

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA 100/2921/2018

New Delhi, this the 3rd day of August, 2018

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

Vinod Kumar Gupta, Executive Engineer (Civil) (A) in the Office of EE/PM/GSY PD, Karpuri Thakur Sadan, CPWD (Patna)
Aged about 58 years
S/o Late Shri Lal Mani Gupta
R/o 364, Bahawalpur Aptt., Plot No. 1
Sec-4, Dwarka,
New Delhi-110078Applicant

(Through Shri M.K. Bhardwaj, Advocate)

Versus

1. Union of India
Through Its Secretary,
Ministry of Housing & Urban Affairs,
Nirman Bhawan, New Delhi
 2. The Director General
CPWD, Nirman Bhawan
New Delhi.Respondents

(Through Shri Rajeev Kumar, Advocate)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman

The applicant joined the service as Junior Engineer (JE), CPWD in the year 1985. He was promoted as Assistant Engineer (AE) in 2001.

2. Schedule - II of the Ministry of Urban Development, Central Engineering (Civil) Group 'A' Service Rules, 2012 provides for promotion of AE as Executive Engineer (EE). One of the circumstances under which an AE can be promoted as EE is where he has completed seven years regular service in the grade and possesses degree in Civil Engineering. The applicant obtained Civil Engineering Degree from JRN Rajasthan Vidyapeeth University, Rajasthan through distant mode. On that basis, he was extended the benefit of promotion to the post of EE.

3. In the recent past, in **Orissa Lift Irrigation Corp. Ltd Vs. Rabi Sankar Patro & Ors.**, Civil Appeal Nos., 17869-17870/2017, the Hon'ble Supreme Court dealt with the validity or otherwise, of the degrees of Engineering obtained through distant mode and held that such degrees are not valid, if obtained through distant mode. In the light of this judgment, the respondents issued order dated 25.07.2018 cancelling the

promotion of the applicant to the post of EE. The same is challenged in this OA.

4. The learned counsel for the applicant Shri M.K. Bhardwaj contends that even if the degree in Civil Engineering possessed by the applicant is ignored, he still continues to be eligible to be promoted on the basis of diploma held by him, the only difference being that the required length of service in the post of AE shall be nine years and not seven years. Shri Rajeev Kumar, learned counsel for the respondents opposed the OA. Since the question involved is very short, we directed him to seek instructions in the matter, and to apprise this Court.

5. It is not in dispute that the applicant was promoted to the post of EE on completion of 7 years of service as AE on the basis of degree in Civil Engineering obtained through distant mode and the Hon'ble Supreme Court held such degrees to be not valid in law. The fact, however, remains that AEs holding diploma are also entitled to be promoted on completion of 9 years of service. In this regard, our attention was invited to Schedule-II of the aforesaid Rules, which reads as under:-

S.No.	Name of duty post and grade	Method of recruitment	Field of selection, minimum qualifying service and educational qualification for promotion
(1)	(2)	(3)	(4)
5.	Executive Engineer (Civil) (Non-Functional Grade)	By promotion	Executive Engineer (Civil) in Pay Band-3 Rs.15600-39100 + Grade Pay of Rs.6600/- with five years regular service in the

			grade
6.	Executive Engineer (Civil)	(i) promotion By	(i) 33-1/3 % from Assistant Engineer (Civil) in Pay Band-3 Rs.15600-39100 + Grade Pay of Rs.5400/- with four years regular service in the grade and have successfully completed two week course on Contract Law, e-Governance Building Bye-laws and Building Electrification
		(ii) promotion By	(ii) 66-2/3% from Assistant Engineer (Civil) in Pay Band-2 Rs.9300-34800 + Grade Pay of Rs.4600/- with seven years regular service in the grade and possessing Degree in Civil Engineering from a recognized University or Institution or any other equivalent qualification and have successfully completed two week course on Contract Law, e-Governance Building Bye-laws and Building Electrification. Note: The officers in the grade of Assistant Engineer (Civil) on the date of the notification of these rules and possessing Diploma in Engineering shall however, continue to be eligible on completion of nine years regular service for consideration to the post of Executive Engineer (Civil) limited to 33-1/3% vacancies arising in the grade on annual basis; Provided that the Assistant Engineers (Civil) with seven years regular service, who at the time of recruitment as Junior Engineer (Civil) were possessing Diploma in Engineering but subsequently acquired Degree in Engineering and those Assistant Engineers (Civil) with seven years regular service, who were possessing degree in Engineering at the time of recruitment as Junior Engineer (Civil) shall also be eligible for consideration to the post of the Executive Engineer (Civil), in case a junior Diploma holder Assistant Engineering (Civil) is considered for promotion.

6. From a perusal of this, it becomes clear that AEs holding diploma are entitled to be promoted on completion of 9 years of

service. If it is a fact that the applicant holds diploma in engineering, there would not be any necessity to revert him. The only difference would be that the date of promotion to the post of EE shall be pushed up by two years.

7. Therefore, this OA is disposed of directing that the respondents shall verify as to whether the applicant holds diploma referable to the Rules extracted above and if it is found that he holds such qualification, the impugned order shall be modified to the effect that the date of promotion to the post EE shall be effective from the date of completion of 9 years of service in the post of AE, instead of 7 years. Till such an exercise is completed, the state of affairs obtaining as on today vis-à-vis the applicant shall remain in force. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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