

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

MA/310/00045/2018 & OA/310/00170/2013

Dated the 16th day of February Two Thousand Eighteen

PRESENT

HON'BLE SMT. B. BHAMATHI, Member (A)

M.Egambaram, Son of Munusamy,
residing at
No. 18, Engineers Colony,
Velrampet, Puducherry-4Applicant / Applicant

By Advocate M/s. V.Ajayakumar

Vs

- 1.Union of India rep by the
Govt. of Puducherry through the
Secretary to Govt. (Works),
Chief Secretariat, Puducherry.
- 2.The Chief Engineer,
Public Works Department,
Puducherry.
- 3.R. Manickavasagam, working as
Executive Engineer,
Irrigation and Public Health Division,
Public Works Department, Karaikal.
- 4.C.Rajan, working as Executive
Engineer, O/o. The Executive
Engineer (Planning), Public Works
Department, Puducherry.
- 5.K.Mohanraj working as Assistant
Engineer, Block Development Office,
Villianur, Puducherry.
- 6.U.Udayasankar, working as
Executive Engineer, National
Highways Authority of India (NHAI),
Tindivanam.Respondents / Respondents

By Advocates Mr. R. Syed Mustafa (R1-2)
Mr. S. Palanivelayutham (R3-4)
Mr. R. Thiyagarajan (R5-6)

Order on MA Reserved on : 14.02.2018
Order on MA pronounced on : 16.02.2018

ORDER

(Pronounced by Hon'ble Smt. B. Bhamathi, Member(A))

The applicant has filed this MA 45/2018 in OA 170/2013 seeking the following relief:

“To direct the respondent 1 and 2 to consider the applicant for promotion to the post of Executive Engineer on the basis of his promotion dated 10.06.2002 along with the other batch of candidates to the post of Executive Engineer or in the alternative to grant an injunction restraining the respondents 1 and 2 from proceeding with the proposed promotion to the post of Executive Engineer pending disposal of the original application and to pass such other or further orders in the interest of justice and thus render justice.”

2. The applicant submits that the respondent no. 2 is taking steps by way of Review DPC to be held on 16th February 2018 to grant further promotions to the post of Executive Engineer to the Assistant Engineers, like applicant, who are junior to the applicant in addition to the earlier set of junior candidates already promoted and which is under challenge in this OA. He had prayer for IR in the OA, but he did not press for IR until he came to know that the forthcoming Review DPC would further affect his promotion prospects more irretrievably, because of the potential for further supercession. Applicant submits that he is to retire in a one and half years. Hence the MA pressing for above interim relief.

3. Since pleadings are already completed, on applicant's submission that a review DPC is to be held on 16.02.2018, learned counsel for respondents was directed to inform if the review DPC is being held on 16.02.2018 in order to expedite the hearing on prayer for IR. The case was posted on the following day. On appearance the applicant alleged that the review DPC was held prematurely on seeing the Tribunals query to learned

CFR. But the Chief Secretary did not sign the minutes seeking to know the reasons for the haste. Learned CFR disputes the contentions and submits that DPC is yet to be held. Hence case was taken up for hearing on MA.

4. The counsel for applicant draws attention of the Tribunal to the order dt. 07.06.2002 in which the applicant, an SC candidate figuring at S. No. 18 alongwith three other SC candidates who were given promotion as Assistant Engineer. The list consisted of 22 such officers who were granted promotion on the recommendations of the DPC as Assistant Engineers. However, due to certain litigations which finally reached upto the Hon'ble Supreme Court, Review DPCs were held as per the directions passed by the Hon'ble Supreme Court by order dt. 22.04.2010 in CA nos. 8468/2010 with 698/2004, 3649-50/2010 and 8470/2003 in respect of promotion to the post of Assistant Engineers. The Hon'ble Supreme Court had set aside the order of Hon'ble Madras High Court dt. 27.03.2003 in WP 11236/2000 and held the practice adopted by Puducherry Government on the advice of UPSC on counting of eligible candidates from the acquisition of degree and by the impugned judgment and the order of the High Court directing entire service of eligible candidates prior to and after acquisition of degree would be counted for the purpose of promotion for the post of Assistant Engineer under clause 1 of Rule 11 of the Recruitment Rules are contrary to the rules made under Article 309 of the Constitution and Article 16 of the Constitution. The Hon'ble Supreme Court while setting aside the order of Hon'ble Madras High Court directed the Puducherry Government to

consider the case of Section Officers and Junior Engineers who have completed 3 years of service in the said grades of promotion to the vacancies in the posts of Assistant Engineer. In compliance of the directions of the Hon'ble Supreme Court, Review DPCs for the year 1996, 2002, 2003, 2004, 2005, 2008 and 2009 were held. The applicant's case pertains to the Review of the DPC of the year 2002 of the promotion granted in the year 2002 vide order dated 7.6.2002. In the review DPC also 22 vacancies to be filled up ie., 11 by degree holders (UR) and 11 by diploma holders (UR). There was no reference to the SC candidates, including applicant, which is serious omission in as much as it is violation of the reservation roster. There is no explanation in the reply to the OA as to how this happened.

5. On the other hand, it is the contention of learned counsel for respondents that a review DPC was held in compliance of the orders of the Hon'ble Supreme Court and promotions were granted based on merit and following reservation principles, and nothing was done with any reference to any individual candidate, including applicant. All the DPCs were subject to review for the years 1996, 2002, 2003, 2004, 2005, 2008 and 2009. He also points out that the applicant figures way below in the seniority list, his date of eligibility being 31.05.1998 and hence he does not even come within the zone of consideration then or now in the proposed review DPC.

6. The learned counsel for applicant submits that the judgment of the Hon'ble Supreme Court has nothing to do with applicant's prayer in this OA.

7. Heard the learned counsel at length.
8. The learned counsel for applicant has not provided any evidence to show that roaster points for SC category was in any way violated. Since learned counsel for respondents is also showing from records the year of his eligibility is way below that of one Shri Rajan, whose year of eligibility is 1989 or so as against applicants year of eligibility for promotion being 1998, it was for applicant to produce the seniority list to show that he ranked above and that he was within the zone of consideration in the earlier or forthcoming Review DPC. Hence no prima facie case has been made out to stay the Review DPC proceedings. Therefore, interim relief as prayed for in MA is liable to be rejected. However, the main relief prayed for by the applicant in OA shall be subject to the outcome of this OA.
9. Since the matter in this OA pertains to the year 2013, the main OA shall be heard expeditiously, also as the pleadings are treated as completed and applicant's grievance should be redressed well before his retirement next year.
10. Let the OA be listed on 05.03.2018. However the learned counsel for applicant is at liberty to mention and seek a suitable date of hearing, before Division Bench, when it sits on appointment / deputation of a Judicial Member, whichever is earlier.

(B. Bhamathi)
Member(A)
16.02.2018

SKSI