
(2019) 04 CAT CK 0026

In the Central Administrative Tribunal

Case No : Original Application No. 2589 Of 2016, Miscellaneous Application No. 1368 Of 2019

M.L. Khan

APPELLANT

Vs

North Delhi Municipal Corporation

RESPONDENT

Date of Decision : 22-04-2019

Acts Referred:

Citation : (2019) 04 CAT CK 0026

Hon'ble Judges : L. Narasimha Reddy, J; Mohd. Jamshed, J

Bench : Division Bench

Advocate : Rajeev Sharma, Rajeev Sharma, Amit Sinha

Final Decision : Allowed

Judgement

L. Narasimha Reddy, J

1. The role and importance of the engineering departments in the Municipal Corporations hardly needs any emphasis. Works of different kinds are designed and executed by them. However, in the case of various Municipal Corporations in Delhi, entire establishment of the engineering department is mired in litigation or controversy. Adhocism has virtually become the rule and regular promotions and appointments are an exception.

2. The applicant was appointed as Assistant Engineer (Civil) on 05.07.1990 in the North Delhi Municipal Corporation. Thereafter, he was promoted as Executive Engineer on 08.09.2008. The next promotion is to the post of Superintending Engineer (for short, SE). That however, took place in the year 2015 after a gap of more than 15 years. In the seniority list of SEs, the applicant is shown at Sl.No. 45.

3. The next promotion is to the post of Chief Engineer (for short, CE). Eligibility for that is standing of seven years in the post of SE, on regular basis. Obviously, eligible candidates in the cadre of SE were not available. The respondents opted to make arrangements by promoting SEs on ad hoc basis.

4. One Mr. Ranvir Singh, SE, who was immediately below the applicant, was appointed as CE on ad hoc basis along with 10 other candidates through order dated 25.04.16. The applicant feels aggrieved by that. He filed this O.A. with a prayer to direct the respondents to promote him to the post of CE on ad hoc basis and implement the condition (vii) of the order dated 25.04.2016. He submits that once his juniors were promoted, albeit on ad hoc basis, he too is entitled to be extended the same benefit.

5. Respondents filed counter affidavit narrating the circumstances that led to the making of ad hoc promotion to the post of CE. It is stated that regular promotions could not be made on account of non-availability of suitable candidates. The counter affidavit is, however, silent as to how the junior candidates were chosen for such promotions.

6. We heard Shri Rajeev Sharma, learned counsel for the applicant and Shri R.V. Sinha assisted by Shri Amit Sinha, learned counsel for the respondents.

7. For one reason or the other, the periodical promotions to various posts of engineers in the Corporation did not take place. It was only through the exhortation by the Delhi High Court that regular promotions on the post of SE took place in the year 2015. There is every justification for the respondents for not effecting regular promotion to the post of CE, since no qualified candidate is available in the feeder category. However, even while making ad hoc promotions, the respondents were required to observe the seniority.

8. Through the order dated 25.04.2016, the respondents promoted as many as 11 SEs as CEs on ad hoc basis. The last of them, namely, Shri Ranvir Singh is junior to the applicant. This is not a case where the DPC considered the eligibility of the SEs in the zone of consideration and the applicant was declared 'unfit'. In the case of ad hoc promotion, invariably the yardstick involved is seniority. It is not even mentioned in the counter affidavit that the applicant has suffered any disqualification in that behalf.

9. We, therefore, allow the O.A. and direct the respondents to consider the case of the applicant for promotion to the post of CE on ad hoc basis duly following the seniority in the post of SE. In case any SE who is junior to the applicant was promoted by this time, similar benefits shall be extended to the applicant within four weeks' time. However, he shall not be entitled for any retrospective service or arrears of pay. There shall be no order as to costs.