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

+ **W.P.(C) 9866/2017 and CM APPL. 40147/2017**

**DELHI STATE INDUSTRIAL AND INFRASTRUCTURE  
DEVELOPMENT CORPORATION LIMITED ..... Petitioner.**

**Through: Mrs. Biji Rajesh, Advocate and  
Mr. Gaurang Kanth, Advocate.**

**versus**

**JATINDER KUMAR & ORS**

**..... Respondents**

**Through: Mr. M.K. Bhardwaj and Mr.M.D.Jangar,  
Advocates.**

**CORAM:**

**HON'BLE MS. JUSTICE HIMA KOHLI**

**HON'BLE MS. JUSTICE REKHA PALLI**

**ORDER**

**% 17.11.2017**

**CAVEAT No. 958/2017**

1. Counsel for the respondents/caveators enters appearance and states that he has received a complete set of the paper book.
2. The caveat stands discharged.

**W.P.(C) 9866/2017**

1. The petitioner has filed the present petition against the order dated 28.07.2017; further clarified vide order dated 04.09.2017, passed by the Central Administrative Tribunal on two petitions bearing Original Application Nos.820/2017 and 1164/2017, filed by the respondents, where their claim was for calling upon the petitioner to consider their case for promotion to the post of SE (Civil) on a regular basis by holding a DPC/review DPC as also for consequential benefits.

2. By the impugned order dated 28.07.2017, the Tribunal had disposed of the aforesaid OAs with the following orders:-

*"5. The controversy in the present Applications is squarely covered by the aforesaid judgments. These Applications are accordingly dispose of in terms of the aforesaid judgment with a direction to respondents to consider the qualification of diploma in engineering (c) with 10 years technical experience equivalent to degree in engineering and consequently accord consideration to the applicants for their promotions to the post of Executive Engineer (Civil). The consideration shall be accorded against the quota meant for AEs in accordance with recruitment rules. The applicants along with other eligible candidates in this category shall be considered for further promotion against the available vacancies, if any, in accordance with law within a period of three months from the date of receipt of certified copy of this order."*

3. The aforesaid order was subsequently clarified on an application filed by the respondents herein vide order dated 04.09.2017, modifying the operative para of the order dated 28.07.2017. The operative para 5 of the order dated 04.9.2017 is reproduced herein below:-

*"5. The controversy in the present Applications is squarely covered by the aforesaid judgments. These Applications are accordingly dispose of in terms of the aforesaid judgment with a direction to respondents to consider the qualification of diploma in engineering (C) with 10 years technical experience equivalent to degree in engineering and consequently accord consideration to the applicants for their promotions to the post of Executive Engineer/Superintending Engineer (Civil). The consideration shall be accorded against the quota meant for AES/EEs(C) in accordance with recruitment rules. The applicants along with other eligible candidates in this category shall be considered for further promotion against the available vacancies, if any, in accordance with law within a period of three months from the date of receipt of certified copy of this order."*

4. Learned counsel for the petitioner states that while passing the impugned orders, the Tribunal did not examine the Recruitment Rules for the post of SE (Civil), which would reflect that the respondents herein do not fulfil the eligibility criteria for promotion to the post of SE (Civil).

5. Mr. Bhardwaj, learned counsel for the respondents states that his clients are eligible for being considered for promotion to the post of SE (Civil) under the extant rules and under the impugned order, the petitioner has only been directed to consider their case in accordance with the Recruitment Rules. It is not as if any directions have been issued to the petitioner to necessarily promote the respondents, if the rule position is otherwise.

6. We are inclined to concur with the submissions made by learned counsel for the respondents. Having perused the impugned order it is clear that, the Tribunal has only directed the petitioner to consider the qualifications of the respondents along with their experience for promotion to the post of Superintendent Engineer (Civil), in accordance with the Recruitment Rules and only thereafter take a decision. That being the position, there is no ground to interfere with the impugned order. The petitioner is at liberty to consider the case of each of the respondents for promotion to the post of SE (Civil), in accordance with the extant rules and take a decision accordingly. Learned counsel for the petitioner seeks four weeks time to take a decision in respect of the respondents. Needful shall be

done within the aforesaid time frame under written intimation to the respondents.

7. The petition is disposed of alongwith the pending application.



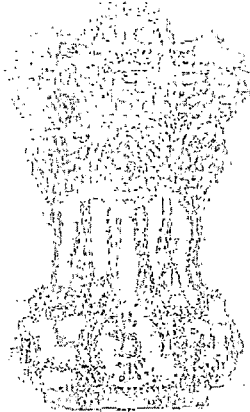
**HIMA KOHLI, J**



**REKHA PALLI, J**

**NOVEMBER 17, 2017**

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