

**Central Administrative Tribunal
Principal Bench**

MA No.4546/2017
OA No.528/2012

Orders Reserved on: 06.04.2018.

Pronounced on:13.04.2018

HON'BLE MR. JUSTICE DINESH GUPTA, MEMBER (J)
HON'BLE MR. K.N. SHRIVASTAVA, MEMBER (A)

1. Graduate Engineers Association (Regd.)
Irrigation & Flood Control Department,
Govt. of Delhi, B-78 Double Storey,
Ramesh Nagar,
New Delhi-110015.
2. Sh. S.K. Achantani (Assistant Engineer)
59 years, S/o Sh. K.N. Achantani,
B-78, Double Storey, Ramesh Nagar,
New Delhi-110015.
3. Shri Rajesh Singh (Assistant Engineer),
S/o Late Shri Raghunath Singh,
R/o C-2/26A, Lawrance Road,
New Delhi.
4. Shri Ajay Kumar (Junior Engineer),
S/o late Shri Shiv Dhan,
R/o 44A/1, Arjun Nagar,
New Delhi-110029.

-Applicants

(By Advocate Shri Mannat Sanshu with Mr. Pramod Gupta)

-Versus-

1. Govt. of NCT of Delhi,
Through its Chief Secretary,
Players Building, I.P. Estate,
New Delhi-110002
2. The Chief Engineer,
Irrigation & Flood Control Department,
Govt. of NCT of Delhi,
4th Floor, I.S.B.T. Kashmere Gate,
Delhi-110006.
3. The Secretary,

Department of Irrigation & Flood Control
Govt. of NCT of Delhi, 5/9, Under Hill Road,
Delhi-110006.

4. Union Public Service Commission,
Through its Secretary,
Dholpur House, Shahjahan Road,
New Delhi-110011.

-Respondents

(By Advocate Shri B.N. Pathak)

ORDER

Mr. K.N. Shrivastava, Member (A):

MA No.4546/2017

Through the medium of this Miscellaneous Application (MA), the applicants have prayed for condonation of delay of 03 months and 26 days in filing OA No.528/2012, in which they have prayed for the following reliefs:

“(i) Quash and set aside the impugned order dated 07.09.09 of the official respondent.

(ii) declare the action of the respondents for not providing the applicants and its members proper and effective promotional avenues in their service as arbitrary and illegal;

(iii) declare the effect that the inaction and/or omission on the part of respondents in providing to the applicants and its members effective and proper promotional avenue is arbitrary, discriminatory and violative of Articles 14 & 16 of the Constitution of India.

(iv) Declare the Recruitment Rules for the post of Assistant Engineer and Executive Engineer (Civil) notified by the respondents vide notification No.F.(27)/76-S II dated 27.8.1980 and F.No.3/20GAD(Flood)897 dtd. 24.3.2006 respectively to the extent they keep the applicants and its members at par with the diploma holder, are arbitrary and discriminatory and accordingly quash the same to that extent.

(v) Direct the respondents to review the Recruitment Rules in respect of the AE and EE (C) and may make suitable amendments in the Recruitment Rules thereby providing for a separate quota for subsequent degree holder JE's and AE's for promotion to the post of AE and EE respectively.”

2. The brief background of this case is that these applicants had earlier approached this Tribunal in OA No.2095/2006, challenging the recruitment rules framed in 2003 on the ground that they were unjust and discriminatory. The Tribunal, however, refused to grant the substantive reliefs prayed for but while disposing of the OA vide order dated 02.06.2009 issued the following direction to the respondents:

“17. As we find that the applicants have represented to the Government and no reply has come forth from the Government, this OA stands disposed of with a direction to the official respondents to treat the present OA as a supplementary representation on behalf of applicants and in the light of the averments made therein as well as the observations made by us in the preceding paragraphs, consider the claim of the applicants by passing a well-reasoned order within a period of two months from the date of receipt of a copy of this order. No costs.”

3. In compliance of the order dated 02.06.2009 of the Tribunal, the respondents vide their impugned Annexure A-1 order dated 07.09.2009 have disposed of the representation(s) of the applicants in the following terms:

“.....Similarly, RRs for the post of Executive Engineer (Civil)/Surveyor of Works (Civil), which were last amended and notified on 24th March, 2006, already provides for 50% quota for promotion from amongst the degree holder Assistant Engineers and those diploma holder Engineers who have acquired qualification of degree in Engineering or equivalent subsequently during the service period are also eligible under this 50% quota as there can be no differentiation between the Assistant Engineers directly appointed through UPSC and those who have joined service with diploma in Engineering and acquired degree in Engineering or equivalent during the service period as both the categories of Engineers come under the common stream once their qualification becomes equivalent. As such, the demand of Graduate Engineers Association for earmarking an exclusive separate promotion quota for those diploma holder Engineers who have acquired degree during the service period is not tenable.

NOW, therefore, in view of the above discussion, there being no case of the applicant/petitioner Association for any specific relief as sought in the above referred OA, the supplementary representation is hereby disposed of rejecting their claim."

4. The present OA was filed by the applicants on 02.02.2012 challenging the Annexure A-1 order dated 07.09.2009. Obviously, there has been a delay of 2-1/2 years.

5. Explaining the delay in filing the OA, it is stated by the applicants that after the impugned order dated 07.09.2009 was passed, they represented the matter at various levels, viz. Joint Secretary (I&F) on 06.04.2010 and Hon'ble Minister of I&FC on 09.03.2011. It is further stated that the applicants' association also represented before Secretary (Services), Govt. of NCT of Delhi on 31.03.2011 as well as before the Chairman, UPSC on 27.01.2012. After failing to get any satisfactory response from these authorities, they have approached the Tribunal in the present OA and in the process there is a delay of 03 months and 26 days.

6. On the issue of limitation, in Section 21 of the Administrative Tribunals Act, 1985, it is stated as under:

"21. Limitation –

(1) A Tribunal shall not admit an application, - (a) in a case where a final order such as is mentioned in clause (a) of subsection (2) of section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made; (b) in a case where an appeal or representation such as is mentioned in clause (b) of sub-section (2) of section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months."

7. It is quite clear from Section 21(1) of the Administrative Tribunals Act, 1985 that the applicants ought to have approached the Tribunal within a maximum period of 18 months from the date of passing of the impugned order dated 07.09.2009. The Hon'ble Apex Court in **S.S. Rathore v. State of Madhya Pradesh**, [AIR 1990 SC 10] has held that repeated representations do not extend the period of limitation.

8. As noticed hereinabove, the delay involved in filing the OA is 2-1/2 years. The applicants have miserably failed to explain this delay.

9. In this view of the matter, we do not find any merit in this MA. The prayer for condonation of delay in filing OA-528/2012 is hereby declined. The MA is accordingly dismissed.

OA No.528/2012

In view of the order passed in MA No.4546/2017, the OA has become infructuous. Dismissed as such. No costs.

(K.N. Shrivastava)
Member (A)

(Justice Dinesh Gupta)
Member (J)

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