

**Central Administrative Tribunal
Principal Bench**

**CP No.68/2019
In
OA No.628/2014**

New Delhi, this the 06th day of May, 2019

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

Bharat Ahuja (Aged 56 ½ years) (Group 'A'),
S/o Shri Om Prakash Ahuja,
R/o House No.1782, Sector 28,
Faridabad-121001
[Presently working as Executive Engineer (Civil),
In the D.S.I.I.D.C. Ltd.]

...Petitioner

(By Advocate : Shri R.A. Sharma)

Versus

Sh. Mohan Jit Singh,
Managing Director,
D.S.I.I.D.C Ltd.,
N-36, Bombay Life Building,
Connaught Circus,
New Delhi-110001.

...Respondent

(By Advocate : Shri Nayan Dubey for Shri Gaurang
Kanth)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman :-

The applicant was working as Assistant Executive Engineer in the Delhi State Industrial & Infrastructure Development Corporation (for short, DISIIDC). Steps were initiated for promotion to the post of Executive

Engineer in the year 2010. Seventeen vacancies were available and the applicant figured at Sl. No.18 in the seniority list. The particulars of all the 21 eligible candidates were placed before the DPC, which met on 23.07.2010. The DPC had recommended the case of the 9 Assistant Executive Engineers, who figured at various places in the list of 21 candidates and deferred the case of 8 others, including that of the applicant, for want of vigilance clearance or pendency of disciplinary proceedings.

2. The applicant filed the OA No.628/2014, feeling aggrieved by the denial of promotion. The OA was allowed on 28.05.2015, taking note of the fact that the applicant was exonerated from the charge. It was presumed that a sealed cover procedure was adopted and a direction was issued to open that. WP(C) No.12156/2015, filed by the respondents was dismissed by the Hon'ble Delhi High Court on 15.05.2018.

3. This contempt case is filed alleging that the respondents did not consider the case of the applicant at all, as directed by this Tribunal.

4. Respondents filed counter affidavit opposing the contempt case. It is stated that after the disposal of the OA, a review DPC was convened on 15.01.2019, and that in turn took note of the minutes of the DPC held on 23.07.2010. It is also stated that though the applicant was not promoted at the relevant point of time, it was ensured that his promotion is with effect from the date on which his immediate junior, by name, Shri Pramod Kumar Sharma, was promoted.

5. We heard Shri R.A. Sharma, learned counsel for applicant and Shri Nayan Dubey for Shri Gaurang Kanth, learned counsel for respondents.

6. The applicant filed the OA, complaining that he was not promoted to the post of Executive Engineer though he was otherwise eligible. The Tribunal considered two aspects, namely, whether he was eligible at all and the manner in which his case was considered. It was proceeded as though the sealed cover procedure was adopted by the DPC on account of pendency of the disciplinary proceedings against the applicant. By taking note of the fact that the applicant was exonerated, a

direction was issued to open the sealed cover procedure. The judgment of the Tribunal was affirmed by the Hon'ble Delhi High Court in WP(C) No.12156/2015.

7. On a close scrutiny of the case, it emerges that the sealed cover procedure was not adopted in the case of the applicant at all. As against 17 available vacancies, the DPC recommended only 9 candidates and deferred the consideration of 8 candidates, including the applicant to be taken up after six months. The reason mentioned was that either the vigilance clearance was not available or disciplinary proceeding was pending.

8. Assuming that the applicant was cleared of the disciplinary proceedings, the only relief he can get is that he be promoted with effect from the date on which his immediate junior Shri Pramod Kumar Sharma was promoted. The applicant, for one reason or the other, did not place before us, the order through which he was promoted. In the counter affidavit, the respondents have categorically stated that the applicant was promoted duly maintaining the seniority vis-a-vis his immediate junior Shri Pramod Kumar Sharma. With this the grievance of

the applicant stands redressed. Accordingly, the contempt case is closed.

There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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