वारा भरी जाएंगी।
- (iii) (क) सहायक कार्यपालक इंजीनियर से कार्यपालक इंजीनियर के पद और अधीक्षण इंजीनियर (कनिष्ठ प्रशासनिक श्रेणी) की अधीक्षण इंजीनियर (चयन श्रेणी) के लिए प्रोन्नति के मामलों के सिवाय प्रोन्नति के लिए अधिकारियों का चयन अनुसूची-4 में यथाविनिर्दिष्ट विभागीय प्रोन्नति समिति द्वारा योग्यता के आधार पर किया जाएगा,
- (ख) कार्यपालक इंजीनियर के पद पर पदोन्नति के लिए सहायक कार्यपालक इंजीनियर का चयन उनकी ज्येष्ठता के क्रम में उपयुक्तता के अधीन रहते हुए किया जाएगा,
- (ग) अधीक्षण इंजीनियर (कनिष्ठ प्रशासनिक श्रेणी) की अधीक्षण इंजीनियर (चयन श्रेणी) के पद पर नियोजन उनकी उपयुक्तता के आधार पर ज्येष्ठता के क्रम में, सरकार द्वारा समय-समय पर जारी किए गए मार्गदर्शक सिद्धान्तों के अनुसार उनके सम्पूर्ण कार्य अनुभव और अन्य संबंधित बातों

को ध्यान में रखते हुए किया जाएगा,

- (iv) यदि किसी पद पर नियुक्त व्यक्ति का उच्च पद पर पदोन्नति के प्रयोजन के लिए विचार किया जाता है, उस श्रेणी में ज्येष्ठ सभी व्यक्तियों को जाबत भी इस बात के होते हुए भी कि वे विहित पात्रता सेवा पूरी नहीं करते हैं, विचार किया जाएगा, यदि कभी एक वर्ष से अधिक नहीं है और वे अपनी परीक्षा की अवधि यदि विहित हो गई है, सफलतापूर्वक पूरी कर ली है।
- (v) केन्द्रीय इंजीनियरी सेवा (सिविल) समूह "क" और केन्द्रीय इंजीनियरी सेवा (वैद्युत और यांत्रिक) समूह "क" के सामान्य कांस्टेबल के पद, मुख्य इंजीनियर और अधीक्षण इंजीनियर के पदों के लिए अपनी-अपनी विभागीय पदोन्नति समिति द्वारा पैनलित अधिकारियों को नियुक्ति द्वारा भरे जाएंगे।

8. इयूटी पदों को प्रतिनियुक्ति द्वारा भरण—नियम 7 में किसी बात के होते हुए भी, जहां सरकार की यह राय है कि ऐसा करना आवश्यक या समीचीन है वहां ऐसे कारणों को लेखबद्ध करते हुए, आयोग के परामर्श से किसी भी श्रेणी में ऐसी अवधि के लिए जो तीन वर्ष से अधिक न हो। जिसका विशेष परिस्थितियों में पांच वर्ष की अवधि तक विस्तार किया जा सकता है जैसा सरकार उचित समझे, प्रतिनियुक्ति पर स्थानांतरण द्वारा इयूटी पद भरा जाएगा। इस नियम के अधीन सेवा की किसी श्रेणी में नियुक्ति के लिए अर्हता, अनुभव और अर्हक सेवा का प्रत्येक अवसर पर आयोग के परामर्श से सरकार द्वारा विनिश्चय किया जाएगा।

9. ज्येष्ठता—(1) नियम 6 के अधीन इयूटी पद पर नियुक्त सेवा के सदस्यों की अपेक्षित ज्येष्ठता, इन नियमों के प्रारंभ की तारीख को यथा-विद्यमान रूप में होगी :

परन्तु यदि उक्त तारीख को किसी ऐसे सदस्य की ज्येष्ठता विनिर्दिष्टता अवधारित नहीं की गई थी, यह इन नियमों के प्रारंभ होने से पूर्व सेवा के सदस्यों को यथा लागू ज्येष्ठता नियतन को विनियमित करने वाले नियमों के आधार पर अवधारित की जाएगी।

(2) नियम 6 के अधीन नियुक्त व्यक्तियों से भिन्न सेवा में भर्ती व्यक्तियों की ज्येष्ठता समय-समय पर इस निमित्त सरकार द्वारा जारी सामान्य अनुदेशों के अनुसार अवधारित की जाएगी।

(3) ऊपर उपनियम (1) और उपनियम (2) के अधीन न आने वाले मामलों में ज्येष्ठता सरकार द्वारा आयोग के परामर्श से अवधारित की जाएगी।

10. परीक्षा—(1) प्रत्येक अधिकारी, या तो सीधी भर्ती या पदोन्नति द्वारा सेवा में नियुक्ति पर दो वर्ष की अवधि के लिए परीक्षा पर रहेगा :

परन्तु नियंत्रक प्राधिकारी समय-समय पर इस निमित्त जारी अनुदेशों के अनुसार परीक्षा अवधि का विस्तार कर सकता है :

परन्तु यह और कि परीक्षा की अवधि के विस्तार के लिए कोई विनिश्चय परीक्षा की आरंभिक अवधि की समाप्ति के पश्चात् आठ सप्ताह के भीतर लिया जाएगा और उक्त अवधि के भीतर ऐसा करने के कारणों के साथ संबंधित अधिकारी को लिखित में संसूचित किया जाएगा।

(2) परीक्षा की अवधि पर या उसकी किसी विस्तारित अवधि के पूरा होने पर अधिकारी यदि स्थायी नियुक्ति के योग्य माना गया है तो समय-समय पर जारी सरकार के आदेशों के निबंधनों के अनुसार उसकी पुष्टि के लिए विचार किया जाएगा।

(3) यदि, यथास्थिति, परीक्षा की अवधि या उसकी किसी विस्तारित अवधि के दौरान सरकार की यह राय है कि कोई अधिकारी स्थायी नियुक्ति के योग्य नहीं है तो सरकार अधिकारी को यथास्थिति सेवा मुक्त कर सकेगी या उसे उसकी नियुक्ति से पूर्व उसके द्वारा धारित पद पर प्रत्यावर्ति कर सकेगी।

(4) सरकार, परीक्षा की अवधि या उसकी किसी विस्तारित अवधि के दौरान, किसी अधिकारी से प्रशिक्षण के ऐसे पाठ्यक्रम के करने या ऐसी परीक्षा अथवा परीक्षण (जिसके अन्तर्गत हिन्दी परीक्षा भी सम्मिलित है) उत्तीर्ण करने की अपेक्षा कर सकेगी जैसी सरकार परीक्षा को संतोषप्रद पूरा करने के लिए शर्त के रूप में आवश्यक समझे।

(5) परीक्षा से संबंधित अन्य मामलों के विषय में, सेवा के सदस्य समय-समय पर इस निमित्त सरकार द्वारा जारी किए गए आदेशों और अनुदेशों द्वारा शासित होंगे।

11. सेवा में नियुक्ति—सेवा में की सभी नियुक्तियां, सेवा की विभिन्न श्रेणियों में इयूटी पदों के लिए नियंत्रक प्राधिकारी द्वारा की जाएंगी।

12. तैयारी—सेवा में नियुक्त अधिकारी भारत या विदेश में कहीं भी सेवा करने का दायी होगा।

13. रक्षा सेवाएं या रक्षा से संबंधित पदों पर सेवा करने का दायित्व सेवा में नियुक्त कोई अधिकारी, यदि ऐसा अपेक्षित हो, चार वर्ष से अन्यून अवधि के लिए जिसके अन्तर्गत प्रशिक्षण पर बिताई गई अवधि भी है, यदि कोई है, किसी रक्षा सेवा या भारत की रक्षा से संबंधित पद पर सेवा करने का दायी होगा।

परन्तु ऐसे अधिकारी से—

(i) सेवा में नियुक्ति की तारीख से दस वर्ष की समाप्ति के पश्चात् या सेवा में उसके सम्मिलित होने की तारीख से यथापूर्वोक्त सेवा करने की अपेक्षा नहीं की जाएगी।

(ii) यथापूर्वोक्त सेवा करने के लिए साधारणतया अपेक्षा नहीं की जाएगी यदि उसने चालीस वर्ष की आयु पूरी कर ली है।

14. निरर्हता—वह व्यक्ति—

(क) जिसने ऐसे व्यक्ति से जिसका पति या पत्नी जीवित है, विवाह किया है, या,

(ख) जिसने अपने पति या अपनी पत्नी के जीवित होते हुए किसी व्यक्ति से विवाह किया है,

उक्त पद पर नियुक्ति का पात्र नहीं होगा।

परन्तु यदि केन्द्रीय सरकार का यह समाधान हो जाता है कि ऐसा विवाह ऐसे व्यक्ति और विवाह के अन्य पक्षकार को लागू स्वीय विधि के अधीन अनुत्प्रेय है और ऐसा करने के लिए अन्य आधार है तो वह किसी व्यक्ति को इस नियम के प्रवर्तन से छूट दे सकेगी।

15. सेवा की अन्य शर्तें—ऐसे विषयों की बाबत सेवा के सदस्यों की ऐसी शर्तें, जिनके इन नियमों में कोई विनिर्दिष्ट उपबंध नहीं किया गया है वही होगा जैसा समय-समय पर केन्द्रीय सरकार के समतुल्य रैंक के अधिकारियों को लागू होंगी।

16. शिथिल करने की शक्ति—जहां केन्द्रीय सरकार की यह राय है कि ऐसा करना आवश्यक या समीचीन है, वहां वह उसके लिए जो कारण हैं उन्हें लेखबद्ध करके तथा संघ लोक सेवा आयोग से परामर्श करके, इन नियमों के किसी उपबंध को किसी वर्ग या प्रवर्ग के व्यक्तियों की बाबत, आदेश द्वारा शिथिल कर सकेगी।

17. व्यापृति—इन नियमों की कोई बात, ऐसे आरक्षण आयु सीमा में छूट और अन्य रियायतों पर प्रभाव नहीं डालेगी, जिनका केन्द्रीय सरकार द्वारा इस सम्बन्ध में समय-समय पर निकाले गए आदेशों के अनुसार अनुसूचित जातियों, अनुसूचित जन-जातियों, भूतपूर्व सैनिकों और अन्य विशेष प्रवर्ग के व्यक्तियों के लिए उपबंध करना अपेक्षित है।

अनुसूची-1

(नियम 3 देखिए)

संभ (3) में दर्शित किए गए पदों में कुछ विभागों में जैसे आय-कर आदि और केन्द्रीय इंजीनियरी (वैद्युत और यांत्रिक) समूह "क" काष्ठर में सम्मिलित है, स्वीकृत पद भी सम्मिलित है।

क्र.सं.	ह्यूटी पद और श्रेणी का नाम	पदों की सं.	वेतनमान
1.	मुख्य इंजीनियर (वैद्युत और यांत्रिक)	06	5,900-200-6700
2.	अधीक्षण इंजीनियर (वैद्युत और यांत्रिक) अकृत्यिक चयन श्रेणी	**	4,500-150-5700
3.	अधीक्षण इंजीनियर (वैद्युत और यांत्रिक) (कनिष्ठ प्रशासनिक श्रेणी)	36@	3,700-125-4700-150-5000
4.	कार्यपालक इंजीनियर (वैद्युत और यांत्रिक)	156	3,000-100-3500-125-4500
5.	सहायक कार्यपालक इंजीनियर (वैद्युत और यांत्रिक)	15	2,200-75-2800-द.रो.-100-4000

6. सहायक कार्यपालक इंजीनियर (वैद्युत और यांत्रिक) (छुटी आरक्षित)	05	2200-75-2800-द.रो.-100-4000
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*1996 में, कार्यभार के आधार पर परिवर्तन किया जा सकता है।

@ 4500-150-5700 रु. के वेतनमान में अकृत्यिक चयन श्रेणी पद भी सम्मिलित हैं।

** कनिष्ठ प्रशासनिक श्रेणी (श्रेणी चयन) अकृत्यिक है और इस श्रेणी में पदों की अधिकतम संख्या प्लेसट ह्यूटी पदों के पन्द्रह प्रतिशत के बराबर होगी [अर्थात् प्लेसट वेतनमान और सेवा में ऊपर के स्तर पर सभी ह्यूटी पद और चयन श्रेणी (अकृत्यिक) में पदों की अधिकतम संख्या कनिष्ठ प्रशासनिक श्रेणी में स्वीकृत पदों की संख्या तक सीमित होगी।]

टिप्पण: मुख्य इंजीनियर के तीन पद और अधीक्षण इंजीनियर के छह पदों केन्द्रीय इंजीनियरी (सिविल) समूह "क" सेवा तथा केन्द्रीय इंजीनियरी वैद्युत और यांत्रिक समूह "क" सेवा के लिए सामान्य काष्ठर पद हैं।

अनुसूची-2

[नियम 7(II) देखिए]

[केन्द्रीय इंजीनियरी (वैद्युत और यांत्रिक) समूह "क" सेवा की विभिन्न श्रेणियों में सम्मिलित ह्यूटी पदों की प्रोन्नति पर अधिकारियों की नियुक्ति के लिए ठीक निम्न श्रेणी में भर्ती पद्धति, प्रोन्नति क्षेत्र और न्यूनतम अर्हक सेवा]

क्र. सं.	ह्यूटी पद और श्रेणी का नाम	भर्ती पद्धति	प्रयत्न क्षेत्र, प्रोन्नतिके लिए न्यूनतम अर्हक सेवा और शैक्षिक अर्हता
(1)	(2)	(3)	(4)

1. मुख्य इंजीनियर (वैद्युत और यांत्रिक)

प्रोन्नति द्वारा

श्रेणी में आठ वर्ष की नियमित

सेवा सहित अधीक्षक इंजीनियर

(वैद्युत और यांत्रिक)

जिसके अन्तर्गत सेवा भी है,

यदि कोई अकृत्यिक चयन

श्रेणी में की गई थी (या सेवा)

समूह "क" पदों से सत्रह वर्ष की

नियमित सेवा जिसमें से चार वर्ष

की नियमित सेवा अधीक्षण इंजी-

नियर (वैद्युत और यांत्रिक) की

श्रेणी में होनी चाहिए।

2. अधीक्षण इंजीनियर

संपूर्ण कार्य

और अन्य

अधीक्षण इंजीनियर (वैद्युत और

यांत्रिक) (कनिष्ठ प्रशासनिक श्रेणी)

जो परीक्षा जिसके आधार पर

अधिकारी को भर्ती किया गया था के

आगामी वर्ष से संगणित वर्ष की पहली

जुलाई को समूह "क" सेवा के

चौदहवें वर्ष में प्रवेश कर चुके हैं

या सहायक इंजीनियर से प्रोन्नति

अधिकारी के मामलों में जो

प्लेसट वेतनमान में प्रोन्नति की

तारीख से संगणित समूह "क" सेवा

में नौ वर्ष सेवा कर चुका है।

3. अधीक्षण इंजीनियर

प्रोन्नति द्वारा

श्रेणी में पांच वर्ष की नियमित सेवा

सहित कार्यपालक इंजीनियर

(वैद्युत/यांत्रिक) किसी मान्यता

प्राप्त विश्वविद्यालय की वैद्युत और

यांत्रिक इंजीनियरी में डिग्री या

समतुल्य।

4. कार्यपालक इंजीनियर

प्रोन्नति द्वारा

(i) श्रेणी में चार वर्ष की नियमित

सेवा सहित सहायक कार्यपालक

(वैद्युत और यांत्रिक)

(1)	(2)	(3)	(4)
			इंजीनियर (वैद्युत और यांत्रिक) से 33 1/3 प्रतिशत।
			(ii) श्रेणी में आठ वर्ष की नियमित सेवा सहित सहायक इंजीनियर (वैद्युत और यांत्रिक) से 33 1/3 प्रतिशत और वैद्युत या यांत्रिक इंजीनियरी डिग्री या कोई अन्य समतुल्य अर्हता।
			(iii) श्रेणी में दस वर्ष की नियमित सेवा सहित सहायक इंजीनियर (वैद्युत) से 33 1/3 प्रतिशत और मान्यताप्राप्त विश्व-विद्यालय या संस्था से वैद्युत या यांत्रिक इंजीनियरी में डिप्लोमा या समतुल्य अर्हता रखने वाला।
5. सहायक कार्यपालक इंजीनियरी (वैद्युत और यांत्रिकी)	आयोग द्वारा संचालित सम्मिलित इंजीनियरी परीक्षा के माध्यम से सीधी भर्ती द्वारा।		

अनुसूची-3

[नियम 7(i) देखिए]

संघ लोक सेवा आयोग द्वारा संचालित की गई प्रतियोगिता परीक्षा के आधार पर केन्द्रीय इंजीनियरी सेवा (वैद्युत और यांत्रिक) समूह "क" के पदों पर सीधी भर्ती के लिए न्यूनतम शैक्षिक अर्हता और आयु सीमा।

(क) अभ्यर्थी के पास—

(1) निम्नलिखित से वैद्युत या यांत्रिकी इंजीनियरी में डिग्री :

(i) केन्द्रीय या राज्य विधान मण्डल के अधिनियम द्वारा भारत में निगमित कोई विश्वविद्यालय, या

(ii) संसद के अधिनियम, द्वारा स्थापित शैक्षिक संस्था या विश्वविद्यालय अनुदान आयोग अधिनियम, 1956 की धारा 3 के अधीन सम विश्वविद्यालय के रूप में घोषित, या

(2) ऐसी अन्य समतुल्य अर्हता जिसे उक्त परीक्षा में प्रवेश के प्रयोजन के लिए सरकार द्वारा मान्यता दी गई है या दी जा सकेगी, या

(3) ऐसे विदेशी विश्वविद्यालय/महाविद्यालय/संस्था से इंजीनियरी में डिग्री/डिप्लोमा और ऐसी शर्तों के अधीन जैसी इस प्रयोजन के लिए सरकार द्वारा समय-समय पर मान्यता प्राप्त हो सके।

टिप्पण :

(1) असाधारण मामलों में, आयोग उपर्युक्त में से कोई अर्हता न रखने वाले अभ्यर्थी को शैक्षिक रूप से अर्हित मान सकता है परन्तु आयोग का यह समाधान हो कि उसने अन्य संस्थाओं द्वारा संचालित परीक्षा उत्तीर्ण कर ली है जिनका स्तर आयोग की राय में परीक्षा में उसके प्रवेश को न्यायोचित ठहराता है।

(2) ऐसा अभ्यर्थी जो विदेशी विश्वविद्यालय से जो कि सरकार द्वारा मान्यता प्राप्त नहीं है डिग्री प्राप्त करके।

(ख) जिस वर्ष परीक्षा संचालित की जा रही है उस वर्ष 1 अगस्त को अभ्यर्थी ने 20 वर्ष की आयु पूरी कर ली है लेकिन 28 वर्ष की आयु पूरी नहीं की हो।

अनुसूची-4

नियम 7(iv) देखिए

(केन्द्रीय इंजीनियरी (वैद्युत और यांत्रिक) समूह "क" सेवा में प्रोन्नति और पुष्टि के मामलों पर विचार करने के लिए समूह "क" विभागीय प्रोन्नति समिति की संरचना)।

क्र. सूची पदों का नाम सं. और श्रेणी	समूह "क" विभागीय प्रोन्नति समिति (प्रोन्नति पर विचार करने के लिए)	समूह "क" विभागीय प्रोन्नति समिति (प्रोन्नति पर विचार करने के लिए)
(1)	(2)	(3)
1. मुख्य इंजीनियर (वैद्युत और यांत्रिक)	1. अध्यक्ष/सदस्य संघ लोक सेवा आयोग—अध्यक्ष 2. संकर्म महानिदेशक—सदस्य 3. सचिव/विशेष सचिव/अपर सचिव, शहरी कार्य और रोजगार मंत्रालय—सदस्य	लागू नहीं होता
2. अधीक्षण इंजीनियर (वैद्युत और यांत्रिक) (अकृतिक चयन श्रेणी)	1. संकर्म महानिदेशक—अध्यक्ष 2. अपर सचिव/संयुक्त सचिव, शहरी कार्य और रोजगार मंत्रालय—सदस्य	लागू नहीं होता
3. अधीक्षण इंजीनियर (वैद्युत और यांत्रिक) (कनिष्ठ प्रशासनिक श्रेणी)	1. अध्यक्ष/सदस्य संघ लोक सेवा आयोग—अध्यक्ष 2. संकर्म महानिदेशक/संकर्म अपर महानिदेशक—सदस्य 3. अपर सचिव/संयुक्त सचिव शहरी कार्य एवं रोजगार मंत्रालय—सदस्य	लागू नहीं होता
4. कार्यपालक इंजीनियर (वैद्युत और यांत्रिक)	1. संकर्म अध्यक्ष/सदस्य संघ लोक सेवा आयोग—अध्यक्ष 2. संकर्म महानिदेशक/संकर्म अपर महानिदेशक—सदस्य 3. संयुक्त सचिव, शहरी कार्य और रोजगार मंत्रालय—सदस्य	लागू नहीं होता
5. सहायक कार्यपालक इंजीनियरी (वैद्युत और यांत्रिक)	1. संकर्म महानिदेशक संकर्म अपर महानिदेशक—अध्यक्ष 2. संयुक्त सचिव, शहरी कार्य और रोजगार मंत्रालय—सदस्य 3. निदेशक/अपर सचिव, शहरी कार्य और रोजगार मंत्रालय—सदस्य	लागू नहीं होता

टिप्पण :

(1) संघ लोक सेवा आयोग के अध्यक्ष या सदस्य से भिन्न किसी सदस्य की अनुपस्थिति, विभागीय प्रोन्नति समिति की कार्यवाहियों को अधिमन्य नहीं करेगी, यदि समिति के अधिक से अधिक सदस्य इसकी बैठक में हाजिर हुए थे।

- (2) पुष्टि से संबंधित विभागीय प्रोन्नति समिति की कार्यवाहियां अनुमोदन के लिए आयोग को भेजी जाएंगी। यदि फिर भी, ये आयोग द्वारा अनुमोदन नहीं की जाती हैं तो विभागीय प्रोन्नति समिति की एक नए सिरे से बैठक, जिसकी संघ लोक सेवा आयोग के अध्यक्ष या सदस्य द्वारा अध्यक्षता की जानी है, होगी।

[फा. सं. 8/5/95-ईसी-1/ई डब्ल्यू-1]

जी. एस. मिन्हास, संयुक्त सचिव

NOTIFICATION

New Delhi, the 28th October, 1996

G.S.R. 501(E).—In exercise of the powers conferred by the proviso to article 309 of the Constitution and in supersession of the Central Electrical and Mechanical Engineering Services Group 'A' Recruitment Rules, 1954 (No. S.R.O.-1843, dated the 21st May, 1954), the Central Electrical Engineering Services Group 'A' Recruitment Rules, 1958 (No. GSR-36, dated the 31st December, 1958), and the Executive Engineers, Central Engineering and Central Electrical Engineering Service (Group 'A') (Regulation of Seniority) Rules, 1976 (No. G.S.R.-892, dated the 8th June, 1976), except as respects things done or omitted to be done before such supersession, the President hereby makes the following rules, namely :—

1. Short title and commencement :—(1) These rules may be called the Ministry of Urban Affairs and Employment (Department of Urban Development) Central Engineering (Electrical and Mechanical) Group 'A' Service Rules, 1996.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions :—In these rules, unless the context otherwise require :—

- (a) "appointed day" means the date on which these rules comes into force;
- (b) "commission" means the Union Public Service Commission;
- (c) "controlling authority" means the Government of India in the Ministry of Urban Affairs and Employment;
- (d) "departmental promotion committee" means a Committee constituted to consider promotion or confirmation in any Grade;
- (e) "duty post" means a post included in Schedule-I;
- (f) "Government" means the Government of India;
- (g) "grade" means a grade of the service;
- (h) "regular service" in relation to any grade means the period or periods of service in that grade rendered after selection and appointed thereto under the rules according to the prescribed procedure for regular appointment to that grade and includes any period or periods :—

- (1) taken into account for the purpose of seniority in case of those appointed under rule 6;
- (2) during which an officer would have held a duty post in that grade but for being on leave or otherwise not being available for holding such post;
- (i) "Schedule" means a Schedule appended to these rules;
- (j) "Scheduled Castes and Scheduled Tribes" have the same meaning as assigned to them in clauses (24) and (25) respectively of article 366 of the Constitution of India, and "OBC" means Other Backward Classes having the same meaning and applicability as laid down in Department of Personnel and Training O.M. No. 36012/22/93-Estt. (SCT), dated the, 8th September, 1993; and

- (k) "service" means the Central Engineering Service (Electrical and Mechanical) Group "A" Service constituted under rule 3.

3. Constitution of the Service.—All the duty posts included in the Service as specified in Schedule-I shall constitute the Central Engineering (Electrical and Mechanical) Group 'A' Service.

4. Grade, strength and its review.—(1) The duty posts included in the various grades of the service, their numbers and scales of pay, on the date of commencement of these rules, shall be as specified in Schedule-I.

(2) Notwithstanding anything contained in sub-rule (1), the Government may,

- (a) from time to time, by order make temporary additions or alterations to the strength of the duty posts in various grades, for such period as may be specified therein;
- (b) in consultation with the Commission, include in the Service such posts as can be deemed to be equivalent in status, grade or pay scale to the posts included in Schedule-I or exclude from the Service a duty post included in the said Schedule;
- (c) in consultation with the Commission, appoint an officer to a duty post included in the Service under clause (b) to the appropriate grade in a temporary capacity or in a substantive capacity, and fix his seniority in the grade after taking into account continuous regular service in the analogous grade.

5. Members of the Service.—(1) The following persons shall be the members of the Service :—

- (a) persons appointed to duty posts under rule 6; and
- (b) persons appointed to duty posts under rule 7.

(2) A person appointed under clause (a) of sub-rule (1) shall, on such appointment, be deemed to be a member of the Service in the appropriate grade applicable to him under Schedule-I.

(3) A person appointed under clause (b) of sub-rule (1) shall be a member of the Service in the appropriate grade applicable to him under Schedule-I from the date of such appointment.

6. Initial constitution of the service.—(1) All existing officers holding Group 'A' duty posts on regular basis in the Central Electrical and Mechanical Engineering Services, Group 'A' on the date of commencement of these rules shall be the members of the Service in the respective grades.

(2) The regular continuous service of Officers referred to in sub-rule (1) before the commencement of these rules shall count for the purpose of probation, seniority, qualifying service for promotion, confirmation and pension in the service.

(3) To the extent the controlling authority is not able to fill up the posts in authorised regular strength of various grades in the service in accordance with the provisions of this rule, the same shall be filled in accordance with the provisions of rules 7 and 8.

7. Future maintenance of the service.—The vacant duty posts in any of the grades referred to in Schedule-I, after the initial constitution under rule 6, shall be filled in the following manner, namely :—

- (i) all the vacancies in the grade of Assistant Executive Engineer shall be filled by direct recruitment on the basis of the results of the Combined Engineering Services Examination conducted by the Commission on the basis of educational qualifications and age limits specified in Schedule-III;
- (ii) all the vacancies in the grades of Executive Engineer and above of the service shall be filled by promotion from amongst the officers in the next lower grade with minimum qualifying service as specified in Schedule-II;
- (iii) (a) The selection of officer for promotion shall be made by the departmental promotion committee as specified in Schedule-IV, by selection on merit except in the case of promotion of Assistant Executive Engineer to the post of Executive Engineer and of Superintending Engineer (Junior Administrative Grade)

for appointment to the post of (Superintending Engineer selection grade);

(b) selection of the Assistant Executive Engineer for promotion to the post of the Executive Engineer shall be in the order of their seniority subject to rejection of the unfit;

(c) placement of the Superintending Engineer (Junior Administrative Grade) in the post of Superintending Engineer (selection grade) shall be made in the order of seniority based on their suitability taking into account their overall performance, experience and other related matters as per Guidelines issued by the Government from time to time;

(iv) If any officer appointed to any post in the service is considered for the purpose of promotion to the higher post, all persons senior to him in the grade shall also be considered notwithstanding that they do not fulfil the prescribed eligibility service, if the shortfall is not more than one year and they have successfully completed their probation period, if prescribed.

(v) the post of Chief Engineer and Superintending Engineer borne on the Common Cadre of Central Engineering Service (Civil) Group 'A' and Central Engineering Service (Electrical and Mechanical) Group 'A' shall be filled by appointment of Officers empanelled by the respective departmental promotion committee for the posts of Chief Engineer and Superintending Engineer.

8. Filling of duty posts by deputation.—Notwithstanding anything contained in rule 7, where the Government is of the opinion that it is necessary or expedient so to do, it may for reasons to be recorded in writing and in consultation with the Commission, fill up a duty post in any grade by transfer on deputation for a period not exceeding three years, which may in special circumstances be extended upto five years, as the Government may think fit. The qualifications, experience and the qualifying service for appointment to any grade of the Service under this rule shall be decided by the Government in consultation with the Commission on each occasion.

9. Seniority.—(1) The relative seniority of members of the service appointed to a duty post under rule 6, shall be as obtaining on the date of commencement of these rules :

Provided that if the seniority of any such member had not been specifically determined on the said date, the same shall be determined on the basis of the rules governing fixation of seniority as applicable to the members of the service prior to the commencement of these rules.

(2) The seniority of persons recruited to the Service, other than those appointed under rule 6, shall be determined in accordance with the general instructions issued by the government in this behalf from time to time.

(3) In the cases not covered under sub-rule (1) and sub-rule (2) above, the seniority shall be determined by the Government in consultation with the Commission.

10. Probation.—(1) Every Officer on appointment to the Service either by direct recruitment or by promotion shall be on probation for a period of two years :

Provided that the controlling authority may extend the period of probation in accordance with the instructions issued by the Government in this behalf from time to time :

Provided further that any decision for extension of a probation period shall be taken within eight weeks after the expiry of initial period of probation and communicated in writing to the concerned Officer together with reasons for so doing within the said period.

(2) On completion of the period of probation or any extension thereof, officer shall, if considered fit for permanent appointment, be considered for confirmation in terms of the orders of the Government issued from time to time.

(3) If, during the period of probation or any extension thereof, as the case may be, Government is of the opinion that an officer is not fit for permanent appointment, Government may discharge the officer or revert

him to the post held by him prior to his appointment in the Service, as the case may be.

(4) During the period of probation or any extension thereof, an officer may be required by Government to undergo such courses of training or to pass such examinations or tests (including examination in Hindi) as the Government may deem fit, as condition for satisfactory completion of probation.

(5) As regards other matters relating to probation, the members of the Service shall be governed by the orders or instructions issued by the Government in this behalf from time to time.

11. Appointment to the service.—All appointments to the Service shall be made by the controlling authority for all the duty posts in various grades of the Service.

12. Posting.—Officers appointed to the Service shall be liable to serve anywhere in India or abroad.

13. Liability to serve defence services or posts connected with defence.—Any Officer appointed to the Service, if so required, shall be liable to serve in any defence service or post connected with the Defence of India, for a period of not less than four years including the period spent on training, if any :

Provided that such Officers.—

(i) shall not be required to serve as aforesaid after the expiry of ten years from the date of appointment to the Service or from the date of his joining the Service;

(ii) shall not ordinarily be required to serve as aforesaid if he has attained the age of forty years.

14. Disqualification.—No person—

(a) who has entered into or contracted a marriage with a person having a spouse living, or

(b) who having a spouse living, has entered into or contracted a marriage with any person, shall be eligible for appointment to the service :

Provided that the Central Government may, if satisfied that such marriage is permissible under the personal law applicable to such person and the other party to the marriage and that there are other grounds for so doing, exempt any person from the operation of this rule.

15. Other conditions of the service.—The conditions of service of members of the service in respect of matters for which no specific provision has been made in these rules, shall be the same as are applicable, from time to time, to officers of equivalent rank of the Central Government.

16. Power to relax.—Where the Government is of the opinion that it is necessary or expedient so to do, it may, by order, for reasons to be recorded in writing, and in consultation with the Commission, relax any of the provisions of these rules with respect to any class or category of persons.

17. Saving.—Nothing in these rules shall affect reservations, relaxation in age limit and other concessions required to be provided for the Scheduled Castes, the Scheduled Tribes, Other Backward Classes, Ex-Servicemen and other special categories of persons in accordance with the orders issued by the Government from time to time in this regard.

SCHEDULE—I

(See rule 3)

Posts indicated in column (3) also include posts sanctioned in some departments such as Income Tax etc. and are encadred in the Central Engineering (Electrical and Mechanical) Group 'A' Service

Sl. No.	Name of the duty Post and grade	No. of posts*	Scale of pay
(1)	(2)	(3)	(4)
1	Chief Engineer (Electrical and Mechanical)	06	5900-200-6700/-

(1)	(2)	(3)	(4)	(1)	(2)	(3)	(4)
2.	Superintending Engineer (Electrical and Mechanical) Non-functional-Selection Grade	**	4500-150-5700/-			related matters.	lated from the date of promotion to the senior time scale in the case of officers promoted from Assistant Engineer.
3.	Superintending Engineer (Electrical and Mechanical) (Junior Administrative Grade)	36@	3700-125-4700-150-5000/-	3.	Superintending Engineer (Electrical and Mechanical) (Junior Administrative Grade)	By promotion	Executive Engineer (Electrical and Mechanical) with five years regular service in the grade and possessing degree in Electrical or Mechanical Engineering from a recognised University or equivalent.
4.	Executive Engineer (Electrical and Mechanical)	156	3000-100-3500-125-4500/-				(i) 33 1/3 per cent from Assistant Executive Engineer (Electrical and Mechanical) with four years regular service in the grade.
5.	Assistant Executive Engineer (Electrical and Mechanical)	15	2200-75-2800-EB-100-4000/-				(ii) 33 1/3 per cent from Assistant Engineers (Electrical) with eight years regular service in the grade and possessing degree in Electrical or Mechanical Engineering or any other equivalent qualification.
6.	Assistant Executive Engineer (Electrical and Mechanical) (Leave Reserve)	05	2200-75-2800-EB-100-4000/-	4.	Executive Engineer (Electrical and Mechanical)	By promotion	(iii) 33 1/3 per cent from Assistant Engineer (Electrical) with ten years regular service in the grade and possessing Diploma in Electrical or Mechanical Engineering from a recognised University or Institution or any other equivalent qualification.
* In 1996, subject to variation dependent on workload.				5.	Assistant Executive Engineer (Electrical and Mechanical)	By direct recruitment through Combined Engineering Services Examination conducted by the Commission.	
@ Includes non-functional selection grade posts also in the pay scale of Rs. 4500-150-5700/-							
** The junior administrative grade (grade selection) is non-functional and the maximum number of posts in this grade shall be equal to fifteen per cent of the senior duty posts (i.e. all duty posts at the level of senior time scale and above in the Service) and the maximum number of posts in the selection grade (non-functional) shall be limited to the number of posts sanctioned in junior administrative grade.							
Note: Three posts of Chief Engineer and six posts of Superintending Engineers are common cadre posts for the Central Engineering (Civil) Group 'A' Service and the Central Engineering Electrical and Mechanical Group 'A' Service.							

SCHEDULE—II [See rule 7(ii)]

Method of recruitment, field of promotion and minimum qualifying service in the immediate lower grade for appointment of officers on promotion to duty posts included in the various grades of the Central Engineering (Electrical and Mechanical) Group 'A' Service.

Sl. No.	Name of duty Post and grade	Method of recruitment	Field of selection, minimum qualifying service and educational qualification for promotion
(1)	(2)	(3)	(4)
1.	Chief Engineer (Electrical and Mechanical)	By promotion	Superintending Engineer (Electrical and Mechanical) with eight years regular service in the grade (including service, if any rendered in the non-functional selection grade) or seventeen years regular service in group A posts of the service out of which four years regular service should be in the grade of Superintending Engineer (Electrical and Mechanical).
2.	Superintending Engineer (Electrical and Mechanical) (Non-functional) (Selection Grade)	By appointment on the basis of seniority and suitability taking into account the overall performance and other	Superintending Engineer (Electrical and Mechanical) (Junior administrative grade) who have entered fourteenth year of Group A service on the first of July of the year calculated from the year following the year of examination on the basis of which the Officer was recruited or who have rendered nine years Group A service calcu-

SCHEDULE—III [See rule 7(i)]

Minimum educational qualification and age limit for direct recruitment to posts in Central Engineering Service Electrical and Mechanical Group 'A' on the basis of Competitive Examination to be conducted by the Union Public Service Commission:

(A) A candidate shall possess:

- a degree in Electrical or Mechanical Engineering from;
 - a University incorporated by an Act of the Central or State Legislature in India; or
 - an educational Institution established by an Act of Parliament or declared to be deemed as University under section 3 of the University Grants Commission Act, 1956, or

(2) Such other equivalent qualification as have been or may be recognised by the Government for the purpose of admission to the said examination; or

(3) A degree/diploma in Engineering from such foreign University/College/Institution and under such conditions as may be recognised by the Government for the purpose from time to time.

NOTE:

In exceptional cases, the Commission may treat a candidate, not possessing any of the above qualifications, as educationally qualified provided that the Commission is satisfied that he has passed examinations conducted by other Institutions the standard of which in the opinion of the Commission, justified his admission to the examination.

NOTE 2 :

A candidate who is otherwise qualified by virtue of his having taken a Degree from a foreign University which is not recognised by Government, may also apply to the Commission and may be admitted to the examination at the discretion of the Commission;

(B) A candidate shall have attained the age of 20 years but not have attained the age of 28 years on the 1st day of August of the year in which the examination is held.

SCHEDULE—IV
[See rule 7(4)]

Composition of Group 'A' departmental promotion committee for considering cases of promotion and confirmation in the Central Engineering (Electrical and Mechanical) Group 'A' Service

Sl. No.	Name of duty post	Group 'A' Departmental Promotional Committee (for considering promotion)	Group 'A' Departmental Promotional Committee (for considering promotion)
(1)	(2)	(3)	(4)
1.	Chief Engineer (Electrical and Mechanical)	1. Chairman/Member Union Public Service Commission—Chairman 2. Director General of Works—Member 3. Secretary/Special Secretary/Additional Secretary, Ministry of Urban Affairs and Employment—Member	Not applicable
2.	Superintending Engineer (Electrical and Mechanical) (Non-functional) (Selection Grade)	1. Director General of Works—Chairman 2. Additional Secretary/Joint Secretary, Ministry of Urban Affairs and Employment—Member	Not applicable
3.	Superintending Engineer (Electrical and Mechanical) (Junior Administrative Grade)	1. Chairman/Member Union Public Service Commission—Chairman 2. Director General of Works/Additional Director General of Works—Member	Not applicable

(1)	(2)	(3)	(4)
		3. Additional Secretary/Joint Secretary, Ministry of Urban Affairs and Employment—Member	
4. Executive Engineer (Electrical and Mechanical)		1. Chairman/Member Union Public Service Commission—Chairman 2. Director General of Works/Additional Director General of Works—Member 3. Joint Secretary Ministry of Urban Affairs and Employment—Member.	Not applicable
5. Assistant Executive Engineer (Electrical and Mechanical)		Not applicable.	1. Director General of Works/Additional Director General of Works—Chairman 2. Joint Secretary, Ministry of Urban Affairs and Employment—Member 3. Director/Deputy Secretary Ministry of Urban Affairs and Employment—Member.

Note :

1. The absence of a Member, other than the Chairman or a Member of the Union Public Service Commission shall not invalidate the proceedings of the Departmental Promotion Committee if more than half the members of the Committee had attended its meetings.

2. The proceedings of the Departmental Promotion Committee relating to confirmation shall be sent to the Commission for approval. If, however, these are not approved by the Commission, a fresh meeting of the departmental promotion committee to be presided over by the Chairman or a Member of the Union Public Service Commission, shall be held.

[F. No. 8/5/95/ECI/EWI]
B.S. MINHAS, Jt. Secy.

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Annexure R-20

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F.No.35034/7/97-Estt(D)
Government of India
Ministry of Personnel, Public Grievances and Pensions
Department of Personnel and Training

New Delhi - 110 001
February 8, 2002

OFFICE MEMORANDUM

Subject:-Procedure to be observed by Departmental Promotion Committees (DPCs) - No supersession in 'selection' promotion - Revised Guidelines regarding.

The undersigned is directed to invite reference to the Department of Personnel and Training (DoP&T) Office Memorandum (O.M.) No.22011/5/86-Estt(D) dated March 10, 1989 and O.M. of even number dated April 10, 1989 [as amended by O.M.No.22011/5/91-Estt(D) dated March 27, 1997] which contain the instructions on the Departmental Promotion Committees (DPCs) and related matters. In regard to the 'selection' mode of promotion ('selection-cum-seniority' and 'selection by merit'), the aforesaid instructions prescribe the guidelines (as briefly discussed in paragraph 2 below) for overall 'grading' to be given by the DPC, 'bench-mark' for assessment of performance and the manner in which the 'select panel' has to be arranged for promotions to various levels of post/grade.

2. Existing Guidelines

2.1 As per the existing (aforementioned) instructions, in promotions up to and excluding the level in the pay-scale of Rs.12,000-16,500 (excepting promotions to Group 'A' posts/services from the lower group), if the mode happens to be 'selection-cum-seniority', then the bench-mark prescribed is 'good' and officers obtaining the said bench-mark are arranged in the select panel in the order of their seniority in the lower (feeder) grade. Thus, there is no supersession among those who meet the said bench-mark. Officers getting a grading lower than the prescribed bench-mark ('good') are not empanelled for promotion.

(i) DoP&T O.M.No.
22011/5/86-
Estt(D) dated
10.3.1989

(ii) DoP&T O.M.No.
22011/5/86-
Estt(D) dated
10.4.1989

(iii) DoP&T O.M.No.
22011/5/91-
Estt(D) dated
27.3.1997

For circulation
11/2/02

2.2 In the case of promotions from lower Groups to Group 'A', while the mode of promotion happens to be 'selection by merit', the bench-mark prescribed is 'good' and only those officers who obtain the said bench-mark are promoted in the order of merit as per grading obtained. Thus, officers getting a superior grading supersede those getting lower grading. In other words, an officer graded as 'outstanding' supercedes those graded as 'very good' and an officer graded as 'very good' supercedes officers graded as 'good'. Officers obtaining the same grading are arranged in the select panel in the order of their seniority in the lower grade. Those who get a grading lower than the prescribed bench-mark ('good') are not empanelled for promotion.

2.3 In promotions to the level in the pay-scale of Rs.12,000-16,500/- and above, while the mode of promotion is 'selection by merit', the bench-mark prescribed is 'very good' and only those officers who obtain the said bench-mark are promoted in the order of merit as per the grading obtained, officers getting superior grading supersede those getting lower grading as explained in paragraph 2.2 above. Officers obtaining the same grading are arranged in the select panel in the order of their seniority in the lower grade. Those who get a grading lower than the prescribed bench-mark ('very good') are not empanelled for promotion.

3. Revised Guidelines

The aforementioned guidelines which permit supersession in 'selection' promotion ('selection by merit') have been reviewed by the Government and after comprehensive/extensive examination of relevant issues it has been decided that there should be no supersession in matter of 'selection' (merit) promotion at any level. In keeping with the said decision, the following revised promotion norms/ guidelines, in partial modification (to the extent relevant for the purpose of these instructions) of all existing instructions on the subject (as referred to in paragraph 1 above) are prescribed in the succeeding paragraphs for providing guidance to the Departmental Promotion Committees (DPCs).

3.1 Mode of Promotion

In the case of 'selection' (merit) promotion, the hitherto existing distinction in the nomenclature ('selection by merit' and 'selection-cum-seniority') is dispensed with and the mode of promotion in all such cases is rechristened as 'selection' only. The element of selectivity (higher or lower) shall be determined with reference to the relevant bench-mark ("Very Good" or "Good") prescribed for promotion.

3.2 'Bench-mark' for promotion

The DPC shall determine the merit of those being assessed for promotion with reference to the prescribed bench-mark and accordingly grade the officers as 'fit' or 'unfit' only. Only those who are graded 'fit' (i.e. who meet the prescribed bench-mark) by the DPC shall be included and arranged in the select panel in order to their inter-se seniority in the feeder grade. Those officers who are graded 'unfit' (in terms of the prescribed bench-mark) by the DPC shall not be included in the select panel. Thus, there shall be no supersession in promotion among those who are graded 'fit' (in terms of the prescribed bench-mark) by the DPC.

3.2.1 Although among those who meet the prescribed bench-mark, inter-se seniority of the feeder grade shall remain intact, eligibility for promotion will no doubt be subject to fulfilment of all the conditions laid down in the relevant Recruitment/Service Rules, including the conditions that one should be the holder of the relevant feeder post on regular basis and that he should have rendered the prescribed eligibility service in the feeder post.

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3.3 Promotion to the revised pay-scale (grade)
of Rs.12,000-16,500 and above

- (i) The mode of promotion, as indicated in paragraph 3.1 above, shall be 'selection'.
- (ii) The bench-mark for promotion, as it is now, shall continue to be 'very good'. This will ensure element of higher selectivity in comparison to selection promotions to the grades lower than the aforesaid level where the bench-mark, as indicated in the following paragraphs, shall be 'good' only.
- (iii) The DPC shall for promotions to said pay-scale (grade) and above, grade officers as 'fit' or 'unfit' only with reference to the bench-mark of 'very good'. Only those who are graded as 'fit' shall be included in the select panel prepared by the DPC in order of their inter-se seniority in the feeder grade. Thus, as already explained in paragraph 3.2 above, there shall be no supersession in promotion among those who are found 'fit' by the DPC in terms of the aforesaid prescribed bench-mark of 'very good'

3.4 Promotion to grades below the revised pay-scale
(grade) of Rs.12,000-16,500 (including promotions
from lower Groups to Group 'A' posts/grades/services)

- (i) The mode of promotion, as indicated in paragraph 3.1 above, shall be 'selection'.
- (ii) The bench-mark for promotion, as it is now, shall continue to be 'good'.
- (ii) The DPC shall for promotion to posts/grades/services in the aforesaid categories, grade officers as 'fit' or 'unfit' only with reference to the bench-mark of 'good'. Only those who are graded as 'fit' shall be included in the select panel prepared by the DPC in order of their inter-se seniority in the feeder grade. Thus, as already explained in paragraph 3.2 above, there shall be no supersession in promotion among those who are found 'fit' by the DPC in terms of the aforesaid prescribed bench-mark of 'good'.

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3.5 Zone of consideration

The guidelines relating to the 'zone of consideration' in its existing form (twice the number of vacancies plus four) shall continue to have general application. However, in view of the modifications in promotion norms indicated in paragraph 3.3 above, the following stipulation [as is already applicable in the case of promotions below the revised pay-scale (grade) of Rs.12,000-16,500/- vide DoP&T O.M.no.22011/8/98-Estt(D) dated November 6, 1998] is also made in the regard to the zone of consideration for promotion to the revised pay-scale (grade) of Rs.12,000-16,500/- and above:

"While the zone of consideration would remain as already prescribed, the DPC, in the aforesaid category of cases, may assess the suitability of eligible employees in the zone of consideration (in the descending order) for inclusion in the panel for promotion up to a number which is considered sufficient against the number of vacancies. With regard to the number of employees to be included in the panel, the DPC may also be required to keep in view the instructions issued vide Department of Personnel and Training Office Memorandum No. 22011/18/87-Estt(D) dated April 9, 1996 relating to norms for preparing extended panel for promotion. In respect of the remaining employees, the DPC may put a note in the minutes that "the assessment of the remaining employees in the zone of consideration is considered not necessary as sufficient number of employees with prescribed bench-mark have become available."

4. Provisions of the paragraph 1 (vii) of the DoP&T O.M.No.AB-14017/2/97-Estt(RR) dated May 25, 1998 stand modified in accordance with these revised instructions. In addition to this, if the guidelines contained in this Office Memorandum come in conflict with the provisions of any other executive instructions (O.M.) issued by DoP&T on this subject, the same shall be taken to be modified to the extent provided herein.

5. The instructions contained in this Office Memorandum shall come into force from the date of its issue.

6. Ministries/Departments are requested to give wide circulation to these revised instructions for general guidance in the matter so that immediate steps are taken to amend the Service Rules/Recruitment Rules of various services/posts/grades so as to appropriately incorporate the mode of promotion as 'selection' (in accordance with these instructions) in place of 'selection by merit' and 'selection-cum-seniority' (as was hitherto prescribed by the aforementioned O.M. dated March-27, 1997) as the case may be. The powers to amend Service Rules/Recruitment Rules in this regard are delegated to the Ministries/Departments. DoP&T need not be consulted to carry out the required amendments.

(ALOK SAXENA)

Deputy Secretary to the Government of India

To

All Ministries/Departments of the Government of India

Copy to:-

1. The President's Secretariat, New Delhi.
2. The Prime Minister's Office, New Delhi.
3. The Cabinet Secretariat, New Delhi.
4. The Rajya Sabha Secretariat, New Delhi.
5. The Lok Sabha Secretariat, New Delhi.
6. The Comptroller and Audit General of India, New Delhi.
7. The Union Public Service Commission, New Delhi with reference to their letter No.10/7/2001-AU(C) dated 30.10.2001 (20 copies).
8. The Staff Selection Commission, New Delhi.
9. All attached offices under the Ministry of Personnel, Public Grievances and Pensions
10. Establishment Officer & Secretary, AGC (10 copies)
(Smt Chitra Chopra)
11. All Officers and Sections in the Department of Personnel and Training.
12. Establishment (RR) Section, DoP&T (10 copies). They may also issue separate instructions in terms of the position indicated in paragraph 4 above.
13. Facilitation Centre, DoP&T - 20 spare copies
14. NIC (DOP&T Branch) for placing this Office Memorandum on

30 MAR 2003
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

Filed by 120

(A. DEBROY)

Sr. C. C. C.

C. A. T. Guwahati Bench

O.A. No. 184/2003

SHRI GAURI SHANKAR MITTAL

APPLICANT

Vs

UNION OF INDIA & OTHERS

RESPONDENTS

REPLY ON BEHALF OF RESPONDENT No. 7 - UNION PUBLIC SERVICE
COMMISSION TO THE ORIGINAL APPLICATION OF THE APPLICANT.

MOST RESPECTFULLY SHOWETH:

That before submitting reply on merits to the averments made by
the Applicant in this O.A., a brief background of the case is given hereunder.

I. BRIEF BACKGROUND

2. A Departmental Promotion Committee (DPC) meeting was held on
31.7.2002 in the office of the Union Public Service Commission – in short the
Commission - to consider selection of officers for promotion to the grade of Chief
Engineer (Civil) in the Central Public Works Department – in short the CPWD -
against 12 vacancies pertaining to the year 2002-2003. The DPC followed the
revised guidelines issued by the Department of Personnel & Training vide their
O.M. No. 35034/7/97-Estt. (D) dated February 8, 2002 regarding assessment of

officers (Copy of guidelines enclosed as Annexure R-3). In this context, it is submitted that as per earlier DPC guidelines issued by the Department of Personnel & Training which remained in force till 07.02.2002, the DPCs were required to give an overall grading to the officers being assessed which was to be one among (i) Outstanding, (ii) Very Good, (iii) Good, (iv) Average and (v) Unfit. As per the said DPC guidelines, the bench mark prescribed for promotion to all posts in the pay scale of Rs. 12000-16500 and above was "Very Good" with the stipulation that the officers who are graded as "Outstanding" would rank en bloc senior to those who are graded as "Very Good" and placed in the select panel accordingly up to the number of vacancies, officers with the same grading maintaining their inter-se seniority in the feeder grade/ post. However, the above DPC guidelines which permitted supersession in 'Selection' promotion were revised by the DOP&T vide their O.M. dated 08.02.2002, as referred to above.

As per the revised DPC guidelines, the DPC shall determine the merit of those being assessed for promotion with reference to the prescribed bench-mark and accordingly grade the officers as 'fit' or 'unfit' only. Only those who are graded 'fit' (i.e. who meet the prescribed bench-mark) by the DPC shall be included in the select panel in order of their inter-se seniority in the feeder grade. Those officers who are graded 'unfit' (in terms of the prescribed bench-mark) by the DPC shall not be included in the select panel. Thus there shall be no supersession in promotion among those who are graded 'fit' (in terms of the prescribed bench-mark) by the DPC. The Applicant Shri Gauri Shankar Mittal was duly considered by the DPC at Sl. No. 11 of the eligibility list, as furnished by the respondent Ministry of Urban Development & Poverty Alleviation. For promotion to the grade of Chief Engineer (Civil) in CPWD which is in the pay scale of Rs. 18400-22400, the prescribed bench mark is "Very Good". On the

dt 31.7.02

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basis of assessment of his ACRs for the relevant years, i.e. from 1996-97 to 2000-2001, as furnished by the respondent Ministry of Urban Development & Poverty Alleviation, the applicant was assessed by the DPC as "Unfit", as he failed to attain the prescribed bench mark, i.e., "Very Good" according to the Department of Personnel & Training's revised guidelines dated 08.02.2002. The Applicant was accordingly not recommended for promotion by the DPC, though some officers junior to him who were assessed by the DPC as "Fit" and were also covered under the available vacancies were recommended for promotion.

3. That in his present O.A., the Applicant has challenged his non-promotion to the grade of Chief Engineer (Civil) on the recommendations of the above DPC mainly on the alleged ground that his service career has been unblemished and also his overall grading has all along been outstanding. The applicant has also claimed that in some of his ACRs placed before the DPC, the reporting office has graded him as "above good but not very good" and he has alleged that the said grading is vague and capricious. The Applicant has further claimed that no adverse remark in his ACRs have ever been communicated to him and he should not have been declared unfit for promotion in terms of the order passed by the Hon'ble Supreme Court of India in the case of U.P. Jal Nigam & others vs. Prabhash Chandra Jain & others.

4. That the above allegations made by the applicant are not correct. The DPC meeting in this case was held by the Commission strictly in accordance with the relevant rules/ instructions and on the basis of information/ documents including the ACRs of the eligible officers, as furnished by the respondent Ministry of Urban Development & Poverty Alleviation. In this context, it is

respectfully submitted that as per DPC instructions issued by the DOP&T vide their O.M. No. 22011/5/86-Estt.(D) dated 10.4.1989, as amended from time to time, the DPC should not be guided merely by the overall grading, if any, that may be recorded in the CRs but should make its own assessment on the basis of the entries in the CRs because it has been noticed that sometimes the overall grading in a CR may be inconsistent with the grading under various parameters or attributes. These instructions were duly kept in view by the DPC.

5. That it is further submitted that grading an officer below the bench mark in an ACR cannot be construed as adverse remarks in the ACR. Thus, such ACRs in which the officer has been graded below the bench mark are not required to be communicated to the officer, as per the relevant instructions. The mere fact that the applicant has not been communicated any adverse remarks does not ipso facto mean that he is to be assessed as "Fit" for promotion by the DPC. In this context, it is also submitted that the performance of officers may change from year to year and if the performance of an officer as reflected in his ACR for a particular year is lower than that reflected in his ACR for an earlier year, this cannot be construed as insertion of adverse remarks in the ACR and thus it is not required to be communicated to the officer, as per relevant instructions. The law laid down by Hon'ble Supreme Court of India in the case of UP Jal Nigam is distinguishable and is not applicable to the facts of the present case. The ratio in the case of UP Jal Nigam has been considered in Rajinder Kumar vs. Union of India & others, 91 (2001) Delhi Law Times 170 (DB). It has been observed in this case that the Hon'ble Supreme Court in UP Jal Nigam case had found a drastic variation from 'excellent' entry in one year to 'poor' next year and held that competent authority ought to have recorded reasons for such

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steep downgradation and communicated it to the concerned employee to improve his performance. In the present case, there is no record/ evidence to show that there has been any steep downgradation in the ACRs of the Applicant.

6. That in this context, it is respectfully submitted that as per the instructions issued by the Government of India in the Department of Personnel & Training vide their O.M. No. 22011/5/86-Estt. (D) dated 10.04.1989, as amended from time to time and as in force at the time of the DPC meeting, the DPCs have full discretion to devise their own methods and procedure for objective assessment of the suitability of candidates who are to be considered by them subject to the broad guidelines issued by the DOP&T. As already submitted above, It is clearly laid down in these instructions that the DPC should not be guided merely by the overall grading, if any, that may be recorded in the CRs but should make its own assessment on the basis of the entries in the CRs, because it has been noticed that sometimes the overall grading in a CR may be inconsistent with the grading under various parameters or attributes. There is a catena of judicial decisions including judgements of the Hon'ble Supreme Court of India holding that it is not within the province of the Tribunal to sit in judgement over the assessment of the DPC/Selection Committee save in the rarest of rare cases where findings of the DPC/Selection Committee may be tainted with malice. In the case of Nutan Arvind vs. UOI & Another [(1996)2 SUPREME COURT CASES 488], Hon'ble Supreme Court held that – "When a high level Committee had considered the respective merits of the candidates, assessed the grading and considered their cases for promotion, this court cannot sit over the assessment made by the DPC as an appellate authority. In the case of UPSC vs. H. L. Dev & others (AIR 1988 SC 1069), the Apex Court held that – "How to categorise in the light of the

relevant records and what norms to apply in making the assessment are exclusively the functions of the Selection Committee. The jurisdiction to make the selection is vested in the Selection Committee." In the case of *Dalpat Abasaheb Solanke vs. B.S. Mahajan* (AIR 1990 SC 434), the Hon'ble Supreme Court held that – "It is needless to emphasize that it is not the function of the court to hear appeals over the decisions of the Selection Committees and to scrutinize the relative merits of the candidates. Whether a candidate is fit for a particular post or not has to be decided by the duly constituted Selection Committee which has the expertise on the subject." In the case of *Anil Katiyar vs. UOI & others* [1997 (1) SLR 153], the Hon'ble Supreme Court held that – "Having regard to the limited scope of judicial review of the merits of a selection made for appointment to a service or a civil post, the Tribunal has rightly proceeded on the basis that it is not expected to play the role of an appellate authority or an umpire in the acts and proceedings of the DPC and that it could not sit in judgement over the selection made by the DPC unless the selection is assailed as being vitiated by malafides or on the ground of its being arbitrary. It is not the case of the appellant that the selection by the DPC was vitiated by malafides."

7. In the present case, as mentioned earlier, the DPC meeting was held by the UPSC strictly in accordance with the relevant rules/instructions and on the basis of the information/documents furnished by the Department including the ACRs of the eligible officers. The Applicant was duly considered by the DPC for promotion to the grade of Chief Engineer (Civil), but as he failed to attain the prescribed bench mark, i.e. "Very Good", he was assessed as "Unfit" and not

recommended for promotion. There is no infirmity in the proceedings of the DPC in this matter.

8. In view of the submissions made in the preceding paras, it is respectfully submitted that in so far as the UPSC are concerned, the submissions and allegations made by the Applicant in this O.A. are not legally sustainable and are devoid of any merit whatsoever.

II. REPLY ON MERITS

Paras 1 to 3 The averments made by the Applicant in paras 1 to 3 of the O.A. need no reply from the answering respondent.

Paras 4.1 to 4.5 That the averments made by the Applicant in Paras 4.1 to 4.5 of the O.A. need no reply from the answering respondent being a matter of record. The correctness of these averments may be verified by the respondent Ministry of Urban Development and Poverty Alleviation.

Para 4.6 & 4.8 That the averments made in paras 4.6 and 4.8 are denied and disputed. The Applicant is making self contradictory statements inasmuch as in para 4.6, he has claimed that his overall grading has all along been outstanding and at the same time in para 4.7 he has himself conceded that in some of his ACRs he has been graded as "above good but not very good". Be that as it may, it is respectfully submitted that grading an officer below the bench

mark in an ACR cannot be construed as adverse remarks in the ACR. Thus, such ACRs in which the officer has been graded below the bench mark are not required to be communicated to the officer, as per the relevant instructions. The mere fact that the applicant has not been communicated any adverse remarks does not ipso facto mean that he is to be assessed as "Fit" for promotion by the DPC. In this context, it is also submitted that the performance of officers may change from year to year and if the performance of an officer as reflected in his ACR for a particular year is lower than that reflected in his ACR for an earlier year, this cannot be construed as insertion of adverse remarks in the ACR and thus it is not required to be communicated to the officer, as per relevant instructions. The law laid down by Hon'ble Supreme Court of India in the case of UP Jal Nigam is distinguishable and is not applicable to the facts of the present case. The ratio in the case of UP Jal Nigam has been considered in Rajinder Kumar vs. Union of India & others, 91 (2001) Delhi Law Times 170 (DB). It has been observed in this case that the Hon'ble Supreme Court in UP Jal Nigam case had found a drastic variation from 'excellent' entry in one year to 'poor' next year and held that competent authority ought to have recorded reasons for such steep downgradation and communicated it to the concerned employee to improve his performance. In the present case, there is no record/ evidence to show that there has been any steep downgradation in the ACRs of the Applicant.

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Paras 4.9
to 4.11

The averments made by the applicant in paras 4.9 to 4.11 primarily concern the respondent Ministry of Urban Development & Poverty Alleviation and hence necessary submissions in this regard may be made by them. In so far as the UPSC are concerned, it is respectfully reiterated that the DPC meeting in this case was held by the Commission strictly in accordance with the relevant rules/ instructions and on the basis of information/ documents, including the CRs of the eligible officer, furnished by the respondent Ministry of Urban Development & Poverty Alleviation. There is no legal infirmity in the proceedings of the DPC.

Para 4.12

The averments made by the applicant in para 4.12 of the O.A. are denied and disputed. It is respectfully submitted that the case of the applicant is not covered under the instructions cited by him. As already submitted above, the DPC in this case assessed the eligible officers on the basis of their service record with particular reference to the CRs of five preceding years, i.e. from 1996-97 to 2000-2001. As per applicant's own admission, he has been serving at North Eastern Region only since 14.5.2001 and as such he was not entitled to any weightage in terms of the instructions cited by him.

Paras 4.13
to 4.16

The averments made by the applicant in paras 4.13 to 4.16 are denied and disputed. It is respectfully reiterated that the DPC in this case was held by the Commission strictly in accordance with

the relevant rules/ instructions and on the basis of information/ documents furnished by the respondent Ministry of Urban Development & Poverty Alleviation. There is no infirmity in the proceedings of the DPC in this matter.

IV. REPLY TO GROUNDS

That in reply to the legal grounds given by the Applicant in para 5 of O.A., it is respectfully reiterated that the DPC meeting in this case was held by the UPSC strictly in accordance with the relevant rules/ instructions and on the basis of the information/ documents furnished by the respondent Ministry of Urban Development & Poverty Alleviation. Replies to specific grounds have already been furnished in the Brief Background and reply on merits, which may be read in reply to this para as well. The case laws cited by the Applicant are distinguishable and are not applicable to the facts of the present case.

In view of the submissions made above, it is respectfully submitted that in so far as the Commission are concerned, the Applicant has not been able to make out any case for grant of any relief and he is not entitled to any relief, as claimed or otherwise. It is, therefore, most respectfully prayed that this Hon'ble Tribunal may be pleased to dismiss this Application with costs in so far as the Commission are concerned.

A. P. Srivastava

Respondent No.7

Union Public Service Commission

ए.पी. श्रीवास्तव/A.P. Srivastava
अवर सचिव/Under Secretary
संघ लोक सेवा आयोग
Union Public Service Commission
नई दिल्ली/New Delhi-110069

VERIFICATION

I, A. P. Srivastava, Under Secretary, Union Public Service Commission, Dholpur House, Shahjahan Road, New Delhi-110011 do hereby verify that the contents of this affidavit are true and correct to my knowledge as derived from the official records of the Union Public Service Commission. No part of the affidavit is false and no material information has been suppressed or concealed.

VERIFIED at New Delhi on this day of

A. P. Srivastava

Respondent No. 7

ए.पी. श्रीवास्तव/A.P. Srivastava
अवर सचिव/Under Secretary
संघ लोक सेवा आयोग
Union Public Service Commission
नई दिल्ली/New Delhi-110069

F.No.35034/7/97-Estt(D)
Government of India
Ministry of Personnel, Public Grievances and Pensions
Department of Personnel and Training

New Delhi - 110 001
February 8, 2002

OFFICE MEMORANDUM

Subject:-Procedure to be observed by Departmental Promotion Committees (DPCs) - No supersession in 'selection' promotion - Revised Guidelines regarding.

The undersigned is directed to invite reference to the Department of Personnel and Training (DoP&T) Office Memorandum (O.M.) No.22011/5/86-Estt(D) dated March 10, 1989 and O.M. of even number dated April 10, 1989 [as amended by O.M.No.22011/5/91-Estt(D) dated March 27, 1997] which contain the instructions on the Departmental Promotion Committees (DPCs) and related matters. In regard to the 'selection' mode of promotion ('selection-cum-seniority' and 'selection by merit'), the aforesaid instructions prescribe the guidelines (as briefly discussed in paragraph 2 below) for overall 'grading' to be given by the DPC, 'bench-mark' for assessment of performance and the manner in which the 'select panel' has to be arranged for promotions to various levels of post/grade.

2. Existing Guidelines

2.1 As per the existing (aforementioned) instructions, in promotions up to and excluding the level in the pay-scale of Rs.12,000-16,500 (excepting promotions to Group 'A' posts/services from the lower group), if the mode happens to be 'selection-cum-seniority', then the bench-mark prescribed is 'good' and officers obtaining the said bench-mark are arranged in the select panel in the order of their seniority in the lower (feeder) grade. Thus, there is no supersession among those who meet the said bench-mark. Officers getting a grading lower than the prescribed bench-mark ('good') are not empanelled for promotion.

A.P. Srivastava
ए.पी. श्रीवास्तव/A.P. Srivastava
अवर सचिव/Under Secretary
संघ लोक सेवा आयोग
Union Public Service Commission
नई दिल्ली/New Delhi-110069

2.2 In the case of promotions from lower Groups to Group 'A', while the mode of promotion happens to be 'selection by merit', the bench-mark prescribed is 'good' and only those officers who obtain the said bench-mark are promoted in the order of merit as per grading obtained. Thus, officers getting a superior grading supersede those getting lower grading. In other words, an officer graded as 'outstanding' supercedes those graded as 'very good' and an officer graded as 'very good' supercedes officers graded as 'good'. Officers obtaining the same grading are arranged in the select panel in the order of their seniority in the lower grade. Those who get a grading lower than the prescribed bench-mark ('good') are not empanelled for promotion.

2.3 In promotions to the level in the pay-scale of Rs.12,000-16,500/- and above, while the mode of promotion is 'selection by merit', the bench-mark prescribed is 'very good' and only those officers who obtain the said bench-mark are promoted in the order of merit as per the grading obtained, officers getting superior grading supersede those getting lower grading as explained in paragraph 2.2 above. Officers obtaining the same grading are arranged in the select panel in the order of their seniority in the lower grade. Those who get a grading lower than the prescribed bench-mark ('very good') are not empanelled for promotion.

3. Revised Guidelines

The aforementioned guidelines which permit supersession in 'selection' promotion ('selection by merit') have been reviewed by the Government and after comprehensive/extensive examination of relevant issues it has been decided that there should be no supersession in matter of 'selection' (merit) promotion at any level. In keeping with the said decision, the following revised promotion norms/ guidelines, in partial modification (to the extent relevant for the purpose of these instructions) of all existing instructions on the subject (as referred to in paragraph 1 above) are prescribed in the succeeding paragraphs for providing guidance to the Departmental Promotion Committees (DPCs).

Amastava
ए.पी. श्रीवास्तव/A.P. Srivastava
वर सचिव/Under Secretary
सर्व लोक सेवा आयोग
Union Public Service Commission
नई दिल्ली/New Delhi-110069

3.1 Mode of Promotion

In the case of 'selection' (merit) promotion, the hitherto existing distinction in the nomenclature ('selection by merit' and 'selection-cum-seniority') is dispensed with and the mode of promotion in all such cases is rechristened as 'selection' only. The element of selectivity (higher or lower) shall be determined with reference to the relevant bench-mark ("Very Good" or "Good") prescribed for promotion.

3.2 'Bench-mark' for promotion

The DPC shall determine the merit of those being assessed for promotion with reference to the prescribed bench-mark and accordingly grade the officers as 'fit' or 'unfit' only. Only those who are graded 'fit' (i.e. who meet the prescribed bench-mark) by the DPC shall be included and arranged in the select panel in order to their inter-se seniority in the feeder grade. Those officers who are graded 'unfit' (in terms of the prescribed bench-mark) by the DPC shall not be included in the select panel. Thus, there shall be no supersession in promotion among those who are graded 'fit' (in terms of the prescribed bench-mark) by the DPC.

3.2.1 Although among those who meet the prescribed bench-mark, inter-se seniority of the feeder grade shall remain intact, eligibility for promotion will no doubt be subject to fulfilment of all the conditions laid down in the relevant Recruitment/Service Rules, including the conditions that one should be the holder of the relevant feeder post on regular basis and that he should have rendered the prescribed eligibility service in the feeder post.

S. P. Srivastava
ए.पी. श्रीवास्तव/A.P. Srivastava
जवर सचिव/Under Secretary
संघ लोक सेवा आयोग
Union Public Service Commission
नई दिल्ली/New Delhi-110089

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- 4 -

3.3 Promotion to the revised pay-scale (grade)
of Rs.12,000-16,500 and above

- (i) The mode of promotion, as indicated in paragraph 3.1 above, shall be 'selection'.
- (ii) The bench-mark for promotion, as it is now, shall continue to be 'very good'. This will ensure element of higher selectivity in comparison to selection promotions to the grades lower than the aforesaid level where the bench-mark, as indicated in the following paragraphs, shall be 'good' only.
- (iii) The DPC shall for promotions to said pay-scale (grade) and above, grade officers as 'fit' or 'unfit' only with reference to the bench-mark of 'very good'. Only those who are graded as 'fit' shall be included in the select panel prepared by the DPC in order of their inter-se seniority in the feeder grade. Thus, as already explained in paragraph 3.2 above, there shall be no supersession in promotion among those who are found 'fit' by the DPC in terms of the aforesaid prescribed bench-mark of 'very good'.

3.4 Promotion to grades below the revised pay-scale
(grade) of Rs.12,000-16,500 (including promotions
from lower Groups to Group 'A' posts/grades/services)

- (i) The mode of promotion, as indicated in paragraph 3.1 above, shall be 'selection'.
- (ii) The bench-mark for promotion, as it is now, shall continue to be 'good'.
- (ii) The DPC shall for promotion to posts/grades/services in the aforesaid categories, grade officers as 'fit' or 'unfit' only with reference to the bench-mark of 'good'. Only those who are graded as 'fit' shall be included in the select panel prepared by the DPC in order of their inter-se seniority in the feeder grade. Thus, as already explained in paragraph 3.2 above, there shall be no supersession in promotion among those who are found 'fit' by the DPC in terms of the aforesaid prescribed bench-mark of 'good'.

Signature
ए.पी. श्रीवास्तव/A.P. Srivastava
वरिष्ठ सचिव/Under Secretary
सर्व लोक सेवा आयोग
Union Public Service Commission
नई दिल्ली/New Delhi-110069

3.5 Zone of consideration

The guidelines relating to the 'zone of consideration' in its existing form (twice the number of vacancies plus four) shall continue to have general application. However, in view of the modifications in promotion norms indicated in paragraph 3.3 above, the following stipulation [as is already applicable in the case of promotions below the revised pay-scale (grade) of Rs.12,000-16,500/- vide DoP&T O.M.no.22011/8/98-Estt(D) dated November 6, 1998] is also made in the regard to the zone of consideration for promotion to the revised pay-scale (grade) of Rs.12,000-16,500/- and above:

"While the zone of consideration would remain as already prescribed, the DPC, in the aforesaid category of cases, may assess the suitability of eligible employees in the zone of consideration (in the descending order) for inclusion in the panel for promotion up to a number which is considered sufficient against the number of vacancies. With regard to the number of employees to be included in the panel, the DPC may also be required to keep in view the instructions issued vide Department of Personnel and Training Office Memorandum No. 22011/18/87-Estt(D) dated April 9, 1996 relating to norms for preparing extended panel for promotion. In respect of the remaining employees, the DPC may put a note in the minutes that "the assessment of the remaining employees in the zone of consideration is considered not necessary as sufficient number of employees with prescribed bench-mark have become available."

4. Provisions of the paragraph 1 (vii) of the DoP&T O.M.No.AB-14017/2/97-Estt(RR) dated May 25, 1998 stand modified in accordance with these revised instructions. In addition to this, if the guidelines contained in this Office Memorandum come in conflict with the provisions of any other executive instructions (O.M.) issued by DoP&T on this subject, the same shall be taken to be modified to the extent provided herein.

ए.पी. श्रीवास्तव/A.P. Srivastava
वर सचिव/Under Secretary
सच लोक सेवा आयोग
Union Public Service Commission
नई दिल्ली-110009

Instructions contained in this Office Memorandum shall come into force from the date of its issue.

6. Ministries/Departments are requested to give wide circulation to these revised instructions for general guidance in the matter so that immediate steps are taken to amend the Service Rules/Recruitment Rules of various services/posts/grades so as to appropriately incorporate the mode of promotion as 'selection' (in accordance with these instructions) in place of 'selection by merit' and 'selection-cum-seniority' (as was hitherto prescribed by the aforementioned O.M. dated March 27, 1997) as the case may be. The powers to amend Service Rules/Recruitment Rules in this regard are delegated to the Ministries/Departments. DoP&T need not be consulted to carry out the required amendments.

(ALOK SAXENA)

Deputy Secretary to the Government of India

To

All Ministries/Departments of the Government of India

Copy to:-

1. The President's Secretariat, New Delhi.
2. The Prime Minister's Office, New Delhi.
3. The Cabinet Secretariat, New Delhi.
4. The Rajya Sabha Secretariat, New Delhi.
5. The Lok Sabha Secretariat, New Delhi.
6. The Comptroller and Audit General of India, New Delhi.
7. The Union Public Service Commission, New Delhi with reference to their letter No.10/7/2001-AU(C) dated 30.10.2001 (20 copies).
8. The Staff Selection Commission, New Delhi.
9. All attached offices under the Ministry of Personnel, Public Grievances and Pensions
10. Establishment Officer & Secretary, ACC (10 copies) (Smt Chitra Chopra)
11. All Officers and Sections in the Department of Personnel and Training.
12. Establishment (RR) Section, DoP&T (10 copies). They may also issue separate instructions in terms of the position indicated in paragraph 4 above.
13. Facilitation Centre, DoP&T - 20 spare copies
14. NIC (DOP&T Branch) for placing this Office Memorandum on the website of DoP&T.
15. Establishment (D) Section, DoP&T (500 copies)

ए.पी. शर्मा/Under Secretary
संय. लोक सेवा आयोग
Union Public Service Commission
at 14-11 New Delhi-110009

19 JUL 2004
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI
PRINCIPAL BENCH AT NEW DELHI
GUWAHATI

ORIGINAL APPLICATION No. 184 of 2003

Shri Gauri Shankar Mittal ----- APPLICANT

VERSUS

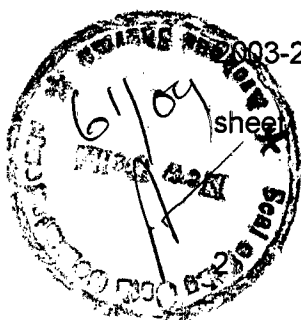
UNION OF INDIA & OTHERS ----- RESPONDENTS

AFFIDAVIT

I, Mata Prasad, aged about 64 years, working as Chairman, Union Public Service Commission, New Delhi, do hereby solemnly affirm and most humbly submit as follows:-

1. That this Hon'ble Tribunal by their order dated 13.05.2004 has directed the respondents to file clear affidavit indicating the ACRs which were considered by the DPC which met on 27.06.2003 to consider selection of officers for promotion to the post of Chief Engineer (Civil) in CPWD for filling vacancies for the year 2003-2004. The respondents have also been directed to produce the working sheet tabulation prepared and examined by the DPC.

That the applicant in the present case has challenged his non-promotion to the grade of Chief Engineer (Civil), CPWD on the recommendations of the DPC which met on 31.7.2002 for filling the vacancies of the year 2002-2003. The



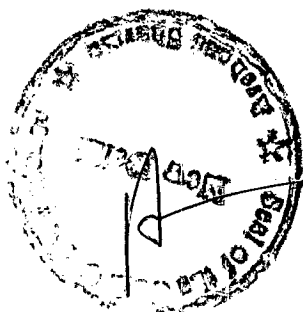
Filed by 138
16/7/04
Sr. C. G. S. C.

applicant has not challenged the recommendations of the DPC which met later on 27.6.2003 for the vacancy year 2003-2004.

3. That in so far as the DPC meeting held on 31.7.2002 for the vacancy year 2002-2003 is concerned, in para 2 of the reply already filed on behalf of the Union Public Service Commission, it has been indicated that the DPC in this case assessed the eligible officers on the basis of their ACRs for the relevant period, i.e. from 1996-1997 to 2000-2001. As regards the DPC which met later on 27.06.2003 for the vacancy year 2003-2004, the DPC assessed the officers on the basis of their ACRs for the period 1997-1998 to 2001-2002.

4. That as regards the direction of this Hon'ble Tribunal for production of Working Sheet/ Tabulation prepared and examined by the DPC which met on 27.06.2003 for the vacancy year 2003-2004, it is respectfully submitted that I, as Chairman of the Union Public Service Commission, am in control of and in-charge of its records as well as the Assessment Sheets relating to the said DPC Meeting held on 27.06.2003. I have carefully read and considered the relevant records and have come to the conclusion in respect of them as under:-

- (i) I find that the file relevant to the DPC held on 27.06.2003 to consider selection of officers for promotion to the grade of Chief Engineer (Civil) in CPWD for the vacancy year 2003-2004. is file No. F.1/11(14)/2003-AP-2. This file contains the Assessment Sheet of the said DPC meeting in a sealed cover.



- (ii) The sealed Assessment Sheets of DPCs are unpublished official record relating to the affairs of the State and its disclosure will cause injury to the public interest and will materially affect the freedom and candour of

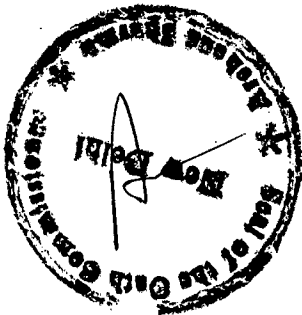
expression of opinion by officials in the determination and execution of public policy.

5. I do not, therefore, accord permission to anyone, under Section 123 of Indian Evidence Act, 1872, to produce the said document or to give any evidence derived therefrom, and, as per established practice of the UPSC, claim privilege under the said Act.

6. However, I most respectfully submit that I have no objection whatsoever to the documents in regard to which privilege has been claimed, being produced for perusal by the Hon'ble Central Administrative Tribunal only, for their legal scrutiny and satisfying themselves about the bona fides and genuineness of the facts and the privilege claimed.

7. I realise the solemnity and significance attached to the exercise of power under section 123 of the Indian Evidence Act, 1872 and privilege is not being claimed on the ground of expediency, or to avoid an embarrassing or inconvenient situation or because it is apprehended that the documents, if produced would defeat the case of the Union Public Service Commission.

Solemnly affirmed at New Delhi, on 25-06-2004



Mata Prasad
(MATA PRASAD)

CHAIRMAN

UNION PUBLIC SERVICE COMMISSION

DEPONENT

VERIFICATION

I, Mata Prasad, do hereby solemnly affirm and state that the contents of paragraphs 1 to 7 are true to my knowledge.

(MATA PRASAD)

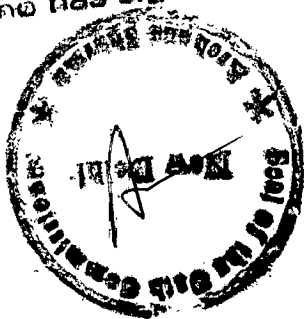
CHAIRMAN

UNION PUBLIC SERVICE COMMISSION

Place: New Delhi

Date: 25.06.2004

Identify the Executant/Deponent
who has signed in my presence



verified that the deponent
Shri Mata Prasad
S/o Shri Chaitan
R/o U.P.S.C. House
Identified by Shri Amber
has Solemnly affirmed before me at New
Delhi on 25/6/04 that the contents
of the affidavit which has been read over
and explained to him are true & correct
to his knowledge.

Commissioner New Delhi

25 JUN 2004