

**Central Administrative Tribunal
Principal Bench**

**OA No.4430/2014
MA No.3891/2014**

New Delhi, this the 15th day of October, 2019

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

1. Sh. Siya Ram Mahor (Deputy Director),
S/o Late Sh. S.S. Mahor,
Aged about 51 years,
R/o F-130, Katwaria Sarai,
New Delhi-110016.
2. Sh. K.K. Rao (Assistant Engineers),
S/o Sh. K. Sivanarayana,
Aged 50 years,
R/o C-28/2, Second Floor,
Street No.-16, Hindan Vihar,
Sector-49, NOIDA-201304 (UP).
3. Sh. Shashi Chand Mangal (Assistant Engineers),
S/o Late Shri Ratanlal Mangal,
Aged 52 years,
R/o C-702, Swabhiman Apartment,
Plot No.8&9, Sector-48,
Faridabad-121001 (HR).
4. Sh. Anil Kumar (Assistant Director),
S/o Late Shri Shri Chand Jain,
Aged 53 years,
R/o C/o Suresh Kumar,
B 40, Ward No.4,
Mehrauli, New Delhi-110 030.
5. Sh. D.G. Chauhan (Assistant Engineers),
S/o Late Shri Gosai Bhai Chauhan,
Aged 52 years,
R/o C/o Asim Verma, 40,
Kanaiya Puram,
Lahergrid Road,
Rajghat Colony,
Nandanpura, Jhansi (UP).

6. Sh. Narayan Prasad Sahu (Deputy Director),
S/o Late Shri Latore Ram Sahu,
Aged 50 years,
R/o C/o 31/1, Ward 1, Mehrauli,
New Delhi-110 030.
7. Sh. D.K. Goyal (Assistant Director),
S/o Late Shri Gopal Das Goyal,
Aged 52 years,
R/o Geeta Talkies Chauraha,
Subhash Gunj, Dabra,
District-Gwalior-475110 (MP).

...Applicants

(By Advocate : Shri Umesh Sharma)

Versus

1. Union of India,
Through the Secretary,
Ministry of Water Resources,
River Development and Ganga Rejuvenation,
Shram Shakti Bhawan,
New Delhi.
2. National Water Development Agency,
18-20, Community Centre,
Saket, New Delhi,
Through the Director General.
3. Sh. R. Ramraj,
Executive Engineer,
Investigation Division,
NWDA, No.637, 1st Floor,
Dr. Rama Sami Salai,
K.K. Nagar, Chennai-600078 (TN).
4. Sh. R.K. Sharma,
Executive Engineer,
Investigation Division,
NWDA, A-1222, Indira Nagar,
Lucknow, (U.P.).
5. Sh. Rakesh Kumar Gupta,
Executive Engineer,
Investigation Division,
NWDA, 424, Adarsh Block,

Mahavir Nagar,
Tonk Road, Jaipur
(Rajasthan).

6. Sh. N.S.R.K. Reddy,
Executive Engineer,
Investigation Division,
NWDA, Plot No.13,
Irrigation Officers Colony,
Civil Lines,
Nagpur (Maharashtra).
7. Sh. Ch. Y. Subrahmanium,
Executive Engineer,
Investigation Division,
NWDA, D-Block, 4th Floor,
Nahar Bhawan,
Near Chhani Jakat Naka,
Vododara, (Gujarat).
8. Sh. Nagesh Mahajan,
Deputy Director,
O/O the Director General,
NWDA, 18-20,
Community Centre,
Near PVR, Saket,
New Delhi.
9. Sh. S.A. Naidu,
Executive Engineer,
Investigation Division,
NWDA, Room No.504, Vth Floor,
Vanvikas, 18th Cross,
Malleshwaram,
Bangaluru-560003 (Karnataka).
10. Sh. P.C. Gupta,
Executive Engineer,
Investigation Division,
NWDA, 3rd Floor,
Om Plaza Building,
Arama Dharampur Road,
Valsad (Gujarat).
11. Sh. J. Devasunder,
Assistant Engineer,
Office of Chief Engineer (S),

NWDA, # 5-2-68, First Floor,
 Mahatma Gandhi Markfed Bhawan,
 Jam Bagh, Putli Bowli,
 P.O. Hyderabad (A.P.).

12. Sh. S.K. Gawande,
 Assistant Engineer,
 Investigation Division,
 NWDA, Plot No.13,
 Irrigation Officers Colony,
 Civil Lines, Nagpur.
13. Sh. R.A. Sriniwas,
 Assistant Engineer,
 Investigation Circle,
 NWDA, F-24, BJB Nagar,
 Bhubneshwar (Odisha).

...Respondents

(By Advocates : Shri R.V. Sinha, Shri R.K. Sharma and
 Shri Piyush Sharma with Shri Suresh Garg)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman :-

The applicants are holding various posts in the National Water Development Agency. Some of them made representations in the year 2013, stating that several Junior Engineers who were promoted to the post of Assistant Engineers in the year 1989, were not entitled for promotion at all, in view of the judgment of the Hon'ble High Court of Andhra Pradesh. It was also mentioned that on account of such illegal promotions, the promotions of the applicants were delayed and accordingly made a request to review their promotions

and restore their proper seniority in the grade of Assistant Engineer, with all consequential benefits.

2. The Deputy Director of the Agency issued Office Memorandum dated 31.12.2013, in relation to the representation made by the first applicant, and Office Memorandum dated 28.05.2014, in relation to the representation made by the second applicant. It was mentioned that the promotions made in the year 1989, were in accordance with the Recruitment Rules that were in force between 27.09.1985 and 14.06.1995 and that the reliance upon the judgment of the Hon'ble High Court of Andhra Pradesh, is totally misconceived. It is also stated that the applicant cannot seek review of the promotions which took place in the year 1989, after more than two decades.

3. This OA is filed challenging the OM dated 31.12.2013 and 28.05.2014, and for direction to the respondents to review the promotions which took place after 01.01.1989, to the post of Assistant Engineer in the respondent organization. It is also prayed that the respondents be directed to extend notional promotion with all the consequential benefits.

4. In the OA, the applicants have stated that the Junior Engineers who were promoted in the year 1989 were not qualified at all, in view of the judgment of the High Court of Andhra Pradesh, and that in turn resulted in denial of promotion to them, at the relevant point of time. It is also stated that since the wrong done to them has its continuous effect, it needs to be rectified, even at a belated stage.

5. Respondents filed counter affidavit opposing the OA. According to them, the OA is barred by limitation and the understanding of the applicants about the judgment of the High Court of Andhra Pradesh or the eligibility of the Junior Engineers who were promoted in the year 1989, is without any basis. It is also stated that the promotions were made, strictly in accordance with the Recruitment Rules, which were in force, at the relevant point of time, and the same cannot be reviewed at this length.

6. We heard Shri Umesh Sharma, learned counsel for applicant and Shri R.V. Sinha, Shri R.K. Sharma and Shri Piyush Sharma, learned counsel for respondents.

7. The first part of the prayer is to set aside the OMs dated 31.12.2013 and 28.05.2016, and second limb is to review the promotions to the post of Assistant Engineer, which took place after 01.01.1989. The entire controversy in this OA revolves around the stipulation of the qualification for promotion to the post of Assistant Engineer. The rule at the relevant point of time was as under :-

"Modes of Recruitment : 25% by direct recruitment and 75% by promotion failing which by transfer on deputation.

Eligibility for Promotion : By selection from amongst Design Assistant, Junior Engineer holding degree in Civil Engineering with not less than 3 years in the grade or Junior Engineer diploma holder with not less than 7 years service in the grade.”

8. Such of the Junior Engineers who acquired degree in Civil Engineering and with residency period were promoted. It was only in the year 1985 that the stipulation was added to the effect that a Junior Engineer who acquired the degree in Civil Engineering would become eligible for promotion to the post of Assistant

Engineer, only after three years from the date of such acquisition of the degree.

9. The applicant contends that had the same rule in force in the year 1989, several Junior Engineers who acquired the degree in Civil Engineering would not have become eligible for promotion. The prayer is too ambiguous, to say a least. The promotions took place, in accordance with the rules, which were in force, at the relevant point of time. The applicants cannot insist on a subsequent rule being operated retrospectively, that too, for an early promotion, which have already taken place. Added to that, the applicants came forward only two decades after the promotions were made.

10. Viewed from any angle, the prayer in the OA cannot be granted. Accordingly, the OA is dismissed.

Pending MAs, if any, stand disposed of.

There shall be no orders as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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