

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A./100/1899/2019

New Delhi, this the 5th day of September, 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

Shri P.R. Charan Babu,
S/o Shri P. Suresh Babu,
R/o Flat No.17B, Pocket-B
Mayur Vihar Phase-2
Delhi-110091Applicant

(Through Shri C.Mohan Rao with Shri Lokesh Kumar
Sharma, Advocates)

Versus

1. Union of India through
The Secretary,
Ministry of Housing and Urban Affairs,
Nirman Bhawan, Maulana Azad Road,
New Delhi-110011
2. Central Public Works Department (CPWD),
Through the Director General
Nirman Bhawan, Maulana Azad Road,
New Delhi-110011 ... Respondents

(Through Dr. L.C. Singhi, Advocate)

ORDER (Oral)

Justice L. Narasimha Reddy, Chairman

The applicant joined the service of Central Public Works Department (CPWD) as a Junior Engineer (JE) on 23.02.1984 through direct recruitment. Thereafter, he was promoted to the post of Assistant Engineer (AE) on 9.08.1991 on the basis

of performance in the Limited Departmental Competitive Examination (LDCE). The promotion from that, is to the post of Executive Engineer (EE)

2. It is stated that there are three channels of promotion to the post of EE namely –

- (a) Directly recruited Assistant Executive Engineer (AEE);
- (b) AE (Diploma holders); and
- (c) AE (Degree holders)

3. The promotions are to be effected in the equal ratio namely 1:1:1. The applicant falls in category 'c'. He contends that he acquired the eligibility to be promoted to the post of EE on completion of 8 years of service in the post of AE in the year 1999 and, despite that, he was promoted only on *ad hoc* basis, that too on 12.05.2006. It is further stated that AEEs are promoted in quick succession even while keeping the other channels, unattended to.

4. Earlier, OA No. 1360/2015 was filed before the Tribunal on the same issue. It was disposed of on 6.10.2015, directing the respondents to take steps to effect promotions in accordance with the relevant rules.

5. This OA is filed with a prayer to direct the respondents to implement the order passed in OA 1360/2015 and to set

aside the promotions of AEEs to the post of EEs, made through order dated 28.12.2018.

6. The applicant contends that the AEEs who are far junior to him are promoted on regular basis to the posts of EE even while ignoring AEs who are much senior.

7. Respondents filed counter affidavit opposing the OA. Extensive reference is made to the litigation that ensued in this behalf. It is stated that according to 1954 Recruitment Rules (RRs), promotion to the post EE used to be from the post of AEE and AE in the ratio of 2:1 and that was altered in the year 1996 to the one of 1:1:1 for AEE, AE (Diploma) and AE (Degree). It is also stated that on account of delay in making direct recruitment to the post of AEE and other attendant reasons, substantial number of vacancies of EE were filled by diversion in favour of other categories. It is further stated that the method of promotion to the post of EE from the category of AEE on the one hand and other two categories on the other, is substantially different, including the selecting agencies and while the former has taken place without any problem, the latter is awaiting clearance from various agencies.

8. We heard Shri C. Mohan Rao with Shri Lokesh Kumar Sharma, for the applicant and Dr. L.C. Singhi, for the respondents.

9. A broad look at the various phases of promotion to the post of EE, reveals that spate of litigation ensued over the past several years. The result was that the promotions were delayed and even as regards diversion of posts from one category to another, there was considerable litigation.

10. The respondents have placed on record, certain facts and figures. According to them, the vacancies of EE available for AEE, in the year 1994-95 were 24 and as against that only 17 promotions were effected whereas against 12 vacancies that were available for AE, 15 promotions were made. Such anomaly led to a situation where serious imbalance emerged upto the year 2002-2003. On account of long pending litigation or otherwise, the promotions of AEEs were carried out over the subsequent years till the recent past, whereas the promotion for remaining categories was not taken up after 2002-2003.

11. In the counter affidavit, it is stated that once the seniority list, as upto the year 2018 in the feeder categories is finalized, promotion of other categories would be taken up without any further delay. Several engineers from the category of AE (Diploma) as well as AE (Degree) are retiring without availing the benefit of promotion to which they are otherwise entitled to.

12. We, therefore, dispose of the OA directing the respondents to take immediate and expeditious steps for promotion of AEs (Degree) and AEs (Diploma) to the post of EE against the vacancies of respective years, meant for that category and conclude the same within a period of two months from the receipt of a certified copy of this order. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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