

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

OA-4497/2015

New Delhi, this the 19th day of November, 2016.

Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. Shekhar Agarwal, Member (A)

Raj Kumar Thakur,
Superintending Engineer (Civil),
Group 'A', aged 57 years,
s/o late Lachhman Singh,
R/o 53, Neelgiri Apartments,
Sector-9, Rohini,
New Delhi-110085. ... Applicant

(through Sh. Ashish Nischal)

Versus

Union of India,
Through its Secretary,
Ministry of Urban Development,
Nirman Bhawan,
New Delhi-110108. ... Respondent

(through Sh. Rajeev Kumar)

ORDER (ORAL)

Hon'ble Mr. Justice Permod Kohli

While working as Executive Engineer (Civil), the applicant was served with a major penalty charge sheet vide memorandum dated 05.04.2007. While the disciplinary proceeding was pending, eligible persons were considered for adhoc promotion to the post of Superintending Engineer (Civil). The Screening Committee considered all the eligible candidates including the applicant on 27.09.2010 and on the recommendations of Screening Committee, adhoc promotions were granted to eligible candidates to the next grade of Superintending Engineer (Civil) on 06.12.2010. Case of the applicant was kept in

sealed cover on account of pending disciplinary proceedings against him. One Sh. K. Sundaresan, who was junior to the applicant was ordered to be promoted as Superintending Engineer (Civil) on adhoc basis. The disciplinary proceeding against the applicant however resulted in his exoneration vide memorandum dated 29.12.2011 as communicated to him vide letter dated 04.01.2012. The applicant was also considered for adhoc promotion and promoted vide order dated 23.07.2012 to the next grade of Superintending Engineer (Civil) on adhoc basis. On his exoneration, the respondents were required to open sealed cover and act on the basis of recommendations of the Screening Committee. That having not been done, the applicant made several representations. Some of the representations dated 17.06.2014, 05.10.2015 and 23.11.2015 have been placed on record as Annexure A-5 (Colly.). All the adhoc promotees to the grade of Superintending Engineer (Civil) were considered for regular promotion including the applicant and vide order dated 11.03.2015, regular promotions were made to the post of Superintending Engineer (Civil) (Annexure A-6). Applicant's name figures at serial no. 13 whereas Sh. K. Sundaresan's name figures at serial no. 14, i.e, next to him. Thus, admittedly, the applicant was found entitled to the benefit of recommendations of the Screening Committee kept in the sealed cover. However, he was not granted the benefit of adhoc promotion from the date his junior was promoted w.e.f 06.12.2010. It is under these circumstances that the applicant has filed this OA with the following reliefs"

"a. Direct the respondent to promote the applicant to the next higher grade of Superintending Engineer (Civil), on adhoc/ in-situ basis, in the Pay Band-4 (Rs. 37,400-67,000) with Grade Pay of Rs. 8700 w.e.f. 06.12.2010 with all consequential benefits i.e. fixation and arrears of pay etc.,

b. grant interest @ 9% per annum to the applicant till the realization of payment;

c. pass any other relief that this Hon'ble Tribunal may consider fit in the interest of justice."

2. The claim of the applicant is that since he was exonerated from the charge against him, his junior was promoted on adhoc basis w.e.f. 06.12.2010, he is also entitled for promotion on adhoc basis at par with his junior w.e.f 06.12.2010. He has also placed on record a copy of an order dated 22.07.2015 whereby one Sh. S.P. Palanisamy, another Executive Engineer (Civil) was granted benefit of adhoc promotion to the post of Superintending Engineer (Civil) in the Pay Band-4 (Rs. 37,400-67,000) with Grade Pay of Rs. 8700/- in CPWD on adhoc basis w.e.f. 06.12.2010, the date from which his immediate junior was promoted. This fact is not in dispute.

3. The applicant is entitled to be treated in similar manner. Otherwise also, it is settled law that once an officer is exonerated in disciplinary proceedings and his case was considered by the Screening Committee/DPC having kept in sealed cover, he is entitled to the benefit of the favourable recommendations if any, on opening the sealed cover. The Screening Committee found the applicant fit for promotion. Thus, the recommendations of the Screening Committee for promotion of the applicant to the post of Superintending Engineer (Civil) on adhoc basis are required to be implemented from the date his junior was promoted. Under above circumstances, this OA is allowed with following directions:

1. The applicant shall be granted adhoc promotion to the post of Superintending Engineer (Civil) w.e.f 06.12.2010, the date from which Sh. K. Sundersen was promoted on adhoc basis. The order to this effect shall be passed by the respondents within a period of two months.

2. The respondents are further directed to grant all consequential benefits for such adhoc/in-situ promotion to the applicant within the aforesaid period.

(Shekhar Agarwal)
Member (A)

(Justice Permod Kohli)
Chairman

/ns/