



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

% Judgment reserved on: 22.04.2026
Judgment delivered on: 03.07.2026
Judgment uploaded on: *As per Digital Signature~*

+ **LPA 65/2014**

NTPC LTD

.....Appellant

versus

M P TIWARI AND ORS

.....Respondents

+ **LPA 759/2014**

MP TIWARI

.....Appellant

versus

UNION OF INDIA & ORS

.....Respondents

Advocates who appeared in this case

For the NTPC : Mr. Rajesh Gupta, Advocate.

For M P Tiwari : Ms. Richa Kapoor, Mr. Kunal Anand and
Ms. Aditi Rathore, Advocates

For the UOI : Ms. Radhika Bishwajit Dubey, Mr. Vivek
Sharma, Advocates for UOI.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

V. KAMESWAR RAO, J.

1. These cross *intra* Court appeals have been filed, whereby, National Thermal Power Corporation (for short 'NTPC') has challenged the order dated 06.11.2013 in W.P.(C) No.6521/1998 in LPA 65/2014 and M.P.



Tiwari has challenged the order dated 22.08.2014 in LPA 759/2014 whereby the learned Single Judge has dismissed his application for modification of order dated 06.11.2013.

2. The learned Single Judge vide order dated 06.11.2013 has allowed the aforesaid writ petition by stating in paragraphs 10 to 12 the following manner:-

“10. I may also note that there is no delay and laches in filing this petition because once the recommendations of DPC became final, and documents were issued in the office of respondent no.3 itself to this effect, and filed at running pages 286-287 showing that petitioner was in fact promoted as an Assistant Engineer w.e.f 1.7.1983, I would not like to hold the petition as barred by delay and laches unless there was a specific refusal issued to the petitioner denying the benefits of the post of Assistant Engineer, and only when cause of action would have accrued to the petitioner to approach the Court. In the absence of any refusal addressed to the petitioner, that he would not be promoted to the post of Assistant Engineer in spite of his being put on the merit list panel as per the DPC of February, 1984, there was no need of the petitioner to approach the Court, albeit the petitioner will only be entitled to monetary emoluments for the promoted post for a period not more than three years prior to filing of the present writ petition.

11. The issue then arises is that what should be the relief which should be granted to the petitioner in this case. I have put to learned senior counsel for the petitioner, and who has accordingly taken instructions from the petitioner who is present in Court, that petitioner will be satisfied on his getting 1/3rd of the monetary emoluments as payable to an Assistant Engineer for 3 years prior to filing of the present writ petition. This entitlement of 1/3rd of the monetary emoluments as payable to the Assistant Engineer will of course be payable till the time the petitioner retired on



30.6.2003. Therefore, applying the ratio of E.K. Bhaskaran Pillai's case (supra) I hold that in the facts of the present case since petitioner without any fault of his has been denied the promotion post of Assistant Engineer, and at no point of time the petitioner refused to work at the post of Assistant Engineer, petitioner will be entitled to 1/3rd of monetary emoluments payable for the post of Assistant Engineer for the period of 3 years prior to the filing of the writ petition and till the date of his retirement on 30.6.2003. 12. In view of the above, the writ petition is allowed. Petitioner will be granted 1/3rd of the monetary emoluments payable to him as if he was an Assistant Engineer for the period of 3 years prior to the filing of the writ petition and which monetary emoluments will be payable till the retirement of the petitioner on 30.6.2003. The monetary package be paid to the petitioner within a period of three months from today, and if not paid within three months, then petitioner thereafter will be entitled to interest at 7 ½ % per annum simple till the amount is paid. Parties are left to bear their own costs."

3. In LPA 65/2024, the NTPC has challenged the decision of the learned Single Judge on its merit whereby the NTPC was directed to promote M.P. Tiwari to the post of Assistant Engineer as per the recommendation of the Departmental Promotion Committee (DPC) held in the month of February 1984 and granted 1/3rd of the monetary emoluments payable to him on his promotion to the post of Assistant Engineer for the period three years prior to the date of filing of the writ petition.

4. In LPA 759/2014, M.P. Tiwari has challenged the order whereby the learned Single Judge has dismissed the application seeking modification of the order dated 06.11.2013 in the manner that he has not given any consent regarding the emoluments to the extent of 1/3rd of the sum payable to him



for the period of three years prior to the date of filing of the writ petition.

5. The facts as noted are that, M.P. Tiwari had earlier worked in the Indian Air Force and joined the Badarpur Thermal Power Station (BTPS) in the year 1972. However, on the project coming to an end, and on account of a settlement between the workers and the management, M.P. Tiwari was relieved from his duties as Electrician from BTPS and joined the NTPC on the post of Operator. On the recommendation of the Departmental Promotion Committee (DPC), he was appointed Foreman Grade-III in the pay scale of Rs.425-700, with effect from 01.07.1977 with a probation period of two years. He was designated as Forman Grade-III (Temporary). *Vide* agreement dated 12.04.1978; the management of BTPS was transferred / handed over to NTPC. In a pending Industrial Dispute, a settlement was arrived at and the workmen (employees) were absorbed in NTPC. M.P. Tiwari was offered regular employment on the post of Foreman Grade-III *vide* letter dated 20/21.11.1978, which was accepted by M.P. Tiwari *vide* his letter dated 16.04.1979. In that sense, M.P. Tiwari became a regular employee of the NTPC on the post of Foreman Grade-III. He was later promoted to Foreman Grade II and thereafter Foreman Grade I.

6. His case was forwarded to the DPC for consideration for promotion as Assistant Engineer. As part of the offer, his name was included in 31 names sent to the DPC for consideration. He was called for test and interview on 02/03.02.1984 for the post of Assistant Engineer, which he qualified. The DPC recommended his selection with effect from 01.07.1983. The selection process for the said post was concluded on 7/8.02.1984.



7. According to him, despite his name being in the select list as a successful candidate, he was denied promotion. Being aggrieved, he filed the aforesaid writ petition, seeking promotion as Assistant Engineer with effect from 01.07.1983.

8. The plea of the NTPC before the learned Single Judge was that, M.P. Tiwari is not entitled for promotion to the post of Assistant Engineer because he had not accepted the terms of settlement as conveyed vide letter dated 08.06.1984. On the contrary, he had modified the terms vide letter dated 18.06.1984. In other words, M.P. Tiwari had not accepted the terms of the settlement which disentitle him to seek promotion to the post of Assistant Engineer.

9. The learned Single Judge in paragraphs 7 to 12 of the impugned order dated 06.11.2013, has held that:-

“7. In my opinion, the argument urged on behalf of respondent no.3 by contending that since there was no finality to the terms and conditions of the settlement in view of the letter dated 8.6.1984 of the respondent no.3 and the response thereto of the petitioner dated 18.6.1984, is an argument without merit inasmuch as the promotion of a person takes place not because of the exchange of correspondence but because of that person being successful in the selection process for the post in question. Petitioner, as stated above, was successful for being promoted to the post of Assistant Engineer in terms of the selection process of February 1984 and therefore even if there was no settlement as is being contended by respondent no.3 that will not take away the finality of the recommendations of the DPC. Once the recommendations of the DPC are final then all the necessary consequences thereof flow including of



giving the petitioner promotion to the post of Assistant Engineer, and which promotion post has been given to various other persons in terms of the selection process of February, 1984. At best, if the settlement was not final, however that settlement only will not be final, but the same cannot mean that the recommendations of DPC are also not final. Recommendations of DPC are necessarily final, and all that I may state is that it is not even the case of respondent no.3 as per the pleadings in this Court that the recommendations of DPC are not final, more so because various other persons have been promoted to the posts of Assistant Engineers in terms of the same recommendations of the DPC.

8. The issue then arises is that has the petitioner refused appointment to the promotion post of the Assistant Engineer as argued on behalf of respondent no. 3 by refusing to join the place of posting. Even this argument is without merit because there is admittedly no promotion order issued against the petitioner asking him to join at a particular place. If the petitioner in terms of the promotion order had refused to join at a particular place and that was the pre-condition to the grant of promotion, then the respondent no.3 could have argued before me that petitioner is estopped from claiming promotion to the post of Assistant Engineer, but once no promotion order or any other order is issued against the petitioner asking him to join at a particular place then I fail to understand how failure of the petitioner to join at a particular place can be taken against the petitioner to deny him benefit of the selection which became final in terms of the DPC of February 1984.

9. So far as the issue of application of principle of 'no pay for no work is concerned', this has been clarified by the Supreme Court in the judgment of State of Kerala & Ors. Vs. E.K. Bhaskaran Pillai (2007) 6 SCC 524 wherein Supreme Court has said that principle of 'no pay for no work' is not an absolute principle and it depends on facts of each case as to what reliefs can be granted to a person. It has been held that the rule of 'no pay for no work' is not an



inflexible rule and if a person because of fault of the management is denied the benefit of promotion post it cannot be held that the person will not be entitled to benefits of the particular post. The ratio of this judgment will squarely apply because there is no fault attributable to the 10. I may also note that there is no delay and laches in filing this petition because once the recommendations of DPC became final, and documents were issued in the office of respondent no.3 itself to this effect, and filed at running pages 286-287 showing that petitioner was in fact promoted as an Assistant Engineer w.e.f 1.7.1983, I would not like to hold the petition as barred by delay and laches unless there was a specific refusal issued to the petitioner denying the benefits of the post of Assistant Engineer, and only when cause of action would have accrued to the petitioner to approach the Court. In the absence of any refusal addressed to the petitioner, that he would not be promoted to the post of Assistant Engineer in spite of his being put on the merit list panel as per the DPC of February, 1984, there was no need of the petitioner to approach the Court, albeit the petitioner will only be entitled to monetary emoluments for the promoted post for a period not more than three years prior to filing of the present writ petition.

11. The issue then arises is that what should be the relief which should be granted to the petitioner in this case. I have put to learned senior counsel for the petitioner, and who has accordingly taken instructions from the petitioner who is present in Court, that petitioner will be satisfied on his getting 1/3rd of the monetary emoluments as payable to an Assistant Engineer for 3 years prior to filing of the present writ petition. This entitlement of 1/3rd of the monetary emoluments as payable to the Assistant Engineer will of course be payable till the time the petitioner retired on 30.6.2003. Therefore, applying the ratio of E.K. Bhaskaran Pillai's case (supra) I hold that in the facts of the present case since petitioner without any fault of his has been denied the promotion post of Assistant Engineer, and at no point of time the petitioner refused to work at the post of



Assistant Engineer, petitioner will be entitled to 1/3rd of monetary emoluments payable for the post of Assistant Engineer for the period of 3 years prior to the filing of the writ petition and till the date of his retirement on 30.6.2003. 12. In view of the above, the writ petition is allowed. Petitioner will be granted 1/3rd of the monetary emoluments payable to him as if he was an Assistant Engineer for the period of 3 years prior to the filing of the writ petition and which monetary emoluments will be payable till the retirement of the petitioner on 30.6.2003. The monetary package be paid to the petitioner within a period of three months from today, and if not paid within three months, then petitioner thereafter will be entitled to interest at 7½ % per annum simple till the amount is paid. Parties are left to bear their own costs.”

(emphasis supplied)

10. The claim of M.P. Tiwari to grant promotion by limiting benefits to 1/3rd of the monetary emoluments as payable to the post of Assistant Engineer for three years prior to the date of the filing of the writ petition, is clear from paragraphs 10 & 11 of the impugned order. The learned Single Judge has noted that, M.P. Tiwari was recommended for promotion by the DPC to the post of Assistant Engineer w.e.f 01.07.1983, which was required to be implemented by the NTPC. It is on that basis the learned Single Judge has disposed of the writ petition. Hence, in these facts, the challenge by NTPC is devoid of any merit.

11. One of the submissions on behalf of M.P. Tiwari is that the learned Single Judge should not have confined the claim of monetary emoluments as he is entitled to the benefits upto the post of Deputy General Manager in terms of the relief sought in the amendment application being CM No.2195/2013, which was allowed by the learned Single Judge.



12. According to him, the writ petition was disposed of without considering his prayer. He stated that, he had filed an application being C.M. No. 8820/2014 seeking modification of the relief that, he be given the monetary benefits upto the post of Deputy General Manager on the basis of the promotions that would accrue in his favour from time to time from 22.07.1977 (i.e., the date when the Govt. of India had recognised the examination qualified by the petitioner in the Trade of Electrical Engineering as Diploma Course). In this regard, we reproduce the impugned order dated 22.08.2014, wherein, the learned Single Judge has from paragraph 5 onwards, has held as under:-

“5. Consent of the petitioner to the period of the grant of the monetary emoluments is found in para 1of the judgment dated 06.11.2013, and which reads as under

"1. Irrespective of the cause of action pleaded in the writ petition and the prayer made in the same, before me today on behalf of the petitioner what is argued and relief claimed, is the entitlement of the petitioner to stand promoted as an Assistant Engineer with the respondent no.3/employer in terms of the selection process of February 1984. Since the petitioner has retired on 30.6.2003, a higher monetary emolument package taking the petitioner as having been promoted w.e.f 1.7.1983 as an Assistant Engineer is claimed. During the course of argument it is agreed that the monetary package to the petitioner be granted from a period of three years prior to filing of the present writ petition and till the petitioner retired i.e on 30.6.2003."

6. The petitioner claims that he never gave his consent to his counsel who had appeared and argued the case on 06.11.2013, and in support of this plea a reason given is



that the petitioner is very old and slightly hard of hearing and so he did not 'understand' what his earlier counsels told him, however, I am constrained to observe that the averments now being made against the earlier counsels that no consent was taken is clearly and unfortunately a dishonest act on the part of the petitioner. In many cases, courts simply record the statement of the counsel without recording specific instructions of the litigant, but in this case, the specific instructions given by the petitioner who was present in person on 06.11.2013 were recorded while pursuing the judgment. Therefore, the endeavour of the petitioner, especially at a long time after 06.11.2013 to withdraw from a specific consent is absolutely unacceptable and smacks of malafides.

7. Learned counsel for the petitioner/applicant very vehemently sought to canvass that actually the petitioner will end up paying a huge amount to the respondent even if the writ petition is allowed, but I have totally failed to understand this argument because if petitioner's writ petition is allowed and he has been granted promotion, surely he will get the higher pay of the promotion post and it is not petitioner's case and cannot be his case that the pay scale of the higher promotion post is lower than the lower post. If however there is an issue of satisfaction of the dues of the petitioner in terms of the judgment dated 06.11.2013, ie whether the petitioner has received monetary benefits granted to him by the judgment dated 06.11.2013, the same will be an issue to be looked into an appropriate proceeding, but definitely not by this review petition.

8. Dismissed."

13. At this stage, we reproduce the prayers made by M.P. Tiwari in CM APPL. 8820/2014, in the following manner:-

*“a) allow the present application;
b) modify that part of the impugned judgment and order dated 06.11.2013 of this Hon'ble Court in W.P. (Civil) No. 6521 of 1998, whereby this Hon'ble Court did not extend*



any monetary benefit to the applicant petitioner beyond the post of Assistant Engineer and moreover granted the monetary benefits to the applicant-petitioner even to the post of Assistant Engineer only 1/3rd of the monetary benefits payable to him to the said post from 3 years prior to the filing of the said writ petition by the applicant-petitioner (i.e., the year 1995) till his superannuation on 30.6.2003 and substitute the relief that in the facts and circumstances of the present case, the applicant-petitioner would be entitled of the monetary benefits payable to him from the post of Asstt. Controller upto the post of Deputy General Manager respectively in terms of promotional benefits accrued in his favour from time to time from 22.07.1977(i.e., the date when the Govt. of India had recognized the examination qualified by the petitioner in the Trade of Electrical Engineering as Diploma Course) till his superannuation.

c) direct The R nos. 2 and 3 to clear up applicant-petitioner's entire monetary benefits payable to him from the post of Asstt. Engineer up to the post of Deputy General Manager accrued in his favour from time to time till his superannuation on 30.6.2003 in terms of promotional benefits accrued in his favour from time to time w.e.f. 01.07.1983;

d) award cost of the litigation in favour of the applicant-petitioner and against the R nos. 2 and 3

e) pass such other/further order/direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case."

(emphasis supplied)

14. Suffice to state, no prayer has been made by M.P. Tiwari seeking promotion upto the post of Deputy General Manager. In the absence of any prayer made, M.P. Tiwari could not have been given emoluments as payable on the posts upto Deputy General Manager. Promotion(s) being a pre-requisite to get emoluments, the learned Single Judge has rightly granted the



emoluments as payable to the post of Assistant Engineer only because he was recommended by DPC for promotion to said the post. There is no such recommendation to the posts upto Deputy General Manager by the DPC. Therefore, the impugned order dated 22.08.2014 passed by the learned Single Judge is justified in the facts.

15. The plea of M.P. Tiwari that, he has not consented to limiting his monetary emoluments to 1/3rd for the post of Assistant Engineer has been rightly rejected by the learned Single Judge.

16. In view of our above discussions, we find no merit in both the appeals. Accordingly, they are dismissed.

V. KAMESWAR RAO, J

MANMEET PRITAM SINGH ARORA, J

JULY 03, 2026

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