

05.02.2024.
Court No. 13
Item No. 30
ap

W.P.A. No. 984 of 2023

**Biswanath Diwanji
Versus
Geological Survey of India & Ors.**

Mr. Sourav Sengupta.

...For the petitioner.

Mr. D. N. Ray,
Mrs. Debjani Ghoshal,
Mr. Rajesh Kumar Shah.

...For the GSI.

1. Supplementary affidavit and affidavit-of-service filed in Court today are taken on record.
2. The petitioner is aggrieved by a letter dated 12th April, 2021 whereby he was denied the post of Non-functional Superintending Engineer despite having completed 13 years in regular Group-“A” service and four years in post of Executive Engineer or its equivalent, prior to his retirement on 30th June, 2019.
3. The impugned order has not taken into consideration the Office Memorandum dated 12th August, 2021 which shifted the crucial date (the date for considering the eligibility of such promotion) in view of the change in the financial year being followed by the Central Government i.e. instead of April to March to January to December. This change of crucial date was effected from 2019 onwards.

4. It appears to this Court that after the change of financial year 2019 onwards and upon receipt of a large number of representations from many employees for relaxation of three months, the respondent GSI has on a case to case basis allowed promotion to many employees. It is essentially to regularize such requests that Office Memorandum dated 12th August, 2021 was passed by the Department of Personnel Training applying the same to the GSI.

5. The impugned order dated 12th April, 2021 has been passed before Memorandum dated 12th August, 2021.

6. In that view of the matter, this Court is of the view that the petitioner must be treated as those similarly situated and had obtained benefit under the Office Memorandum dated 12th August, 2021 if he is satisfies the criteria applied to such persons.

7. In that view of the matter, the impugned order dated 12th August, 2021 shall stand set aside. The respondents shall consider afresh the petitioner's representations dated 5th September, 2020, 8th April, 2021, 29th June, 2021 and 22nd March, 2022 having regard to the Office Memorandum dated 12th August, 2021 and pass fresh orders on the eligibility of the petitioner for the post of Non-functional Superintending Engineer, while he was in service.

8. Let the respondents take a decision in the matter within a period of one month from the date of receipt of a copy of this order.

9. If the petitioner is allowed the said post of Non-functional Superintending Engineer, a fresh Pension Payment Order shall be issued to him and all the arrears may be paid to the petitioner in accordance with law within a period of one month thereafter.

10. With the aforesaid directions, the instant writ petition shall stand disposed of.

11. There will be no order as to costs.

12. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)