

**Central Administrative Tribunal
Principal Bench, New Delhi**

OA No. 1709/2016

New Delhi, this the 13th day of May, 2016

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

1. Mr. Vijay Kumar Gupta
S/o Mr. C.D. Gupta, Aged 55 years,
E-102, Ashok Vihar, Phase-I
Delhi-110052
2. Mr. Vikram Singh
S/o Mr. Dharamveer,
C-3/214, Sector-31
Noida
Uttar Pradesh-201301
3. Mr. Shiv Kumar Bhardwaj,
S/o Mr. N.P. Sharma
C-129, Surajmal Vihar
Delhi-110092
4. Sh. Shalabh Kumar
S/o Mr. S.K.L Srivastava,
R/o Bunglow No. 3
New Type 5, Jal Vihar Colony
Lajpat Nagar
New Delhi-110024
5. Mr. Ajay Gupta
S/o Mr. S.L. Gupta
R/o Bunglow No. 5,
New Delhi-110024
6. Mr. Vijay Pal Sharma
S/o Mr. Thakur Dutt,
AD-120A, Pitampura
New Delhi

7. Mr. Parmod Kumar Jain
S/o Mr. K.C. Jain,
B-23, Sangam Apartment
Plot No. 23, Sector-9
Rohini, Delhi-110085
8. Mr. Mahender Kumar Jian
S/o Mr. Babulal,
G-8/10, Sector-11
Rohini, Delhi-110085
9. Mr. Narender Kumar Tomar
S/o Mr. B. Singh,
B-39, Sangam Apartment
Plot No. 23, Sector-9
Rohini, Delhi-110085
10. Mr. Virender kUmar
S/o Mr. Lal Chand,.
H. No. E-188, Antriksh Apartment
Sector-14 Extension, Rohini
Delhi110085
11. Mr. Mukul Bandula
S/o Mr. N.C. Bandula,
A-73, Ahsok Vihar
Phase-3, Delhi-110052
12. Parveen Kumar Jain
S/o Mr. S.S. Jain,
28, FF, Manak Vihar
Delhi-110092
13. Mr. Rajesh Mittal
S/o Mr. Amarnath Mittal
Bungalow No. 4, New Type-5
Jal Vihar Colony
Lajpat Nagar
New Delhi-110024
14. Mr. Rakesh Kumar
S/o Mr. Krishan Lal,
Jal Vihar Colony
Lajpat Nagar
New Delhi-110024

15. Mr. Gopal Ji Rai
S/oMr. Vi;shwanath Rai,
Jal Vihar Colony
Lajpat Nagar
New Delhi-110024

..... Applicants

(By Advocate: Mr. Prateek Tushar Mohanty)

VERSUS

1. Delhi Jal Board
Varunalaya, Phase-II,
Jhandelwala, Karol Bagh,
New Delhi-110005
Through its Chief Executive Officer
2. The Member (A)
Delhi Jal Board
Varunalaya, Phase-II,
Jhandelwala, Karol Bagh,
New Delhi-110005
3. The Secretary,
UPSC,
Shahjahan Road
New Delhi
4. Sh. Ravinder Pal Singh
S/o Sh. Rattan Singh
R/o 15, Type IV
Varun Niketan
DJB Staff Quarters
AU Block, Pitampura
Delhi-110034
5. Sri Lal Meena
S/o Sh. Onkar Lal
R/o House No. B-37, Shyam Vihar
Phase-1, Near Surender Market
Najafgarh, New Delhi-110043

.... Respondents

(By Advocate: Mr. Hanu Bhaskar)

ORDER (ORAL)

Justice Permod Kohli, Chairman:

The applicants are aggrieved of the promotions granted to the respondents Nos. 4 and 5 from time to time as also the review DPC held for the said purpose. The prayer made in the present OA reads as under:-

“a) Direct the respondent nos. 1 to 3 to reverse the promotion granted to the respondent nos. 4 & 5 from 1998; to revise the seniority list of Executive Engineers (in accordance with the seniority list of Assistant Engineers at the time of initial appointment of the applicants) by applying the ‘catch up rule’ in terms of the judgment of Hon’ble Supreme Court in the matter of S. Paneer Selvam & Ors. Vs. Govt. of Tamil Nadu (Civil Appeal Nos. 6631-6632 of 2015 delivered on 27.08.2015 reported as 2015 (10) SCC 292; and to hold review DPC to grant rightful places to deserving candidates in terms of the above judgment of Hon’ble Supreme Court and grant benefits accordingly;

b) Declare the review DPC held in the year 2006 as Null and Void;

c) Pass such other or further orders as this Hon’ble Tribunal may deem fit and proper in the facts and circumstances of this case.

d) award cost of the litigation to the Applicant.”

2. The applicants are challenging the promotions of the private respondents to the post of Executive Engineers vide order dated 31.07.2006 giving them retrospective benefit w.e.f. 03.06.1999 (Annexure P-9).

3. The private respondents have been promoted as Executive Engineer and thereafter as Superintending Engineer and are presently working as Chief Engineer. The applicants have also challenged the review DPC held in the year 2006. In para 3 of the OA, no reasons are indicated for filing the OA after a lapse of almost 10 years, even no ground for condonation has been made out. The question of promotion crystallized at least in the year 2006 to the rank of Executive Engineer, thereafter the private respondents have earned two more promotions to the post of Superintending Engineer and Chief Engineer rendered to them in the year 2014 i.e. w.e.f. 01.04.2014 and 19.02.2014 respectively. The first representation was made by the applicants

somewhere in 2015. From the copy of the representation (Annexure P-1), it appears that no date is mentioned in it, admittedly, it has been filed after a lapse of more than 8 years. The issue of promotion is not a recurring cause of action. The applicants have also indirectly questioned the seniority of private respondents based on which they have earned promotions from time to time.

4. Learned counsel for the applicants has referred to the communication dated January 1999, wherein it is recorded that as against the sanctioned 53 posts in the cadre of EE(C), only 10 vacancies are meant for SC/ST (7SC+3ST) and all the remaining vacancies were to be filled by General category candidates. Further he referred to an internal file noting of Delhi Jal Board dated 06.09.2005 (Annexure P-7) wherein it is mentioned that all the 10 posts of EE(C) out of 53, reserved for SC/ST candidates have been filled by way of exchanging the vacancy between SC and ST candidates. It is also mentioned that in the DPC meeting held in the year 1999 at UPSC, respondents (4) and (5) were not coming in the extended zone of consideration for promotion to the post of EE(C).

5. Even though, some observations have been made in the aforementioned two documents regarding the total number of posts of EE(C) and the posts reserved for SC/ST candidates, but the fact remains that these documents came into existence way back in 1999/2005. There has been total inaction on the part of the applicants for about 9-10 years. Even when regular DPC met in the year 2006 in which promotions to private respondents (4) and (5) to the post of EE(C) was recommended retrospectively from the year 1999, the applicants chose not to initiate any action to question that. The applicants have filed the present OA challenging the promotions of the private respondents right from the year 1999.

6. The applicants have failed to explain the inordinate delay of almost 10 years in questioning the promotions granted to the private respondents based on the recommendations of the DPC in the year 2006. Hence we hold that on the ground of limitation itself, the OA deserves to be dismissed. We order accordingly. No costs.

(K.N. Shrivastava)
Member (A)

(Justice Permod Kohli)
Chairman

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