

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

**OA-2867/2017
MA-3009/2017**

**Reserved on: 30.08.2017
Pronounced on : 01.09.2017**

Hon'ble Mr. Shekhar Agarwal, Member (A)
Hon'ble Mr. Raj Vir Sharma, Member (J)

1. Sudhish Chouhan, JE (Civil), group 'C',
Aged about 42 years,
s/o Sh. N.S. Chouhan,
R/o 85 RPS Colony, Sheikh Sarai,
Phase-I, New Delhi-110017.
2. Rohit Goel, JE (Civil), Group 'C',
Aged about 39 years,
S/o Sh. S.N. Goel,
R/o F-26/3, Sec-7, Rohini, Delhi-110085.
3. Rijuta Gupta, JE (Civil), Group 'C',
Aged about 40 years,
D/o Sh. S.P. Gupta,
R/o 227, Sec- 28, Faridabad, Haryana.
4. Amit Kumar, JE (Civil), Group 'C'
Aged about 40 years,
S/o Sh. Upender Pandit,
R/o 1079A, 3rd Floor, Ward-I,
Mehrauli, New Delhi.
5. Kamal Prakash Yadav, JE (Civil), Group 'C',
Aged about 42 years,
S/o Sh. Ram pati Yadav,
R/o 71, Lumbini Appts.,
Sec-14, Kaushambi, Ghaziabad,
U.P.

...

Applicants

(through Sh. M.K. Bharadwaj)

Versus

1. North Delhi Municipal Corporation,
Through its Commissioner,
4th Floor, Civic Centre,
Shyama Prasad Mukherjee Building,
New Delhi.

2. South Delhi Municipal Corporation,
Through its Commissioner,
9th floor, Civic Centre,
Shyama Prasad Mukherjee Building,
New Delhi.
3. East Delhi Municipal Corporation (Hq),
Through its Commissioner,
Udyog Sadan, 1st Floor,
Patparganj Industrial Area,
New Delhi.
4. Sh. Kulbhushan Jindal,
S/o Sh. Kapoor Chand,
Serving as JE (Civil) in the office of
EE (Building), Narela Zone, NDMC.
5. Sh. Manoj Rana,
S/o Sh. Ved Singh,
Serving as JE (Civil) in the office of
EE (Building), Rohini Zone, NDMC.
6. Sh. Jagbir Singh Khatri,
S/o Sh. Dalip Singh,
Serving as JE (Civil) in the office of
EE (M-IV), Rohini Zone, NDMC.
7. Sh. Subhit Kumar Rana,
S/o Sh. Sultan Singh
Serving as JE (Civil) in the office of
EE (Project), Narela Zone, NDMC.
8. Sh. Anand Singh,
S/o Sh. Subey Singh,
Serving as JE (Civil) in the office of
EE (Building), Rohini Zone, NDMC.
9. Sh. Balraj Singh,
S/o Sh. Mahabir Singh,
Serving as JE (Civil) in the office of
EE (Building), Civil Lines Zone, NDMC.
10. Sh. Jagmohan Sharma,
S/o Sh. Subh Ram,
Serving as JE (Civil) in the office of
EE (Building), Civil Lines Zone, NDMC.
11. Sh. Rajeev Kumar Garg,
S/o Sh. Jai Kumar,
Serving as JE (Civil) in the office of
EE (Building), SP Zone, NDMC.
12. Sh. Ashok Chikkara

S/o Sh. Bhoop Singh,
Serving as JE (Civil) in the office of
EE (Building), Najafgarh Zone, SDMC.

13. Sh. Rajeev Kumar,
S/o Sh. Krishan Murari,
Serving as JE (Civil) in the office of
EE (Building), South Zone, SDMC.

14. Sh. Rajesh Rohilla,
S/o SH. O.P. Rohilla,
Serving as JE (Civil) in the office of
EE (Project), Central Zone, SDMC.

15. Sh. O.P. Meena,
S/o Sh. Mahender Pal Singh,
Serving as JE (Civil) in the office of
EE (Building), Najafgarh Zone, SDMC. ... Respondents

(through Sh. R.N. Singh for R-1, Sh. R.K. Jain for R-2, Sh. R.K. Shukla for R-3
and Sh. R.V. Sinha for R-4, 10, 13 & 14)

Mr. Shekhar Agarwal, Member (A)

Heard the parties on interim relief.

2. Learned counsel for the applicants Sh. M.K. Bharadwaj argued that the respondents had finalised the seniority list of Junior Engineers (Civil) on 19.05.2016 itself in which the names of the applicants appeared at appropriate places. However, now vide impugned circular, they propose to insert twelve private respondents above the applicants herein. He argued that these persons were coming from slum department and were not even eligible to be inducted in the cadre of JE (Civil) as there was no provision in recruitment rules. Applicants have therefore challenged not only their placement in the seniority list but also their appointment which was done on 11.12.2012. Sh. Bharadwaj stated that the order dated 11.12.2012 was never communicated to the applicants. The applicants became aware about induction of private respondents in their cadre only when impugned circular dated 21.07.2017 was issued. The applicants are praying for stay of this circular pending disposal of the OA.

3. Learned counsel for official respondent no. 1, Sh. R.N. Singh argued that the respondents be given an opportunity to file reply so that they can establish that the appointment of the private respondents was not de hors the recruitment rules. He also submitted that there was no urgency in the matter and no irreparable loss was being caused to the applicants. In fact, the applicants can be suitably compensated in case they succeed in the OA whereas if the interim relief as prayed for is granted, irreparable loss would be caused to the private respondents inasmuch as their promotion may get unduly delayed.

4. Appearing for private respondent nos. 4, 10, 13 and 14, Sh. R.V. Sinha argued that this case was barred by limitation as the appointment of the private respondents made as far back as on 11.12.2012 is being challenged by this OA filed on 22.08.2017. He also submitted that the applicants have not attached all the relevant documents with their OA including full copy of the Recruitment Rules (RRs) on which they are relying.

5. We have heard the parties and perused the material on record. Sh. Bharadwaj had relied on the judgment of Apex Court in case of A.K. Bhatnagar & Ors. vs. Union of India & Ors., [(1991) 1 SCC 544] to say that the RRs are sacrosanct and must be followed and that if any appointment is made de hors the RRs, it is not valid in the eyes of law. The respondents, on the other hand, have relied on the judgment of Apex Court in the case of D.C.S. Negi vs. Union of India & Ors. to say that if question of limitation is involved, then it is incumbent on the court to decide that first and an OA can be admitted only if it has been filed within the prescribed limitation period.

6. On perusal of the impugned order, we find that by means of this order, the respondents propose to give seniority number 1041-A to 1041-L to the private

respondents. This number is above the seniority assigned to the applicants which starts from number 1042. However, before actually inserting the names of private respondents in the seniority list, the respondents have invited objections/representation from the affected persons within a period of fifteen days. During the course of arguments, Sh. Bharadwaj admitted that the applicants had also submitted their representations which are available at pages 63-74 of the paper book. They have, however, not received any response to the same so far.

7. From the above, it is clear that no final decision has as yet been taken by the respondents regarding insertion of private respondents in the seniority list. The matter is still at consideration stage as the objections invited against such insertion have yet to be decided. We are therefore of the opinion that this OA is premature inasmuch as no final seniority list has so far been issued by the official respondents containing the names of the private respondents. The applicants have made representation against the impugned order but without waiting for a decision on their representation or for expiry of six months as prescribed under Central Administrative Tribunal Act, 1985, they have rushed to this Tribunal. In our view, this OA is not maintainable at this stage.

8. Accordingly, we dismiss this OA as it is premature and not maintainable at this stage as so far no adverse order against applicants has been passed. The applicants shall however be at liberty to approach this Tribunal again by means of appropriate proceedings in case they are aggrieved by the final seniority list issued by the respondents or after their representations have been decided. No costs.

(Raj Vir Sharma)
Member (J)

/ns/

(Shekhar Agarwal)
Member (A)