



2026:DHC:3662-DB



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

+ **W.P.(C) 7278/2022**

SHIVA SUMAN

.....Petitioner

Through: Mr. Nimish Chib, Adv.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Jaswinder Singh, CGSC

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

ORDER (ORAL)

% **28.04.2026**

C. HARI SHANKAR, J.

1. The respondent participated in the Engineering Service Examination of 2008. He was not selected in the initial round. He was at S. No. 1 in the waiting list. The case of the petitioner was that persons who were below him in the waiting list, and who are impleaded herein as private respondents, were issued orders of appointment between May 2010 and December 2011. However, the petitioner was issued an order of appointment only on 3 September 2012 whereafter he joined as Assistant Director¹ in the Central Electricity Authority.

2. On 22 October 2013, a provisional seniority list in the post of AD was released, which was followed by a final seniority list of 22

¹ "AD" hereinafter



November 2016. Both the seniority lists reflected the merit position of the petitioner in the examination conducted for the post of AD and also showed his date of appointment as 3 September 2012. The petitioner was shown above the private respondents in both the seniority lists, reflective of his merit position in the selection for AD. The petitioner did not, at that stage, raise any grievance with respect to his having been appointed as AD later than persons who were below him in merit in the panel for AD.

3. ADs with four years of regular service are eligible for promotion as Deputy Director². Promotions from the post of AD to DD took place in 2014. However, by that date, the petitioner had not yet completed the requisite four years' service as AD to become eligible for promotion as DD. He was, therefore, considered for the post of DD only in the panel year 2016-17, when he had the requisite four years' regular service as AD to his credit. He was promoted as DD vide order dated 18 June 2015, after giving him a year's relaxation as per the extant policy. Thereafter, a seniority list was issued in the grade of DD. He challenged his placement *vis-à-vis* the private respondents in the seniority list by way of OA 1325/2019 before the Central Administrative Tribunal³.

4. The Tribunal has declined to interfere with the matter for the following reasons:

(i) It was too late in the day for the petitioner to agitate

² "DD" hereinafter

³ "Tribunal" hereinafter



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against his joining as AD on 3 September 2012, after those who were below him in merit had already joined.

(ii) As such, the date of joining of the petitioner as AD as 3 September 2012 had acquired finality.

5. As a result, the petitioner became eligible for the post of DD only in 2016. However, as there was a provision by which relaxation could be granted to persons who had completed three years as AD, the petitioner was promoted as DD on 18 June 2015.

6. The respondents, however, were promoted as DD in 2014 as they had been appointed as AD in 2009-10 and had, therefore, completed the required four years' service as AD by 2014.

7. The promotion of the petitioner as AD after the respondents, therefore, took place because of the fact that he joined as AD in 2012, after the respondents had joined as AD in 2009-2010.

8. Though there was a provision in the rules which permitted relaxation of the qualifying service in a case in which the junior was promoted before a senior, by waiving the extent of half the required service subject to a maximum of three years, even if the said benefit was extended to the petitioner he would still not become eligible for promotion in 2014 when his juniors were promoted.

9. It is for this reason that, on his acquiring the requisite eligibility for promotion as DD, he was promoted on 18 June 2015. The seniority



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list of DD was issued on the basis of the dates of promotion, which was in accordance with law.

10. Though Mr. Nimish Chib, learned Counsel for the petitioner has drawn our attention to Rule 17 of the Central Power Engineering (Group-A) Service Rules, 2005 which contained the power to relax, as the learned Tribunal has correctly held, the power to relax is a dispensation which lay within the executive discretion of the respondents. A Court cannot compel the respondents to relax the rules in the absence of any mandate to the effect contained in the rules.

11. As a result, we are in agreement with the Tribunal that the petitioner was not entitled to any antedating of his seniority or any change in the seniority position in the grade of DD.

12. The OA 1325/2019 was, therefore, rightly rejected.

13. The writ petition is dismissed with no orders as to costs.

C. HARI SHANKAR, J

OM PRAKASH SHUKLA, J

APRIL 28, 2026

AR/SS