

**THE HON'BLE SRI JUSTICE C.V.NAGARJUNA**  
**REDDY**

**AND**

**THE HON'BLE SRI JUSTICE G.SHYAM PRASAD**

**WRIT PETITION No.17132 of 2016**

**03.06.2016**

Between:

G.Shyam Sundar Rao

..Petitioner

And

Union of India represented by the Director of General, CPWD,  
Nirmal Bhawan, New Delhi and others

## ..Respondents

Counsel for the petitioner: Mr.G.Shyam Sundar Rao

Counsel for respondent Nos.1 to 3: Mr.B.Narayana Reddy,  
Assistant Solicitor General

Counsel for respondent Nos.4 to 6: --

The Court made the following:

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**ORDER: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)**

The unsuccessful applicant in O.A.No.021/01516 of 2015 on the file of the Central Administrative Tribunal, Hyderabad Bench, Hyderabad, filed this writ petition feeling aggrieved by the order, dated 08.01.2016, passed by it dismissing the said O.A.

2. The facts, which are not in dispute, are that respondent Nos. 4 and 5 are working as Junior Engineers in CPW department since prior to 2002-03. As per the service regulations of the said department, the posts of Assistant Engineers are to be filled up in the ratio of 50:50 by seniority and through Limited Departmental Competitive Examination (LDCE) respectively. For the first time after 2002-03, the department has issued notification on 30.10.2015 undertaking recruitment under LDCE quota. Meanwhile, since the department failed to conduct recruitment under the said quota for a long time, some of the Junior Engineers appeared to have earned their promotion as Assistant Engineers on *ad hoc* basis under 50% seniority quota. In pursuance of the aforesaid notification, the petitioner, who is working as Junior Engineer, and others including those promoted Assistant Engineers under seniority quota have applied for promotion under LDCE quota. The petitioner pleaded that the Junior Engineers, who were promoted as Assistant Engineers under seniority quota, cannot be permitted to appear in LDCE process. The official respondents have filed a counter-affidavit before the Tribunal, wherein it was averred that LDCE was not conducted from 2002-03, as a result of which, the eligible Junior Engineers had no opportunity of promotion under the said quota and that even though they were subsequently promoted as Assistant Engineers under the seniority quota, it is unjust to deny them the opportunity of upgrading their seniority under LDCE quota. The Tribunal accepted this averment and dismissed the O.A.

3. After hearing Mr.G.Pavana Murthy, learned counsel for the petitioner, we are of the opinion that the reasoning based on which the

Tribunal has dismissed the O.A. does not suffer from any illegality. While a merit channel for promotion was provided for by the Rules, the eligible employees cannot be denied this channel. Had the department conducted LDCE at a point of time earlier than the promotion of the eligible Junior Engineers as Assistant Engineers under the seniority quota, they would have been entitled to appear under LDCE quota for promotion and earned promotion earlier. Having denied that opportunity to them at the relevant point of time by the department on account of its failure to conduct LDCE, it would be highly unjust and arbitrary to prevent them from claiming promotion under LDCE quota merely because they were already promoted as Assistant Engineers under seniority quota. As rightly pleaded by the official respondents and accepted by the Tribunal, the Junior Engineers who were already promoted as Assistant Engineers under seniority quota are certainly entitled to upgrade their seniority by competing under LDCE quota.

4. The learned counsel for the petitioner submitted that the Tribunal has not considered the judgment of Delhi High Court in **Union of India and others vs. Vijender Singh and others**<sup>[1]</sup>. We have carefully gone through this judgment and we find that the facts in the said case do not bear any resemblance or relevance to the facts of the present case. In that case the promotees under LDCE not only claimed notional seniority from the panel years in which vacancies arose, but also the monetary benefits which were granted by the Tribunal. Dealing with those facts, the Delhi High Court held that the concept of deemed retrospective promotion is alien to service jurisprudence and directed differential wages received by promotees to be refunded. In the present case, the O.A. filed by the petitioner seeking to prevent Assistant Engineers promoted under 50% seniority quota from appearing in LDCE was dismissed holding that they are entitled to upgrade their rank. Thus, no monetary benefits were either conferred nor they were held entitled to such benefits in future. Therefore, the said judgment does not in any manner come to the aid of the petitioner. The petitioner, who is only a Junior Engineer, has approached the

Tribunal with a view to ensure that the Junior Engineers who were already promoted as Assistant Engineers are kept away from competition with him. No substantive legal rights of the petitioner are affected as he is not denied the opportunity of appearing in LDCE.

5. In the light of the above facts, we do not find any reason to interfere with the order of the Tribunal and the Writ Petition is, accordingly, dismissed.

6. As a sequel to dismissal of the Writ Petition, W.P.M.P.No.21090 of 2016 filed by the petitioner for interim relief shall stand dismissed as infructuous.

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**C.V.NAGARJUNA REDDY, J**

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**G.SHYAM PRASAD, J**

**03<sup>rd</sup> June, 2016**  
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[\[1\]](#) W.P.Nos.1188-90 of 20015 and batch, dated 29.11.2010