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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. 288/2003

New Delhi this the 30th day of May, 2003

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J).
Hon'ble Shri Govindan S. Tampi, Member (A).

1. Gianendra Kumar,
16/192, Vasundhara,
Ghaziabad-201012.
2. Hari Om Singh,
House No. 17, Type-3,
Schedule-B,
Rashtrapati Bhawan,
New Delhi. ... Applicants.

(By Advocate Shri G.K. Aggarwal)

Versus

1. Union of India through
Director General (Works),
Head of Central Public Works
Department,
Ministry of Urban Development
and Poverty Alleviation,
Nirman Bhawan,
New Delhi-110011.
2. Addl. Director General (Training),
CPWD 'E' Wing, Nirman Bhawan,
New Delhi-110011. ... Respondents.

(By Advocate Shri Bhasker Bhardwaj)

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J).

This O.A. has been listed along with O.A. 1874/2001 (Ajmer Singh & Anr. Vs. Govt. of India through Director General, CPWD). O.A. 1874/2001 had been earlier disposed of by Tribunal's order dated 4.1.2002 against which the respondents/Union of India filed CWP No.2621/2002 in the Hon'ble Delhi High Court. The High Court vide order dated 24.9.2002 had set aside the Tribunal's order dated 4.1.2002 and remanded the case to the Tribunal for fresh look into the matter and adjudicate the same completely in

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all respects. In the circumstances by order dated 21.5.2003, it was considered appropriate that O.A.1874/2001 should be placed before the appropriate Bench for further hearing in the matter that had passed the earlier order dated 4.1.2002 which is sub-judice at the moment.

2. The applicants in the present O.A. had earlier filed O.A.613/2002 which was disposed of by Tribunal's order dated 4.3.2002. In this order, it was noted that controversy similar to the one which has arisen in O.A.613/2002 had earlier arisen in respect of vacancies for the period 1.4.1993 to 31.3.1994 which was considered by the Tribunal and directions were given for recalculating the vacancies by order dated 4.1.2002 in OA 1874/2001. In Para 7 of the present application, the applicants have submitted that the present O.A. should be tagged with OA 1874/2001, having regard to the aforesaid order of the Hon'ble High Court dated 24.9.2002. At the same time, in Paragraph 4.6 of the O.A., the applicants have also stated that their claim is clearly distinct and would not depend upon **Ajmer Singh's** case (supra) though the principles and legal position in both the cases would be common to the extent of the manner in which 1:1 ratio between promotion quota and Limited Departmental Competitive Examination (LDCE) quota has to be worked out. They have also stated that the controversy in this O.A. and **Ajmer Singh's** case (supra) would, therefore, be similar and as stated in the order in OA 613/2002, **Ajmer Singh's** case (supra) was relied upon.

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3. The applicants in the present case have impugned Office Memorandum issued by the respondents which is undated (Annexure A-1). They have also referred to the decision of the High Court dated 24.9.2002 in Ajmer Singh's case (supra). The respondents have stated in the impugned O.M. that "The whole question of determination of appropriate vacancies of Assistant Engineers (AEs) yearwise, those to be filled up through Seniority and Departmental Examination, the maintenance of ratio of 50:50 between promotees and examinees, the reservations for the SCs and STs etc., will be decided based on the judgement of the Hon'ble High Court of Delhi" which they will decide after taking a comprehensive view of the directives and judgement of the Hon'ble Delhi High Court. Shri G.K. Aggarwal, learned counsel has submitted that the computation of vacancies by the respondents for the year 1993-99 as given in the counter affidavit is incorrect as the respondents have not followed the correct formula and the directions of the Hon'ble High Court. However, it is noticed from the impugned O.M. issued by the respondents that applicant no. 1 has been requested to bear with this position for some more time till they complete the whole exercise of examining the vacancies for AEs (Civil) for three years in question and particularly the yearwise vacancies agitated by the applicants in the year 1998-99.

4. A perusal of the pleadings in this case shows clearly that what is agitated by the applicants is that the actual number of vacancies available to be filled through examination quota for 1998-99 based on the LDCE held in 1999 is to be worked out by the respondents in terms of the

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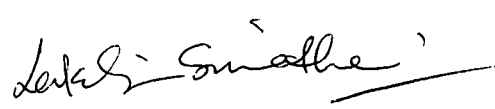
aforesaid order of the High Delhi Court, which in turn has remanded O.A.1874/2001 to the Tribunal for consideration afresh in terms of the directions given therein.

5. Reference has also been made to the O.A. filed by the private respondents who are Junior Engineers (Civil) with the same Department who are aspiring to get promotions to the posts of AEs (Civil), that is O.A.2239/98 and O.A.2526/98. These O.As were dismissed by judgement/order dated 15.2.1999 but as noted by the Hon'ble High Court, certain directions were given in that order in respect of selection with regard to the filling up 391 posts of AEs (Civil) which were to be filled through LDCE, 1999.

6. In the circumstances of the case, we are unable to agree with the contentions of Shri G.K. Aggarwal, learned counsel that this case is distinct and can be separated from the case of **Ajmer Singh** (supra), on which a decision has yet to be pronounced by the Tribunal, in terms of Hon'ble High Court order dated 24.9.2002. On the other hand, the decision in the O.A. will follow from the decision of the Tribunal in **Ajmer Singh's** case (supra). In this view of the matter, we dispose of this O.A. that the decision in the present case shall abide by the decision of the Tribunal in **Ajmer Singh's** case (supra). No order as to costs.

(Govindan S. Tampi)
Member (A)

SED


(Smt. Lakshmi Swaminathan)
Vice Chairman (J)