

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDERS OF THE BENCH

15.09.2011

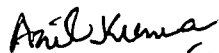
OA No. 393/2009

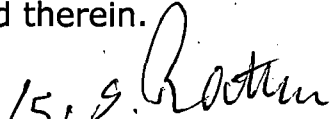
Mr. C.B. Sharma, counsel for applicant.

Mr. Mukesh Agarwal, counsel for respondents.

Heard.

The O.A. is disposed of by a separate order on the separate sheets for the reasons recorded therein.


(ANIL KUMAR)
MEMBER (A)


(JUSTICE K.S. RATHORE)
MEMBER (J)

Kumawat



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 15th day of September, 2011

Original Application No.393/2009

CORAM:

HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)
HON'BLE MR. ANIL KUMAR, MEMBER (ADMV.)

Gulshan Kumar Bajaj
s/o Shri Pannal Lal Bajaj,
r/o 326, Shanti Nagar,
Gopal Pura Bys Pass, Jaipur
Presently working as Assistant Engineer E/M,
Office of Headquarter, Chief Engineer,
Military Engineering Services,
Jaipur Zone, Power House Road,
Bani Park, Jaipur

.. Applicant

(By Advocate: Shri C.B.Sharma)

Versus

1. Union of India
through Secretary to the Govt. of India,
Department of Defence,
Ministry of Defence,
South Block, New Delhi.
2. The Director General (Personnel),
E-1 (DPC-1),
Engineer in Chief's Branch,
Military Engineering Services,
Intergrated HQs of MOD (Army),
Kashmir House, Rajaji Marg,
New Delhi.

.. Respondents

(By Advocate: Shri Mukesh Agarwal)

ORDER (ORAL)

Both the learned counsel appearing for the respective parties do not disputed that the controversy involved in the present OA is squarely covered by the judgment rendered by the Principal Bench of this Tribunal in OA No.1371/2007, Shri Bipad Bhanjan Bala vs. Union of India and Ors., decided on 19th November, 2007.

2. In the present case, the applicant claims similar relief as has been claimed in OA No.1371/2007 and prayed that the respondents be directed to interpolate name of the applicant in the eligibility list Ann.A/4 at Sl.No.14 prior to Shri V.Ravindra Nath by modifying the same and further consider his candidature for promotion and to promote the applicant to the post of Executive Engineer with all consequential benefits.

3. This Tribunal in OA No.1371/2007 has thoroughly considered the aspect regarding the Assistant Engineer diploma holder seeking promotion as Executive Engineer on the ground that juniors have been promoted in the stream of Assistant Engineer degree holder whereas applicant's eligibility has to be relaxed as per the Note appended to the recruitment rules promulgated in June 2004 as Indian Defence Service of Engineers (Recruitment and Condition of Service) Rules, 2004 and having considered the ratio decided by the



Hon'ble Supreme Court in the case of Sanjay Kumar and ors. vs. Narinder Vermand Others, reported at (2006) 6 SCC 467 and the judgment rendered by the Delhi High Court in the case of Dr. K.P.Verma Vs. Union of India and others decided on 23.7.2003 as well as the decision of the Apex Court in Union of India vs. P.L.Bhandari (Civil appeal Nos. 89 and 90 of 1990) decided on 30.11.1993, Dadl Jagannadham vs. Jammulu Ramulu, reported at (2001) 7 SCC 71 and Sanjay Singh vs. U.P. Public Service Commission, Allahabad and another reported at (2007) 1 SCC (L&S) 87, this Tribunal partly allowed the OA observing as under:-

"18. In the result, we do not subscribe to the reasoning given by the official respondents to deny the claim of the applicant for promotion. Accordingly, the OA is partly allowed. Impugned order is set aside. Official respondents are now directed to consider the case of the applicant for promotion to the post of Executive Engineer strictly in terms of Note appended to the recruitment rules and as per rules and instructions. In case of grant of promotion, consequences in law would ensure but for the seniority for which we have already made an observation above. This shall be done within a period of two months from the date of receipt of a copy of this order. No costs."


4. At this stage, the learned counsel appearing for the respondents submits that the order passed by the Tribunal dated 19.11.2007 has been assailed by the respondent Union of India before the Hon'ble Delhi High Court by way of filing Writ Petition (C) No. 1882/2008 and the Division Bench of the



Delhi High Court has stayed operation of the order passed by the Tribunal.

5. Since the controversy involved in the present case is squarely covered by the judgment passed in OA No.1371/2007 by the Principal Bench and the same is sub-judice before the Hon'ble Delhi High Court, as such, the issue raised in the present OA will be subject to the final decision of the Hon'ble Delhi High Court in Writ Petition (C) 1882/2008.

6. With these observations, the OA stands disposed of with no order as to costs.


(ANIL KUMAR)
Admv. Member


(JUSTICE K.S.RATHORE)
Judl. Member

R/