

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) No.3386/2003**

% **24th March, 2017**

RAJIV SHARMA AND ORS. Petitioners

Through: Mr. Piyush Sharma and Mr. A.K. Mishra, Advocates with petitioner nos. 1 and 3 in person.

versus

GNCTD AND ORS. Respondents

Through: Mr. S.K. Singh, Advocate for R-3.
Mr. Naresh Kaushik and Mr. Manoj Joshi, Advocates for R-4/UPSC.

CORAM:
HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. In the present writ petition under Article 226 of the Constitution of India, as originally filed, the following relief clauses were prayed:-

- “(A) allow this writ petition of the petitioner with costs;
- (B) issue appropriate writ or writs, direction or directions, order or orders:
 - (i) quashing the Office Orders dated 1st January, 2003 and 10th February, 2003 assigning the current day charge of the post of Manager (T)-Civil to respondents Nos. 5 to 7;
 - (ii) declaring the seniority list of feeder post of Assistant Engineers/Assistant Executive Engineers is liable to be first prepared and the promotions to the next higher post of Executive Engineer (Civil)/Manager (T)-Civil is liable to be made in accordance with the said seniority list;

- (iii) also declaring the petitioners entitled to be promoted to the post of Executive Engineer (Civil)/Manager (T)-Civil even on current duty charge basis with effect from the dates from which respondents Nos. 5 to 7 were so promoted with all consequential benefits;
 - (iii) directing the respondents to first prepare the seniority list of feeder post of Assistant Engineers/Assistant Executive Engineers and then only to make promotions to the next higher post of Executive Engineer (Civil)/Manager (T)-Civil in accordance with the said seniority list; and
 - (iv) also directing the respondents to promote the petitioners to the post of Executive Engineer (Civil)/Manager (T)-Civil even on current duty charge basis with effect from the dates from which respondents Nos. 5 to 7 were so promoted with all consequential benefits;
- (C) issue such other and further writ or writs, direction or directions order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”

2. Writ petition is filed by four petitioners. The relief clauses, it is seen, fall under basically two heads. One is the claim of the petitioners to be appointed on current duty charge basis to the higher post of Executive Engineer/Manager (Technical)-Civil. Petitioners seek performing of the current duty charge to the higher post of Manager (T)-Civil from their present posts at the time of filing of the writ petition where the petitioners were working as Assistant Executive Engineers/Assistant Managers (T)-Civil. The second head of the relief is the claim of the petitioners for preparation of seniority list in the present post which they are occupying of Assistant Executive Engineers, and which relief is predicated again only for appointment to the current duty charge post of the higher post of Executive Engineer/Manager (T)-Civil. The writ petition originally was filed on 12.5.2003.

3. After hearing counsel for the petitioners at great length with respect to the claim of the petitioners to seek appointment as current duty charge appointments to the post of Manager (T)-Civil, it transpired that the claim of the petitioners to the current duty charge post of Manager (T)-Civil was on the basis of respondent nos. 5 to 7 not possessing the degree qualification in Civil Engineering and hence these respondent nos. 5 to 7 being allegedly unfit for appointment to the current duty charge to the post of Executive Engineer/Manager (T)-Civil, however, it transpired that for appointment to the post of Executive Engineer/Manager (T)-Civil there was also a requirement of five years experience, and petitioners, admittedly, did not have five years experience requirement. Petitioners hence did not qualify as regards the experience requirement of the post of Executive Engineer/Manager (T)-Civil as petitioners did not have the necessary five years experience. It was also seen that the current duty charge of the post of Executive Engineer/Manager (T)-Civil was without any extra monetary remuneration, and as admitted by the petitioners in para 9 of the writ petition. Accordingly, learned counsel for the petitioners, on instructions from the petitioners, has not pressed the relief of petitioners being given the appointment as current duty charge holders of the higher/promotion post of Executive Engineer/Manager (T)-Civil.

4. I may at this stage itself note that the writ petition, as originally filed on 12.5.2003, was thereafter amended when petitioners amendment application, being C.M. Appl. No. 7140/2006 was allowed vide order dated 27.2.2008. On account of allowing of the amendment to the writ petition, the petitioners added the grounds for challenging the amended recruitment rules for appointment and promotion to the post of Executive Engineer/Manager (T)-Civil, and which amended rules were challenged by the petitioners on the ground that amended rules were prejudicial to the petitioners and such amendments prejudicial to the petitioners could not be carried out in view of the Tripartite Agreement dated 28.10.2000 whereby Delhi Vidyut Board (DVB), of which petitioners originally were the employees, was unbundled into five companies. Petitioners after unbundling of DVB became employees of Delhi Transco Limited/respondent no. 3. The prejudicial amendments as per the petitioners were firstly of requirement of clearing a written examination, secondly the experience in the feeder cadre post being increased from five years to seven years, and thirdly that 10% of the posts were to be filled in from diploma holders whereas as per unamended rules 100% of the posts were to be filled by degree holders.

5. The writ petition was thereafter argued in detail on behalf of the petitioners by questioning the amended recruitment rules and also for questioning the appointments of respondent nos. 5 to 7 to the post of Executive Engineer/Manager (T)-Civil. I may, however, note that the relief clauses of the amended writ petition were not happily worded, in that the reliefs clauses had typing mistakes, wherein in relief clauses (v) and (vi) the expression used was 'proposed recruitment regulations' although the recruitment rules/regulations have already been finalized. The expression 'proposed' was thus taken as removed. The reliefs prayed by the petitioners as per the amended writ petition read as under:-

"It is, therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to

(A) allow this writ petition of the petitioners with costs;
(B) issue appropriate writ or writs, direction or directions, order or orders.

- i. quashing the Office Orders dated 1st January, 2003 and 10th February, 2003 assigning the current day charge of the post of Manager (T) Civil to respondent nos. 5 to 7,
- ii. declaring the seniority list of feeder post of Assistant Engineers/Assistant Executive Engineers is liable to be first prepared and the promotions to the next higher post of Executive Engineer (Civil)/Manager (T)-Civil is liable to be made in accordance with the said seniority list;
- iii. also declaring the petitioners entitled to be promoted to the post of Executive Engineer (Civil)/Manager (T)-Civil even on current duty charge basis with effect from the dates from which respondents Nos. 5 to 7 were so promoted with all consequential benefits;
- iv. directing the respondents to first prepare the seniority list of feeder post of Assistant Engineers/Assistant Executive Engineers and then only to make promotions to the next higher post of Executive Engineer (Civil)/Manager (T)-Civil in accordance with the said seniority list; and

- v. to quash the proposed recruitment regulations for the post of Manager (Civil), prepared after unbundling and approved by the Board of Directors of Delhi Transco Limited in its 14th Meeting held on 24.9.2003.
 - vi. to quash the promotions of respondents No. 5 and 7 which was done on the basis of proposed recruitment regulations and under the shelter of judgment dated 2.2.2005.
 - vii. to restrain the Respondent No. 3 to promote anybody on the post of Manager (Civil) on the basis of proposed recruitment regulations
- (C) Issue such other or further writ or writs, direction or directions order or orders, as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

6. It is seen that in the amended writ petition reliefs prayed by the petitioners essentially again were under two heads. The first head was with respect to the claim of the petitioners to be appointed as current duty charge holders to the post of Executive Engineers/Managers (T)-Civil and as already stated above, these reliefs are no longer pressed on behalf of the petitioners. We are therefore left with the relief clauses which pertain to the claim of the petitioners to be seniors to the respondent nos. 5 to 7 in terms of the unamended recruitment rules for the post of Executive Engineer/Manager (T)-Civil, and therefore, of petitioners claim for their being appointed as Executive Engineer/Manager (T)-Civil and instead of the appointments of respondent nos. 5 to 7 as Executive Engineer/Manager (T)-Civil.

7. After counsel for the petitioners was heard at great length, counsel for the petitioners, on instructions from the petitioners, states

that the relief clauses with respect to the challenge to the amended recruitment rules is confined now for challenging the same for claiming the seniority of the petitioners qua respondent no. 7 only, i.e the petitioners do not press the reliefs of their claims of being senior to respondent nos. 5 and 6. Therefore, this Court is now only called upon to decide the issue of validity of the amended recruitment rules for the post of Executive Engineer/Manager (T)-Civil and whether such rules are liable to be quashed, because, the amendments made to the recruitment rules as existing are prejudicial to the petitioners, and that these amendments could not have been carried out in view of the Tripartite Agreement dated 28.10.2000 of unbundling of DVB.

8. Let us now, therefore, examine the issue of the claim of the petitioners to be entitled to promotion to the post of Executive Engineer/Manager (T)-Civil in preference to the appointment of respondent no.7. Respondent no. 7 was appointed to the post of Manager (Civil) in terms of the order of the respondent no. 3 dated 26.5.2005, and which order reads as under:-

“DELHI TRANSCO LIMITED
Shakti Sadan, Kotla Road, New Delhi-02
No: DTL/1010/HR (A&G)/86 Dated: 26.05.2005

Office Order

Consequent upon the recommendation of the DPC and with the approval of Competent Authority Shri Nand Kishore Emp. No. 29810 Asstt Manager (Civil) is hereby promoted to the post of Manager (Civil) on regular basis in

the pay scale of Rs.12,500-19,100/- with immediate effect against the 90% quota of the sanctioned strength earmarked for Degree Holders.

On his promotion, Shri Nand Kishore shall report to GM (Civil) for further posting. His relieving/Joining reports be send to all concerned quarters.

(G. Srinivasan)

Dy. Manager (Admn.)-G”

9. It is required at this stage to be noted that there is no specific prayer in the writ petition for quashing of the order dated 26.5.2005 whereby respondent no. 7 was promoted to the post of Manager (Civil). It is clarified that Manager (Civil) is equivalent to Manager (Technical), and which is the next promotion post from the feeder cadre lower post of Assistant Executive Engineer/Assistant Manager (T)-Civil, and to which post the respondent no.7 was appointed. Be that as it may that petitioners have not challenged specifically the order dated 26.5.2005 of appointment of the respondent no. 7 to the post of Manager (Civil), yet arguments were heard further with respect to the claim of the petitioners of challenge to the amended recruitment rules and the claim of the petitioners of higher seniority than that of the respondent no. 7.

10. It is also noted that petitioners have already got promotions to the post of Manger (Civil) way back in the year 2009. Petitioners got promotions to the post of Manager (Civil) vide order of the respondent no.3 dated 10.7.2009. Respondent no. 7, as already

stated above, got promotion with effect from 26.5.2005 and initially the issue as argued was the claim of the petitioners to seniority by their promotions being delayed from 26.5.2005 to 10.7.2009 and that petitioners should therefore have got promotions on 26.5.2005 when respondent no. 7 got promotion to the post of Manager (Civil). Even in this regard there was thereafter amendment in the arguments and the prayer clause of the petitioners because it was found that as per the unamended rules for appointment/promotion to the post of Executive Engineer/Manager (T)-Civil there was a requirement of five years of service in the feeder cadre post and that petitioners did not have five years experience as on 26.5.2005. Petitioners regular appointments to the feeder cadre post of Assistant Executive Engineer/Assistant Manager (T)-Civil were as on 1.3.2002, 6.3.2002, 13.2.2002, 6.2.2002 and therefore in any case petitioners would not have got promotion on 26.5.2005 when the respondent no. 7 was promoted to the post of Manager (Civil) , inasmuch as, even as per the unamended recruitment rules since five years experience was required in the feeder cadre post and that the petitioners would have only completed five years experience in February/March, 2007, i.e after 26.5.2005 when respondent no. 7 got promotion, and hence the only issue remained is of claim of seniority of the petitioners earlier from February/March,

2007 instead of later from 10.7.2009 when the petitioners were promoted to the posts of Executive Engineer/Manager (T)-Civil i.e effectively issue of seniority of around two years and three odd months. It is argued that petitioners seek the relief because petitioners as also respondent no. 7 have to be considered in future to the next promotion post of Deputy General Manager, and at that stage issue will arise with respect to *inter se* claim of seniority.

11. It is undisputed that appointment of a person to the post of Executive Engineer/Manager (T)-Civil is not an automatic promotion post. It is not as if a person will be appointed to the post of Executive Engineer/Manager (T)-Civil on having qualifications of a degree in Civil Engineering and five years of experience as required under the unamended rules, because, the higher/promotion post of Executive Engineer/Manager (T)-Civil is admittedly a selection post. Learned counsel for the petitioners on taking instructions from petitioner no. 3 Sh. Vijay Kumar states that to the selection post and higher promotion post of Executive Engineer/Manager (T)-Civil last five years ACRs have to be considered and the seniority will only matter if the ACRs grading of all the eligible candidates are equal and whereafter seniority will take precedence. Therefore, once the post of Executive Engineer/Manager (T)-Civil is a selection post wherein the

Departmental Promotion Committee (DPC) has to be held and ACRs of candidates have to be considered in addition to seniority, petitioners had to necessarily plead and establish that their ACRs for the last five years prior to the year 2007, were better/superior than that of the respondent no. 7, and only in such circumstances would petitioners have a claim with respect not to promotion, but only of consideration of promotion to the higher post of Executive Engineer/Manager (T)-Civil, but petitioners have not pleaded such a cause of action and reliefs accordingly arising. Petitioners by the present writ petition also should have prayed for holding of a DPC as in around the year February/March, 2007 and for petitioners to be considered for promotions by the DPC for the higher/promotion post of Executive Engineer/Manager (T)-Civil, but even such a relief is not prayed in the writ petition.

12. It is thus seen that the petitioners have neither specifically sought quashing of the order dated 26.5.2005 appointing the respondent no. 7 as Manager (Civil), and petitioners have also not sought holding of a DPC in February/March, 2007 for consideration of petitioners to the post of Executive Engineer/Manager (T)-Civil, and that petitioners have most crucially not pleaded that their ACRs were equal to or better than that of the respondent no. 7 and therefore if DPC

was held for consideration by selection to the higher/promotion post of Executive Engineer/Manager (T)-Civil, then petitioners in fact would have got appointed to the promotion post of Executive Engineer/Manager (T)-Civil and not the respondent no.7. The present writ petition, therefore, is liable to be dismissed on this limited ground only that there is complete absence of pleadings whether with respect to requisite prayer clauses and with respect to a cause of action of holding of DPC and consideration of the petitioners for selection by DPC to the higher/promotion post of Executive Engineer/Manager (T)-Civil and of the petitioners entitlement to be selected as petitioners had equal or better ACR's of five years prior to 2007 than as compared to the respondent no.7.

13. Let me now examine the issue as to whether even if pleadings exists of petitioners having better ACRs for last five years than the respondent no. 7 so that petitioners had to be favorably considered by the DPC of February/March, 2007 for being appointed to the higher/promotion post of Executive Engineer/Manager (T)-Civil, then whether the amended recruitment rules are illegal and hit because petitioners are prejudiced, and which could not have been done in view of the Tripartite Agreement dated 28.10.2000 which resulted in unbundling of DVB.

14. Learned counsel for the petitioners has argued the issue of prejudice on the ground that the unamended recruitment rules required only 5 years experience but now 7 years experience is required in the feeder cadre post of Assistant Executive Engineer/Assistant Manager (T)-Civil, for being promoted to the post of Executive Engineer/Manager (T)-Civil. Petitioners further argued the issue of prejudice on the ground that now an examination is required for promotion to the post of Executive Engineer/Manager (T)-Civil whereas there was no such requirement of examination in unamended recruitment rules. The third aspect of prejudice which is argued is that original promotion to the post of Executive Engineer/Manager (T)-Civil was only of degree holders in Civil Engineering but now 10% candidates would also be diploma holders in Civil Engineering. Let us examine that whether such aspects can be called as 'prejudicial' amendments to the service conditions of the petitioners who were employed by and working for erstwhile DVB.

15. So far as the issue of holding of the examination is concerned, this aspect has already been held against the petitioners in terms of the judgment dated 3.5.2005 passed by a learned Single Judge of this Court, Hon'ble Mr. Justice Vikramajit Sen, as he then was, in bunch of writ petitions with lead case W.P.(C) No. 8564/2004. The

judgment dated 3.5.2005 was taken up in challenge before a Division Bench in an LPA but this challenge was also unsuccessful as the Division Bench vide order dated 1.8.2005 dismissed the challenge. Therefore, so far as the aspect of holding of examinations by the respondent no.3 for promotion to the post of Executive Engineer/Manager (T)-Civil, it cannot be argued that such change in the recruitment rules is a prejudicial amendment and which could not have been done in view of the Tripartite Agreement dated 28.10.2000.

16. Let us now examine as to whether if 10% of the candidates to be considered for the posts of promotion to the Executive Engineers/Managers (T)-Civil from diploma holders will amount to serious prejudice to the petitioners and which will violate the Tripartite Agreement dated 28.10.2000. The prejudice had to be a serious and grave prejudice. Any and every prejudice is not a legal prejudice giving rise to a cause of action. Respondent no.3 has stated in its counter-affidavit that it was because of the lack of availability of requisite number of personnel which were then available with the respondent no.3 in the year 2003 when the rules were amended, whereby appointments could not take place by promotions to fill in the higher posts of Executive Engineer/Manager (T)-Civil, accordingly, 10% of diploma holders were added for being considered, so as to

avoid, to the extent possible, going in for appointments of Executive Engineer/Manager (T)-Civil (in the absence of promotion) by deputation or direct recruitment.

17. (i) In my opinion, merely because just 10% additional candidates being diploma holders are also considered as per the amended recruitment rules for appointment to the post of Executive Engineer/Manager (T)-Civil, whereas the earlier position as per the unamended rules was that 100% of the candidates have to be degree holders, this is not such a great prejudice in the facts of the present case because respondent no.3 has rightly contended that as per the circumstantial position with respect to the lack of competent personnel who were then available with the respondent no.3, hence this amendment was brought about as stated above, and accordingly it cannot be held that the amended rules are gravely and seriously prejudicial to the petitioners and hence violative of the Tripartite Agreement dated 28.10.2000. Any and every prejudice cannot be held to be violative of the terms of the Tripartite Agreement dated 28.10.2000.

(ii) I may also note that the real prejudice to the petitioners would only be if on account of amendment of the recruitment rules

petitioners' eligibility in terms of the unamended recruitment rules would prevent them for seeking promotion in terms of the amended recruitment rules. That is however not so because petitioners even as per the amended recruitment rules would continue to be eligible for consideration for promotion to the higher/promotion post of Executive Engineer/Manager (T)-Civil. Therefore, in the opinion of this Court, it cannot be argued that petitioners are prejudiced and service conditions have been amended adversely to their interest because it is not as if under the amended rules petitioners' earlier eligibility criteria did not remain a valid eligibility criteria for promotion/appointment to the higher post of Executive Engineer/Manager (T)-Civil. The argument of the petitioners therefore is rejected that by the amendment of the rules by adding 10% of the diploma holders as candidates for promotion to the posts of Executive Engineers/Managers (T) - Civil, the amended recruitment rules are hit by the Tripartite Agreement dated 28.10.2000. The second argument of the petitioners is also therefore rejected.

18. The aforesaid discussion and reasoning given with respect to challenge to the amended recruitment rules will also apply to the argument of amended recruitment rules requiring instead of 5 years experience, 7 years of working experience, in the feeder cadre post

because and once again in the facts of the present case by seeking to require additional experience it is not that respondent no.3 has caused such grave and serious prejudice to the petitioners inasmuch as if the requirement of an examination can be taken as a valid additional qualification to be obtained by the candidates which would not violate the Tripartite Agreement dated 28.10.2000, then for getting better candidates if two years additional experience is required by the amended rules in the feeder cadre post, then in my opinion, the requirement of the employer to have better candidates at the higher level post by additional experience of two years will not result in such serious and grave prejudice to the petitioners for the petitioners to question the amended recruitment rules.

19. Since the judgment of the learned Single Judge dated 3.5.2005 in W.P. (C) No. 8564/2004, and the order of the Division Bench dated 1.8.2005 in LPA No. 1662/2005 would also be relevant so far as deciding the issue of alleged illegality of the amended rules as regards the requirement of additional two years experience as also the aspect of 10% diploma holders being considered, let me reproduce these two orders and which read as under:-

1. **Order dated 3.5.2005**

“Clause 3(b) of the Tripartite Agreement which reads as follows is at the fulcrum of the dispute:

The terms and conditions of service upon transfer to the corporate entitles, such as promotions, transfers, leave and other allowances, etc. regulated by existing regulations/service rules e.g. FR/SR will be guaranteed to continue the same and any modifications shall be by mutual negotiations and settlement with recognize unions/associations without detriment to the existing benefits.

The grievance of the Petitioners are that the existing Service Rules have been altered by the Respondents without negotiating with the Petitioners. Attention has been drawn to several representations made by the Delhi Transco Limited Employees' Association (Regd.) in the context of the R&P Regulations.

Briefly stated no changes and amendments that have been effected in the assailed Service Regulations which stipulate that appointments to Class-II posts shall be by Selection-50% by promotion failing which by direct recruitment and 50% by direct recruitment. The change that has been effected is by an Office Order dated 8.3.2000 which specifies that the criteria for selection will be covered by the following parameters out of a total matrix of 100 i.e. Qualification (15), Experience (10), C. R. Assessment (5) and performance in departmental training (25). It has been explained by learned counsel for the Respondent that now persons desirous of being selected to Class-II posts will have to go to successfully complete a departmental training. The grievance of the Petitioner is that they have already put in 29 years of service and shall be disadvantaged in such training/examination since they may not be abreast with the latest theoretical knowledge. The need to undertake departmental training is a salutary introduction. No employee can have a vested right in remaining inefficient or in not endeavouring to improve his knowledge, functioning and working. I do not find anything in the new Regulations which is detrimental to the interests of the Petitioners. Selection implies that the most proficient will be successful.

The only remaining question is whether Clause 3(b) of the Tripartite Agreement has been transgressed. Counsel for the Petitioner is unable to show that the Association which had made repeated representations to the Respondents for negotiations was a recognized Union/Association. It will be virtually impossible for the Management to enter into parley with each and every employee or several Unions/Associations. The Delhi Transco Limited Employees' Association should have sought recognition in order to enforce, strictly and in a semantic manner, the terms of the Tripartite Agreement. As I find the changes made in the Service Regulations to be progressive, and since there is no recognized Union/Association, I do not consider this case to be appropriate for exercising the extraordinary jurisdiction and discretion embodied in Article 226 of the Constitution.

The Writ petition stands dismissed.”

2. **Order dated 1.8.2005**

“CM 10635/05

Allowed subject to just exceptions.

CM 10634/05

Notice. Ms. Ahlawat waives service of notice.

Heard learned counsel for the parties.

Delay in filing the appeal is condoned.

Application is allowed.

CM 10633/05 & LPA 1662/05

The present appeal is filed against the order made by the learned single judge in W.P.(C) 8564/04 and other connected matters decided on 3.5.2005. Before the learned single Judge question was raised that Tripartite Agreement cannot be changed without consulting the persons who are likely to be adversely affected.

There is no change in the agreement as such but the learned single Judge has pointed out that the system adopted for selection is much better. Learned counsel has pointed out the parameters out of a total matrix, of 10 marks divided into qualification, experience assessment and performance in departmental training appears that so far as the training/examination is concerned the petitioner has raised a grievance that has already put in 29 years of service and shall disadvantaged a such training/examination. The need undergo departmental/training is a salutary introduction as pointed by the learned single Judge. It is not only this department but almost in all the departments of Government it is required to be implemented.

It is also pointed out that the petitioner association not a recognized association and there is no reason for employer to directly deal with such association.

Appeal is dismissed.”

20. The present writ petition therefore in the opinion of this Court besides being wholly misconceived, has resulted in gross wastage of judicial time on account of unjustified issues being raised by the petitioners and that too in the complete absence of pleadings and relief clauses. This Court has been more than liberal to the petitioners because this Court has examined the petition in the complete absence of pleadings of the petitioners for being entitled to be considered for the higher/promotional post of Executive Engineer/Manager (T)-Civil because admittedly the higher/promotion post is a selection post and petitioners have not pleaded and filed their five years ACRs as being

equal to or better than the respondent no.7. Also, the claim and cause of action with respect to the petitioners being appointed as duty charge holders was completely frivolous as the duty charge post not only did not carry additional remuneration but also the petitioners in fact themselves did not have one eligibility criteria of the higher post of Executive Engineer/Manager (T)-Civil on which petitioners claimed to be appointed as duty charge holders because petitioners did not have the necessary 5 years experience. Also, although the writ petition was amended in 2006 by which time respondent nos. 5 to 7 had been specifically promoted by different promotional orders but yet the petitioners did not seek the relief of quashing of such promotion orders of the respondent nos. 5 to 7. The lack of application from the petitioners exists even in the amended writ petition's prayer clause calling the actual amended regulations only as proposed regulations, but that the regulations were not proposed regulations but had in fact been approved by the Resolution of the respondent no.3 of the year 2003. All of the aforesaid aspects were basically either to obfuscate the issue or to unnecessarily drag on the litigation. Therefore, the present is a fit case for not only dismissing of the writ petition, but this writ petition is dismissed with costs of Rs. 40,000/- i.e Rs. 10,000/- qua each of the four petitioners. Half of the costs will be paid to the

respondent no.3 and half of the costs will be deposited by the petitioners with the Friendicoes, No.271 & 273, Defence Colony, Flyover Market, Jangpura Side, New Delhi-110024 within a period of six weeks from today.

21. The writ petition is dismissed and disposed of in the above terms.

MARCH 24, 2017

AK/ib

VALMIKI J. MEHTA, J

