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

+ **W.P.(C) 938/2017**

DELHI DEVELOPMENT AUTHORITY Petitioner

Through Mr. Arun Birbal, Advocate.

versus

SHRI NEMI CHAND JEDIA Respondent

Through Nemo.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

09.02.2017

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The facts of the case are rather peculiar.

2. The respondent-Nemi Chand Jedia was appointed as a direct recruit Assistant Engineer (Electrical) in the petitioner-Delhi Development Authority on 30.10.1988. The respondent was promoted as Executive Engineer in 1999 and as Superintending Engineer in 2008.

3. Some Junior Engineers had filed a catena of writ petitions claiming promotion as Assistant Engineers against vacancies with effect from 1984 onwards. These writ petitions were dismissed by the Single Judge, but the Division Bench held that a year-wise panel should have been prepared in terms of the OM dated 24th December, 1980. The petitioner-Authority, while implementing this order, granted ante-dated promotions to Junior Engineers as Assistant Engineers.

4. The submission of the petitioner-Authority is that consequent to the ante-dated promotions, the seniority position of the respondent, a direct recruit to the post of Assistant Engineer (Electrical), underwent a change and he came down in the order of seniority.

5. The respondent was sought to be demoted from the post of Superintending Engineer. The respondent filed OA No. 2715/2011, which was partly allowed vide order dated 7th March, 2012 granting the petitioner-Authority the liberty to issue show cause notice and upon consideration of the reply, pass a speaking and reasoned order.

6. The petitioner-Authority vide order dated 16th April, 2013 again demoted the respondent to the post of Executive Engineer with immediate effect. The respondent filed OA No. 1360/2013 and the demotion order dated 16th April, 2013 was stayed. This OA has been allowed by the impugned order dated 11th February, 2016 after referring to decisions of the Supreme Court that retrospective promotion cannot be granted and that no review DPC for promotion from the post of Executive Engineer to Superintending Engineer had been held till 16th April, 2013.

7. It is an accepted position that no review DPC has been held even thereafter. Thus the Junior Engineers who were granted ante-dated promotions as Assistant Engineers were not promoted as Superintendant Engineers.

8. What is even more pertinent and relevant is that the respondent had retired on superannuation in 2015 (the exact date has not been mentioned in the impugned order, nor stated in the writ petition and is not known to the counsel for the petitioner).

9. In view of the aforesaid factual position and also noticing the fact that

no review DPC was held till the respondent had superannuated ffice in 2015, we are not inclined to interfere with the impugned order. The writ petition is accordingly dismissed.

SANJIV KHANNA, J.

CHANDER SHEKHAR, J.

FEBRUARY 09, 2017
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