

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A. No. 3566/2015

Reserved on : 03.05.2017
Pronounced on : 17.07.2017

**Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Mr. K.N. Shrivastava, Member (A)**

Virinder Kumar Grover, Aged 54 years,
S/o Shri B.C. Grover
Executive Engineer
Delhi Jal Board
R/o 3/16, Subhash Nagar,
New Delhi. ... Applicant

(By Advocate : Ms. S. Janani)

Versus

1. Delhi Jal Board,
Through Chief Executive Officer
Varunalaya Phase-II
Karol Bagh, New Delhi.
2. The Member (Admn),
Delhi Jal Board,
Varunalaya Phase-II
Karol Bagh, New Delhi.
3. Assistant Commissioner T,
Delhi Jal Board,
Varunalaya Phase-II
Karol Bagh, New Delhi. Respondents

(By Advocate : Shri C.S. Prashar with Shri Mohit Kumar)

ORDER**By Mr. V. Ajay Kumar, Member (J)**

The applicant, an Executive Engineer (E&M) in the respondent – Delhi Jal Board, filed the O.A. questioning the Office Order No.211 dated 21.09.2015 to the extent of re-posting him to his substantive post of AE (E&M) and also for a direction to include his Engineering qualification in service record.

2. The brief facts as narrated in the O.A. are as follows:

(i) The applicant joined the respondent – Delhi Jal Board as Junior Engineer through direct recruitment on 22.06.1983. Thereafter the applicant was initially appointed to the post of Assistant Engineer (E&M) on current duty charge basis vide order dated 08.04.2005 and subsequently, on the recommendation of the DPC, he was granted regular promotion to the post of Assistant Engineer (E&M) on 02.03.2009.

(ii) The applicant was a Diploma Holder when he joined service. However, after he joined in the respondent – Delhi Jal Board, he obtained a Degree in Engineering by Distance Education from a recognised Institution after taking due permission for further study.

(iii) He obtained the said Degree in Engineering in the year 2011. However, at that time, as the promotion was made solely on the

basis of seniority and there was no separate quotas for the diploma holders and the degree holders for next promotional post of Executive Engineer (E&M), he did not apply for inclusion of his degree in the service record.

(iv) However, on 14.06.2012, an order was issued by the respondents whereby it was clarified that in counting the qualifying service for ad hoc promotion even the service rendered in the feeder cadre on current duty charge/look after charge or ad-hoc basis would be considered.

(v) Further, vide notification dated 21.10.2014, the Delhi Jal Board Executive Engineer (E&M) Recruitment and Promotion Regulations 2014 were issued and as per the said Regulations, for the first time, a note was added limiting the diploma holders to $33 \frac{1}{3} \%$ vacancies arising in the grade on annual basis.

(vi) The applicant along with three others was entrusted with look after charge to the post of Executive Engineer (E&M) vide order dated 09.01.2015.

(vii) On 16.01.2015, the applicant submitted a representation for inclusion of his degree in Engineering in his service record.

(viii) The respondents without passing any order on the said representation, vide the impugned office order No.211 dated 29.01.2015 sought to revert the applicant as AE (E&M).

3. The learned counsel for the applicant submits that the applicant is fully qualified and eligible for appointment as Executive Engineer (E&M) as he was being senior and possessing the Degree in Engineering. He further submits that the applicant obtained permission from the respondents for further studies vide A.O.(T) letter No.2045 dated 21.05.1985. Again a request was sent to study B.Tech from JRN Rajasthan Vidyapeeth University vide AC(T) D.No.1991 dated 09.06.2009 and the queries raised by the respondents were answered by submitting a reply along with the relevant documents of University vide AC(T) office D.No.2307 dated 01.07.2009. It is presumed that the respondents have granted the permission as they have not rejected the representation of the applicant to study B.Tech. Hence, now they cannot refuse to record his B.Tech Degree in service register and promote him as Executive Engineer on regular basis on the ground of non-possessing the Engineering degree.

4. The learned counsel for the respondents vide their counter, while not denying the aforesaid facts to the extent of seniority of the

applicant and possessing of the B.Tech Degree, however, submits that the applicant has not obtained permission to study B.Tech in Electrical Engineering and, hence, he is not entitled for recording the same in the service register and, consequently, the action to revert him from the post of Executive Engineer is valid and as per rules.

5. Heard Ms. S. Janani for the applicant and Shri C.S. Parashar for the respondents and perused the pleadings on record.

6. This Tribunal while issuing notice to the respondents vide order dated 24.09.2015 restrained the respondents from reverting the applicant from the post of Executive Engineer (E&M) and, accordingly, the applicant has been continuing as Executive Engineer(E&M) on look after charge till date.

7. It is not in dispute that the applicant prior to completing the B.Tech in Electrical Engineering has made an application seeking permission to do the same. It is also not in dispute that in response to the queries raised by the respondents, he has submitted his reply along with the documents of the University and the respondents, thereafter, neither rejected his representation seeking permission to do the B.Tech Course nor sought for any further information from

him. Hence, the respondents, at this stage, i.e. after the applicant obtained the B.Tech Degree in Electrical Engineering, cannot refuse to record the same in his service register. They also cannot revert him from the post of Executive Engineer on the ground of non-obtaining the prior permission to do the B.Tech course in Electrical Engineering. It is also not their case that the B.Tech degree obtained by the applicant is from an unrecognised institute or that the degree obtained under distance education is not valid etc.

8. In the circumstances and for the aforesaid reasons, the O.A. is allowed and the order No.211 dated 21.09.2015 is quashed to the extent of reverting the applicant from the post of Executive Engineer (E&M) to the post of AE(E&M). The respondents are further directed to include the B.Tech degree in Electrical Engineering of the applicant in his service record and to consider his case for regular promotion to the post of Executive Engineer(E&M) with effect from the due date, with all consequential benefits, if he is otherwise eligible for the same. No costs.

(K.N. SHRIVASTAVA)
MEMBER (A)

/Jyoti /

(V. AJAY KUMAR)
MEMBER (J)