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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 1891/2017 & CM Nos.8388-92/2017**

UNION OF INDIA AND ORS Petitioners
Through: Mr. Ruchir Mishra & Mr. Mukesh
Tiwari, Advocates

versus

CENTRAL ENGINEERING SERVICES GROUP A DIRECT
RECRUITMENT ASSOCIATION AND ORS Respondents
Through: Ms. Rekha Palli, Senior Advocate
with Mr. Sachin Chauhan, Advocate

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER
% **01.03.2017**

The impugned order under challenge, dated 10.8.2016 passed by the Principal Bench of the Central Administrative Tribunal, New Delhi disposing of OA No.2641/2016 is a short one and is reproduced in entirety for the sake of convenience:

“2. At the outset, Mrs. Rekha Palli, learned counsel for the applicant submits that due to an inadvertent mistake, UPSC has been impleaded as a party through Chairman, whereas it should have been impleaded through its Secretary. She seeks leave of the Tribunal to make necessary correction. Correction made in the open court.

3. Heard.

4. Issue notice. Shri Gyanendra Singh, learned standing counsel appears and accepts notice on behalf of respondents No.1 to 3, and Shri R. N. Singh, learned counsel accepts notice on behalf of respondent No.4.

5. The applicants are presently serving as Executive Engineers having been promoted on regular basis vide Office Order No.25/15 dated 25.02.2015.

6. The grievance of the applicants is that the respondents have failed to finalise the seniority list of Executive Engineers, and consequently promotion to the next rank of Superintending Engineers has not been made despite various OMs issued by the respondents for convening regular DPCs for the purpose of making promotions of eligible Executive 3 Engineers to the post of Superintending Engineer (Civil). Accordingly the following prayers are made:-

“8.1 To direct the respondents to issue the seniority list of regular Executive Engineer (Civil) and to further direct the respondents to convene the DPC in respect of eligible Executive Engineers (Civil) for consideration for promotion to the post of Superintending Engineer (Civil) in respect of available vacancies by following the DoP&T OM dated 28.01.2015. or/and Any other relief which this Hon’ble Court deems fit and proper may also be awarded to the applicant.”

7. We have heard learned counsel for the parties.

8. Keeping in view the controversy involved and the fact that

the seniority list of Executive Engineers (Civil) has not been prepared as yet, this Application is disposed of at the admission stage itself with the direction to the competent authority; (i) to finalise the seniority list of Executive Engineers (Civil) within a period of four months provided there is no legal impediment for the same, and (ii) to convene a DPC in accordance with law/rules within a period of three months thereafter subject to the condition that there is also no legal impediment for the same.”

2. The petitioner in the present writ petition, i.e., the Union of India through Secretary, Ministry of Urban Development, The Secretary, Department of Personnel & Training and the Director General, Central Public Works Department, it is apparent, did not file any review application. This writ petition was filed on 11.1.2017, after a period of four months had expired. The respondents have already invoked the contempt jurisdiction.
3. It is noticeable that the question of *inter se* seniority between the three categories, namely, Assistant Executive Engineer (Open Competition), Assistant Engineer (Graduate) and Assistant Engineer (Diploma Holder) has been pending since long, as is apparent from the order dated 22.7.2014, disposing of WP(C) No.840/2003 titled Gurbaaz Singh & Ors. v. UOI & Ors. There has to be action and momentum to publish the seniority list, to enable further promotions.

3. At this stage, learned counsel for the petitioners submits that the petitioner authorities have acted in terms of the order dated 22.7.2014 in the case of ***Gurbaaz Singh & Ors.(supra)*** and also in terms of the impugned order dated 10.8.2016. He submits that the petitioners have full intent and desire to comply with the impugned order dated 10.8.2016.

4. In view of the statement made, we do not find any reason to interfere with the impugned order as the petitioners themselves have stated that they want to comply with the impugned order. The impugned order also states that if there is any legal impediment, then four months, as stipulated, would not be final. It is open to the petitioners to point out legal impediment, if any, to the Tribunal.

5. We would, however, not like to interfere with the impugned order, or even issue notice, as this issue has remained pending for more than a decade as is apparent from the order of the High Court dated 22.7.2014. The issue/dispute of seniority must be resolved and decided at the earliest. The Tribunal, being in sesin of the issue, any interference would obstruct their efforts. It would be unjust and unfair. We are sure and do trust that the Tribunal would take all difficulties and impediments into consideration.

6. With the aforesaid observations, the writ petition is disposed of. All the pending applications are also disposed of.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

MARCH 01, 2017

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