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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 4376/2017**
NORTH DELHI MUNICIPAL CORPORATION AND ORS

..... Petitioner

Through: Mr Gaurang Kanth and Ms Biji Rajesh
and Ms Eshita Baruah, Advs.

versus

RAJESH BHARGAVA AND ORS Respondents
Through: Mr R.N. Singh, Adv.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER
% **19.05.2017**
CAV 499/2017

Since the caveator has put in appearance, the caveat stands discharged.

W.P.(C) 4376/2017 and CM APPL. 19148/2017 (For stay)

The petitioner has preferred the present writ petition to assail the order dated 25.04.2017 passed by the Central Administrative Tribunal (CAT) in O.A./100/1305/2017 M.A./100/1439/2017. By the impugned order, the Tribunal has directed the petitioner herein not to violate the rule of seniority while making *ad hoc* promotions to the post of Executive Engineer (Civil), till the next date of hearing which has been fixed for 18.07.2017.

The respondents have preferred the aforesaid Original Application

alleging violation of their seniority in the grade of Assistant Engineer (Civil) in the matter of promotion to the post of Executive Engineer (Civil). The feeder grade of Assistant Engineer consists of Diploma Holders, who are respondents herein, and degree holders. Under the Recruitment Rules for promotion to the post of Executive Engineer (Civil), the Assistant Engineer (Graduate) with five years service in the grade, as well as Diploma Holders with 10 years service in the grade, are eligible. The admitted position is that in the cadre of Assistant Engineers, respondents were senior to the Assistant Engineer (Graduates). The respondents completed 10 years of service in the Grade of Assistant Engineers on 20.04.2016 and thus became eligible to be considered for promotion to the post of Executive Engineer (Civil) on 21.04.2016. Their grievance was that the petitioner, was making *ad hoc* promotions to the post of Executive Engineer (Civil) from amongst the Assistant Engineer (Graduates) bypassed their claim.

Mr Kanth has argued that since the respondents completed 10 years of service in the grade of Assistant Engineers only on 20.04.2016, they would become eligible for consideration of even *ad hoc* promotions by the Screening Committee in the Financial Year beginning 01.04.2017. They were not eligible for consideration for *ad hoc* promotions in respect of vacancies which existed as on 01.04.2016. On the other hand, the Assistant Engineer (Graduate) were eligible since they had completed five years regular service in the grade of Assistant Engineer, from 2012 onwards. Even if it were to be for the sake of argument that the respondents could not be

considered (even for grant of *ad hoc* promotions) before 01.04.2017, as a matter of fact that date is already passed, and the respondents are eligible for being considered for grant of *ad hoc* promotions in respect of the existing vacancies. Our attention has been drawn on clause (vii) contained in an office order dated 21.07.2016 which is a promotion order in respect of the Executive Engineer (Civil) on *ad hoc* basis. A similar order dated 31.01.2017 is also brought to our notice. Clause (vii) in both these orders read as follows:-

“(vii) The ad hoc appointment will be further subject to the condition that as & when any senior officer becomes eligible for promotion on ad hoc basis, the junior most officer will be reverted to accommodate his senior.”
(emphasis supplied)

Thus, even if Assistant Engineers (Graduates) are granted *ad hoc* promotion, by operation of the aforesaid clause (vii), from 01.04.2017, the respondents/diploma holder Assistant Engineers, who are senior in that grade, would be entitled to be granted the *ad hoc* promotions and the junior most Executive Engineer (Civil), who are appointed on *ad hoc* basis and are graduate engineers, would have to make way for them.

In these circumstances, we are not inclined to interfere with the impugned order. The writ petition is dismissed.

VIPIN SANGHI, J

DEEPA SHARMA, J

MAY 19, 2017

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