

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.2998 OF 2014

New Delhi, this the 20th day of May, 2016

CORAM:

**HON'BLE SHRI SHEKHAR AGARWAL, ADMINISTRATIVE MEMBER
AND**

HON'BLE SHRI RAJ VIR SHARMA, JUDICIAL MEMBER

.....

Jagpal Singh Joon,
Group -Bø aged 46 years,
S/o Shri Hoshiyar Singh,
R/o F-34, Shastri Nagar,
Delhi

í í

Applicant

(By Advocate: Shri Arun Nischal)

Vs.

1. Union of India,
Through its Secretary,
Ministry of Urban Development,
Nirman Bhawan,
New Delhi 110108
2. Director General of Works,
Central Public Works Department,
Nirman Bhawan,
New Delhi 110108
3. Vikram Pal Singh
4. Pitam Pal
5. Malaykumar Purkait
6. Shri Krishan Barmunda
7. Sharavan Kumar
8. Rajnarayan Prasad Roy
9. Narendra Singh Kathait
10. Ramesh Kumar
11. Bijender Singh

12. Rajesh Varoon
13. Jitender Singh
14. Somveer Singh
15. Anil Kumar
16. Ajit Singh
17. Om Prakash Sharma
18. Pradip Kumar Sarkar
19. Navender
20. Suresh Kumar
21. Jayanta Sutradhar
22. Brahma Nand
23. Subhash Chander
24. Jagpal
25. Jai Singh
26. Ram Prasad Tiwari
27. Randhir Sigh Sargar
28. Krishan Kumar

(services upon respondents 3 to 28 to be effected through respondent No.2)

í . Respondents

(By Advocates: Mr.M.S.Reen & Ms.Sweta Rani)

í í í ..

ORDER

Per Raj Vir Sharma, Member(J):

We have perused the records, and have heard Mr.Arun Nischal, the learned counsel appearing for the applicant, and Mr.M.S.Reen and Ms.Sweta Rani, the learned counsel appearing for the respondents.

2. In this O.A. the applicant has prayed for quashing and setting aside the result of the Limited Departmental Competitive Examination-2011 (LDCE-2011) in respect of the candidates who were declared as qualified for promotion as Junior Engineers (Civil) for the vacancy year 2010-11, and also for a direction to the respondent no.2 to recalculate the year-wise

vacancies from the vacancy year 2005-06 onwards and to consider his candidature for promotion against the vacancy year 2009-10 with all consequential benefits.

3. The undisputed facts of the case are that the respondent-Department issued notice dated 27.10.2011 for holding LDCE to fill 5% vacancies in the posts of Junior Engineer (Civil) and Junior Engineer (Electrical) from among the employees (work charged/regular) working in CPWD and possessing diploma or any higher qualification in Civil/Electrical/Mechanical Engineering from institute recognized by the Central/State Government. As regards the possession of degree/diploma certificate by the candidates, different cut-off dates were stipulated for the respective vacancy years. One Shri Rajesh Varoon filed OA No.4221 of 2011 challenging the notice dated 27.10.2011. During the pendency of O.A.No.4221 of 2011, the LDCE was conducted by the respondent-Department on 5.2.2012. The Tribunal, by its order dated 16.10.2012, disposed of O.A.No.4221 of 2011 and quashed the notice dated 27.10.2011. The Tribunal also issued some other directions to the respondent-Department in the matter of holding of the LDCE. Thereafter, the said Shri Rajesh Varoon filed MA No.431 of 2013 in OA No.4221 of 2011 seeking modification of the Tribunal's order dated 16.10.2012, *ibid*. In compliance with the Tribunal's order dated 16.10.2012, *ibid*, the respondent-Department issued O.M. dated 18.3.2013 laying down, *inter alia*, that the candidates should have acquired degree/diploma in engineering as on 30th June of the

vacancy year. While the matter stood thus, some of the candidates filed O.A.Nos.385, 1116 and 1125 of 2013 questioning the cut-off dates to reckon the educational qualifications prescribed in the notice dated 27.10.2011, *ibid*. The Tribunal, by its order dated 10.2.2014, disposed of the said O.A.Nos.385, 1116 and 1125 of 2013, along with OA No.4221 of 2011, and modified its earlier order dated 16.10.2012, *ibid*, and also directed the respondent-Department to prepare and declare the result of LDCE held on 5.2.2012, after making eligible all those candidates who have acquired the prescribed educational qualification as on 30.6.2011. Thereafter, the respondent-Department issued O.M. dated 7.3.2014, stipulating as follows:

- õ(i) To fill the vacancies/publish the result of 2005-06 (1st year of recruitment as per notification) with date of cut off for possessing degree/diploma certificate as 30th June 2005 and other conditions as per notification dated 18.03.2013.
- (ii) Unfilled vacancies will be carried forward to the year 2006-07 (2nd year of recruitment) and result will be published for vacancies of 2006-07 including carried forward vacancies from previous year with date of cut off for possessing degree/diploma certificate as 30th June 2006 and other conditions as per notification dated 18.03.2013.
- (iii) The process will continue till 2010-11, i.e., the last year of recruitment as per notification for the last year, the cut-off date for possessing degree/diploma certificate would be 30th June 2011 as per judgment of the Tribunal.ö

The above procedure being at variance with the Tribunal's order dated 10.2.2014, the candidates were asked to give their consent to the same, and all the candidates, including the applicant, gave their consent. Thereafter, the result of the LDCE-2011 held on 5.2.2012 was declared by the respondent-

Department on 12.8.2014. As the applicant was not declared as qualified in the LDCE-2011 either for the vacancy year 2009-10 or for the vacancy year 2010-11, the present O.A. was filed by him.

4. In the above context, it has been contended by the applicant that as he had passed the Diploma in Civil Engineering in January 2010 and had scored more than the cut-off marks, i.e., 40% in the LDCE-2011, the respondent-Department ought to have considered his candidature for the vacancy year 2009-10.

5. *Per contra*, it is the stand of the respondent-Department that the applicant was not entitled to be considered for the vacancy year 2009-10 because of his not having acquired the Diploma in Civil Engineering as on the cut-off date prescribed for the vacancy year 2009-10, i.e., June 30, 2009. It has been contended by the respondent-Department that they have considered the candidature of the applicant for the vacancy year 2010-11, as he had acquired the Diploma in Civil Engineering by the cut-off date prescribed for the vacancy year 2010-11, and that the applicant was not declared as qualified for the vacancy year 2010-11 as other candidates, who were considered along with the applicant, had scored more marks than that of the applicant. It has also been contended by the respondent-Department that when the applicant did not possess the Diploma in Civil Engineering and was not eligible to be considered against the vacancy year 2005-06 onwards, he cannot be allowed to question the calculation of the year-wise vacancies for those years.

6. After having given our anxious consideration to the facts and circumstances of the case, and the rival contentions, we have found no substance in the contention of the applicant.

7. In the present O.A., the applicant has not challenged the legality and validity of the O.M. dated 7.3.2014 issued by the respondent-Department, the relevant portion of which has been reproduced in paragraph 3 above. In terms of the O.M. dated 7.3.2014, *ibid*, the cut-off date for possession of the degree/diploma certificate by the candidates considered for the vacancy year 2009-10 was 30th June 2009. Having passed the Diploma in Civil Engineering in January 2010, the applicant cannot claim that he had possessed the said qualification as on the cut-off date for the vacancy year 2009-10, as stipulated in the O.M. dated 7.3.2014. Therefore, there is no infirmity in the decision of the respondent-Department in not considering his candidature for the vacancy year 2009-10.

8. As regards the applicant's challenge to the list of candidates qualified for the vacancy year 2010-11, the applicant has not produced before this Tribunal any material to show that the marks scored by him were more than that of the said qualified candidates. The applicant has also not rebutted the statement made by the respondent-Department that the candidates who were declared as qualified for the vacancy year 2010-11 had scored more marks than that of the applicant. In this view of the matter, the applicant's challenge to the list of candidates qualified for the vacancy year 2010-11 fails.

9. In the light of our above discussions, we have no hesitation in holding that the O.A. is devoid of merit and liable to be dismissed. Accordingly, the O.A. is dismissed. No costs.

(RAJ VIR SHARMA)
JUDICIAL MEMBER

(SHEKHAR AGARWAL)
ADMINISTRATIVE MEMBER

AN