

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENVH
NEW DELHI

OA No.1147/1998

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New Delhi this the 25th day of January, 2001

Hon'ble Smt.Lakshmi Swaminathan,Vice Chairman(J)
Hon'ble Sh.Govindan S.Tampi,Member(A)

Shri Swaran Singh,
Performer,
Song and Drama Division,
Ministry of Information and
Broadcasting,Soochana Bhawan,
CGO Complex,Lodi Road, New Delhi..

..Applicant

(By Advocate Mrs Meenu Mainee)

VERSUS

Union of India : Through

1.The Secretary,
Ministry of Information and
Broadcasting,Shastri Bhawan,
New Delhi..

2.The Joint Secretary(Films),
Ministry of Information and
Broadcasting,Shastri Bhawan,
New Delhi..

3.The Director,
Song and Drama Division,
Ministry of Information and
Broadcasting, Soochana Bhawan,
CGO Complex,Lodi Road, New Delhi..

..Respondents

(By Advocate Shri K.C.D.Gangwani,learned
senior counsel with Sh.Gajinder Giri)

O R D E R (ORAL)

Hon'ble Smt.Lakshmi Swaminathan,Vice Chairman(J)

This is the second round of litigation filed by the applicant as he had filed earlier application(OA 2686/1993) which was disposed of by Tribunal's /order dated 12.7.1994(Annexure A-5). In pursuance of this order, the respondents have passed the present impugned order dated 13.2.1998..

2. We have carefully considered the grounds taken by the respondents in the impugned order. Ms

Meenu Mainee, learned counsel for the applicant does not dispute the fact that the applicant is not the senior most in the cadre of 'Performers' and also that two other persons, namely, S/Shri M.S.Thakur and Lekh Raj Sharma are senior to him. These two persons have been promoted as Actors against two posts by the Review DPC. The respondents have in short submitted that the applicant could not be considered at the relevant time because he did not come within the consideration zone. In the Additional affidavit filed by the respondents dated 9.12.1999 they have submitted that 97 vacancies including 21 of Actors occurred during the period from 1992 to December, 1994 were abolished as per the directions of the Govt. of India, Ministry of Finance. Shri K.C.D. Gangwani, learned senior counsel for the respondents has also contended that the Govt. has taken a decision that Staff Artists in Song and Drama Division is a dying cadre and hence there has been reduction in the number of posts available for consideration of eligible Artists. They have further submitted that the applicant will be considered for promotion as and when further vacancies occur provided he falls within the zone of consideration.

3. We find that in the facts and circumstances of the case action taken by the respondents cannot be termed as either arbitrary or unreasonable justifying any interference in the matter in exercise of the powers of judicial review. The impugned order dated 13.2.1998 which has been passed

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in pursuance of the earlier order passed by the Tribunal on 12.7.1994 in OA 2686/1993 does not also suffer from any legal infirmity to allow this application to quash the same.

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4. Ms. Meenu Mainee, learned counsel for the applicant has, however, submitted that from 1981, the applicant has been stagnating in the post of "Performer" for more than 20 years and as ~~(12)~~ he is not the senior most he is likely to continue in the same cadre for several more years. She has, therefore, submitted that a suitable direction may be given to the respondents to consider the applicant's case for in-situ promotion or any other relief so that he will have some career prospects. Learned senior counsel states that no such averments have been made in the pleadings although he does not dispute the fact that the applicant is stagnating in the same post for a number of years. In pursuance of the recommendations of the 5th Central Pay Commission, the Govt. of India has formulated the Assured Career Progression (ACP) Scheme.

5. Taking into account the facts and circumstances of the case, in case the applicant makes a representation in this regard within one month from the date of receipt of a copy of this order, the respondents may consider his case under the ACP Scheme, subject to his fulfilment of the terms and conditions laid down therein.

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6. In the result for the reasons given above, OA fails subject to the observations in Para 4 above. No order as to costs.

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(Govindan S. Tampi)
Member (A)

(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

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