
(2018) 02 CAT CK 0043

In the Central Administrative Tribunal

Case No : Original Application No. 1901 Of 2013

Rajbir Singh Rathee And Ors

APPELLANT

Vs

Delhi Development Authority

RESPONDENT

Date of Decision : 09-02-2018

Acts Referred:

Citation : (2018) 02 CAT CK 0043

Hon'ble Judges : V. Ajay Kumar, J;Nita Chowdhury, Member (A)

Bench : Division Bench

Advocate : Malaya Chand, S.P. Mitra, Bhanu Pratap, Manish Garg

Final Decision : Dismissed

Judgement

V. Ajay Kumar, J

1. The applicants, 10 in number, and are working as JE (Electrical) in the sole respondent-Delhi Development Authority (DDA), filed the OA, seeking the following reliefs:-

"(a) To quash and set aside the order dated 19.06.2012.

(b) Suitable direction to respondents to grant promotion/seniority and other promotional benefits from the date of vacancies as facilitated to JE (Civil) appointed/promoted in the year 1985 without any discrimination.

(c) Respondents be directed to grant appointment/seniority to the applicants against the vacancies generated due to directions in LPA No.361/1999 of Hon'ble Delhi High Court directed DDA to give promotion to AE (E&M) from 09.02.1984 as all such vacancies of JE (E&M), which were generated in the year 1989/1991 fell vacant in the year 1984 because of promotion as AE (E/M) from the retrospective date of 09.02.1984.

(d) Such other/further order this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case be also passed in favour of the petitioner and

against the respondents, in the interest of justice".

2. In short, the applicants, who are JE (Electrical) are seeking to fix their seniority with effect from the date of promotion of JE (Civil) or from the date of occurrence of JE (Electrical) vacancies as against the date of joining as JE (Electrical).

3. It is submitted that all the applicants were initially appointed as Work Assistants (Electrical) in the respondent-DDA from the year 1980 onwards. They were promoted as JE (Electrical) in the years 1989, 1997 and 1999.

4. It is further submitted that in compliance of orders of the Hon'ble High Court of Delhi in C.W. No.225/1985 and C.W.P. No.551/1984 dated 19.04.1985 wherein the DDA was directed to amend the Recruitment Rules for both the JE (Civil) and JE (Electrical) with the prior approval of the authority to absorb the departmental candidates. In pursuance of the same, Vice Chairman, DDA issued orders on 13.02.1995 and the DDA passed the Resolution No.77 on 04.10.1985, but the respondent-DDA complied with the above orders only in respect of JE (Civil) and promoted the Work Assistants (Civil) as JE (Civil) in the year 1985, whereas prepared the select panel in case of JE (Electrical & Mechanical) only in the year 1989 and accordingly the Work Assistants (Electrical) were put to loss though regular vacancies of JE (Electrical & Mechanical) were very much available in the year 1985 itself.

5. It is further submitted that the representations of the applicants dated 05.11.2001, 17.01.2002, 18.01.2006, 01.10.2007, 21.02.2008, 12.09.2008, 04.04.2011 and 23.02.2012 were finally rejected by the respondent-DDA, vide impugned Annexure AA-1 order dated 19.06.2012 as under:-

"With reference to your letter dated 23.02.2012 on the subject cited above, I am directed to inform you that the matter regarding the benefit of anti-dating seniority of some JEs(E/M) from 1997 to 1985 has been again examined at length by the Competent Authority and it is regretted that the same has not been acceded to as the seniority is granted from the date of joining and not from the date of occurrence of vacancy".

Hence the OA.

6. Heard Shri Malaya Chand, learned counsel for the applicants and Shri Manish Garg, learned counsel for the respondents and perused the pleadings on record.

7. Firstly, the applicants are seeking to grant seniority in the category of JE (Electrical) with effect from year 1985 after a lapse of more than about 25 years. They were promoted as JE (Electrical) admittedly from the year 1989 onwards but made the first representation on 05.11.2011 seeking ante-dating their seniority from 1985. The applicants, who were promoted as JE (Electrical) in the year 1989, were fully aware at that time itself that the Work Assistants (Civil) were promoted as JE (Civil) in the year 1985 and not taken any steps questioning the action of the respondents in not promoting the applicants and

others as JE (Electrical) along with JE (Civil). It is the settled principle of law that continuous representations shall not extend the period of limitation. The simple rejection of the claim of the applicants in the year 2012, cannot give any fresh cause of action to the applicants.

8. The respondents in their counter submitted that immediately after the disposal of CW No.225/1985 and CWP No.551/1984 on 19.04.1985, the recruitment regulations for both the posts of JE (Electrical & Mechanical) and JE (Civil) were amended vide Resolution No.77 dated 04.10.1985 providing for filling up of vacancies from amongst departmental candidates possessing requisite educational qualification and experience. In terms of the same, the Work Assistants (Civil) were promoted as JE (Civil) in the year 1985, whereas in respect of JE (Electrical & Mechanical) due to the pendency of various cases and the stay orders passed thereon, the promotions were given during the years 1989, 1997 and 1999. Since the seniority can be given from the date of joining in the higher post and not from the date of occurrence of the vacancy, the claim of the applicants is untenable.

9. It is not in dispute that with regard to JE (Electrical & Mechanical) even after disposal of CW No.225/1985 and CWP No.551/1984 various cases were filed by different persons and certain restrain orders were passed from filling up of the posts of JE (Electrical/Mechanical).

10. The other relief prayed by the applicants with regard to LPA No.361/1999 is also unsustainable as the said case was pertaining to the promotions to the posts of AE (Electrical/Mechanical) and under different circumstances and fact situation and hence not applicable or helpful to the case of the applicants in any manner.

11. Various decisions on which the applicants placed reliance in support of their prayer for ante-dating their promotion and consequently the seniority to the post of JE (Electrical & Mechanical), lays down that, all promotions will have prospective effect, however, in certain cases, keeping in view the circumstances peculiar to the said cases, such as delay in conducting the DPCs without there being valid reasons, etc., upheld the orders granting antedating promotions, if the vacancies for the relevant years were in existence and the incumbents satisfy the eligibility criteria, in all respects, and were actually working in the promotional posts, may be on ad hoc basis. In the facts of the present case, we are of the considered view that the applicants did not fall in any of the said exceptions.

12. In the circumstances and for the aforesaid reasons, the OA is dismissed being devoid of any merit. No costs.