

**Central Administrative Tribunal
Principal Bench**

**OA No.820/2017
with
OA No.1164/2017**

New Delhi, this the 28th day of July, 2017

**Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. K. N. Shrivastava, Member (A)**

I. OA No.820/2017

1. Jatinder Kumar
EE (C), Group 'A',
aged about 51 years,
S/o Late N. D. Bishambhu
R/o 9213, LIG Flats, Masood Pur,
Vasant Kunj, New Delhi 110 070.
2. Bharat Ahuja
EE (C), Group 'A',
aged about 55 years,
S/o Late Om Prakash Ahuja,
R/o H. No.1782/Sec-28, Faridabad,
Haryana.
3. Pramod Kumar Sharma
EE (C), Group 'A',
aged about 56 years,
S/o Late Chander Prakash Sharma
R/o 401, Ext-I, Shalimar Garden,
Sahibabad, Ghaziabad, UP. ... Applicants.

(By Advocate : Shri M. K. Bhardwaj)

Versus

Delhi State Industrial & Infrastructure Development
Corporation Ltd.
Through its Chairman cum Managing Director
N-36, Bombay Life Building,
Connaught Circus,
New Delhi 110 001. ... Respondents.

(By Advocate : Ms. Aditya Gupta for Mr. Gaurang Kanth)

II. OA No.1164/2017

1. Syed Abdul Awwal
AEE (C), Group 'A'
S/o Sh. S. M. Rahman,
Aged about 49 years,
R/o H/4, Flat No.58, Sec-16,
Rohini, Delhi 110 085.
2. Tariq Shafi,
AEE (C), Group 'A',
S/o Late Mohd. Shafi,
Aged about 44 years,
R/o 536/6, Zakir Nagar,
Okhla, New Delhi 110 025.
3. Sunil Dutt Sharma
AEE (C), Group 'A',
S/o Shri H. S. Sharma
aged about 47 years,
R/o GD-121, PItam Puram,
Delhi.
4. Suresh Kumar
AEE (C), Group 'A',
S/o Late Mam Chand
Aged about 42 years,
R/o H. No.416, Chirag Dehli.
New Delhi 110 017. Applicants.

(By Advocate : Shri M. K. Bhardwaj)

Versus

Delhi State Industrial & Infrastructure Development
Corporation Ltd.
Through its Chairman cum Managing Director
N-36, Bombay Life Building,
Connaught Circus,
New Delhi 110 001. Respondents.

(By Advocate : Ms. Aditya Gupta for Mr. Gaurang Kanth)

: O R D E R :

Justice Permod Kohli, Chairman:

The issues in both these Applications being identical in nature, they were heard together and are being disposed of by this common order.

2. At the time of issuing notice, it was brought to the notice of this Tribunal that the controversy involved in the present OAs is squarely covered by a decision of this Tribunal placed at Annexure A-8 of OA No.1164/2017. Despite opportunities, reply has not been filed.

3. The relevant facts as emerge from the pleadings of the parties are noted hereunder. The applicants in OA No.1164/2017 joined as JE (C) during 1995 to 2000. They were promoted as AEE (C) during the period 2005-2006 on *ad hoc* basis and subsequently were granted regular promotion in the year 2012. Under the recruitment rules, after rendering 5/6 years of service as AEE (C), the applicants became eligible for promotion to the post of Executive Engineer (C). The statutory rules provide promotion to the post of EE (C) 100% by promotion, failing which, by deputation. It is further case of the applicants that in terms of Government of India, Ministry of Education & Social Welfare, OM No.F.18-19/75/T-2 dated 26.05.1977, the qualification of diploma in engineering with 10 years technical experience is considered equivalent to degree in engineering for the

purpose of selection to Gazetted Post & Services under the Central/State Governments.

4. The controversy whether diploma in engineering with 10 years technical experience is considered equivalent to degree in engineering was examined by Hon'ble Punjab & Haryana High Court in CWP No.11156/2009, and later by a coordinate bench of this Tribunal in OA No.2651/2012-*Sh. T. R. Sharma & Ors. vs. Union of India & Ors.* decided on 26.04.2013. The Hon'ble High Court of Delhi also examined the same controversy in *Union of India & Ors. Vs. M. P. Shivas & Ors.* decided on 13.10.2014. Considering the judgments of two High Courts and the judgment of this Tribunal in *T. R. Sharma's case* (supra), this Tribunal vide its judgment dated 27.10.2016 passed in OA No.1348/2015 issued following directions:-

“9. For the reasons mentioned herein above and the issue having been settled by two different High Court judgments as also by a Co-ordinate Bench of this Tribunal, this OA is allowed. The respondents are directed to consider the applicants for their promotion to the post of EE (Civil and Electrical) considering their diploma in Engineering with ten years experience in the field (Civil and Engineering) as equivalent to degree in Engineering. The consideration shall be accorded against the quota meant for the AE under the Recruitment Rules. Such consideration shall be against the available vacancies. The applicants along with all eligible candidates in this category shall be accorded consideration in accordance with law within three months from the date of receipt of copy of this order.”

5. The controversy in the present Applications is squarely covered by the aforesaid judgments. These Applications are accordingly

disposed of in terms of the aforesaid judgment with a direction to respondents to consider the qualification of diploma in engineering (civil) with 10 years technical experience equivalent to degree in engineering and consequently accord consideration to the applicants for their promotions to the post of Executive Engineer (Civil). The consideration shall be accorded against the quota meant for AEs in accordance with recruitment rules. The applicants along with other eligible candidates in this category shall be considered for further promotion against the available vacancies, if any, in accordance with law within a period of three months from the date of receipt of certified copy of this order.

(K. N. Shrivastava)
Member (A)

(Justice Permod Kohli)
Chairman

/pj/