

(2018) 11 CAT CK 0020

In the Central Administrative Tribunal

Case No : Original Application No. 60, 1415 Of 2018

K. L. Balodhi

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 28-11-2018

Acts Referred:

Citation : (2018) 11 CAT CK 0020

Hon'ble Judges : Sanjeev Kaushik, J;P. Gopinath, J

Bench : Division Bench

Advocate : D.R. Sharma

Final Decision : Disposed Off

Judgement

1. Present O.A. has been filed by the applicant seeking following reliefs:-

"8(ii). the order No..5/12/2018/VCC/EC-II(B) dated 26.10.2018 (Annexure A-1), issued by respondent no.3 be quashed and set aside.

(iii) the respondents be directed to first regularize the ad-hoc EE(E) promotion of applicant issued in the year 2008, up to 1996-2009, based on revised DPC for the period 1996-2008 of AE(E) quota, as has been done for AEE(E) quota similar EE(E) as per 1996 Rules, and include applicant's name for further promotion to the post of SE(E) since he fulfills required eligibility of qualification and service like those regularized EE(E)s from EE(E) quota for the year 2008 and also senior to EE(E)s promoted from the rank of AEE(E) in the year 2009, all of whose name appear in the Annexure enclosed to office order dated 26.10.2018, therefore, go ahead with exercise of making promotion of EE(E)s to the grade of SE(E)s.

(iv) the applicant be held entitled to all consequential benefits and reliefs from the due date."

2. Issue notice to the respondents.

3. Sh. Sanjay Goyal, SCGC, accepts notice on behalf of respondents no.1 and 2

and Sh. Vaibhav Kalra, Advocate, on behalf of respondents no.3 to 5.

4. We have heard learned counsel for the parties.

5. Since private respondents are contesting case on the ground that similar prayer has already been made by the same class of employees in O.A. No.1360/2015 filed by CPWD Engineering Association in CAT, Principal Bench, New Delhi, wherein the O.A. was disposed of on the statement of counsel for the applicant to direct the respondent authorities to pass necessary orders with regard to claim of the applicants for regularization. Therefore, it is submitted that this O.A. is not maintainable as the prayer made herein is also for regularization as the same has been taken care of by the Principal Bench in the aforesaid O.A. Hence learned counsel for private respondents submitted that challenge to promotion of private respondents is ill founded. He drew our attention to para 5 of the order dated 06.10.2015 passed by the Principal Bench in aforesaid O.A. filed by the Central PWD Association, where while disposing the O.A. a direction was issued to the respondents to reconsider case of the applicants therein and other similarly situated persons within four months and it was also made clear that in the event the service of the applicants is regularized from a particular date and their juniors are promoted to the next cadre, the case of the applicants for promotion with effect from the dates when their juniors were promoted would also be considered subsequently. Therefore, he submitted that even if private respondents have been promoted as SE, the right of the applicant will not be frustrated and he will be given promotion from the date private respondents have been promoted. He further added that if applicant is found to be senior to the private respondents in his category, then his seniority will be fixed accordingly.

6. Sh. Sanjay Goyal, counsel for the official respondents also submitted that since rule provide separate quota for separate categories, therefore, applicant's category will be considered for promotion as EE as per availability of vacancies in his own category. If service of the applicant is regularized then he will be given promotion to the post of SE as per his quota in his category and even if private respondents who were promoted prior to applicant even then he will be get seniority from the that date, if eligible as per rules.

7. Sh. D.R. Sharma, learned counsel for the applicant does not dispute the above scenario. He submitted that let a direction be given to respondents to consider the case of the applicant for regularization as EE as per quota in his own category.

8. In the wake of above noted facts, and when a view has already been taken by the Principal Bench in O.A. filed by the Central PWD Engineering Association case (supra) then no further order is required. However, in the interest of justice and equity we direct the respondents to consider the case of the applicant for regularization as per quota in his category and if he is found to be eligible for further promotion to the post of SE, his claim be considered and he be given promotion from the date when other persons have been given promotion, if there

is no hindrance or stay order by a Court of law. Let the above exercise be carried out expeditiously but not later than three months.

9. The O.A. stands disposed of in limine in the above terms.