

43

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

C.P. No. 47 of 1996 In  
O.A. No. 292 of 1994

New Delhi this the 3rd day of January, 1997

HON'BLE MR. A.V. HARIDASAN, VICE-CHAIRMAN  
HON'BLE MR. K. MUTHUKUMAR, MEMBER (A)

1. Shri Nirmal Sikdar  
S/o late Panchanan Sikar,  
R/o D-II/223, West Kidwai Nagar,  
New Delhi.
2. Shri S.Krishnan  
S/o Shri A.N. Srivasan,  
D-II/187, West Kidwai Nagar,  
New Delhi.
3. Shri M.P. Lele  
S/o Late Shri P.R. Lele,  
D.II/29, West Kidwai Nagar,  
New Delhi.
4. Shri T.R. Malakar  
S/o Shri T.K. Malakar,  
D.II/196, Kaka Nagar,  
New Delhi.

...Petitioners

By Advocate Shri Jog Singh

Versus

The Secretary,  
Shri Bhaskar Ghosh,  
Ministry of Information & Broadcasting,  
Shastri Bawan,  
New Delhi.

...Respondents

By Advocate Shri E.X. Joseph

ORDER (ORAL)

Hon'ble Mr. A.V. HARIDASAN, VICE-CHAIRMAN

This Civil Contempt Peetition arises out of the order passed in O.A. No. 292 of 1994 decided on 29.9.1995. The O.A. was disposed of with the

following directions:-

(i) We declare that the post of Director General of Doordarshan fell vacant in August, 1992, when the incumbent Shri Shashi Kant Kapoor was posted as Director General A.I.R. We further declare that the respondents ought to have filled up this vacancy under the 1991 Rules.

(ii) The respondents are empowered to consider both promotion and transfer by deputation simultaneously, when filling up the post of Director General AIR/Doordarshan.

(iii) As no such step has been taken to fill up the post of Director General, which fell vacant in August, 1992, the respondents are directed to consider the claims of the applicants for promotion to the aforesaid post and also to the post of Director General, All India Radio which is likely to fall vacant shortly in accordance with the 1991 Rules, along with the cases of others for transfer on deputation within a period of four months from the date of receipt of this order. We, however, further direct that whether the cases of others for transfer on deputation is considered or not, the respondents shall, nevertheless, consider the claims of the applicants for promotion in accordance with the above rules within the period indicated above."

2. Alleging that the respondents have exposed themselves to the proceedings under the Contempt of Courts Act and having defied with the directions contained in the order inasmuch as the directions have not been complied with, this Civil Contempt Petition has been filed. Notice was issued to Shri Bhaskar Ghosh, the then Secretary, Ministry of Information and Broadcasting. On receipt of notice, Shri Vijay Kumar Sharma, Under Secretary in the Ministry has filed reply-affidavit, in which it has been stated that as the directions

contained in the judgment/order could not be complied with within the time prescribed, an extension was sought by filing a Miscellaneous Application and that within the extended period, the directions contained in the judgment ~~was~~ <sup>have</sup> fully complied with and the Union Public Service Commission having invited the candidates including the applicants for personal talk did not recommend anybody for appointment to the post of Director General. It was sworn that the respondents have great regard for the Tribunal and have complied with the directions faithfully and that there is no occasion to initiate any action against the respondents under the Contempt of Courts Act. It has been also stated that Shri Bhasker Ghosh has already retired.

3. To see whether the directions have been faithfully complied with by the respondents at <sup>with</sup> least /in the extended period, we called upon the counsel for the respondents to get the file from the UPSC which would show that the petitioners have been considered for appointment as Director General of Doordarshan in accordance with the Recruitment Rules. We have perused the record.

4. We have heard Shri Jog Singh, the learned counsel for the petitioners and Shri E.X. Joseph, the learned counsel for the respondents.

m

46

5. It is seen that the petitioners as also those, who responded to the Notification from other departments were all considered by the DPC and the DPC after subjecting them to a personal talk did not recommend anyone for appointment as none was found suitable. Shri Jog Singh with considerable ~~vehemence~~ argued that as the petitioners who fall in the feeder category for promotion has been subjected to personal talk while there was no provision in the Recruitment Rules, the respondents have not faithfully complied with the directions contained in the order as the directions were to consider the petitioners in accordance with the Recruitment Rules. Though this argument may appear at the first blush as very persuasive, on a closer scrutiny of the Recruitment Rules and the proceedings of the DPC, it is seen that this argument does not have ~~any~~ <sup>any</sup> force. According to the Recruitment Rules the post of Director General, Doordarshan is to be filled by the method of promotion/transfer on deputation and it is provided that the departmental candidates shall be considered alongwith others. When candidates from other sources are considered for appointment to a post on a high level, it might be necessary to ascertain their suitability by knowing their aptitude and this might necessitate holding a personal talk. Therefore, we are of the considered view that subjecting the petitioners

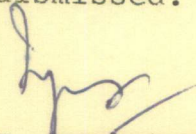


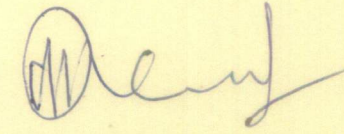
47

.5.

also to a per-sonal talk with others does not amount to violation of the directions of the Tribunal. Though it is unfortunate that the petitioners who have been holding the post of Deputy Director General for quite sometime and one of them as Director General on ad hoc basis for fairly longer period, were found unsuitable for appointment. but when a selection is made by a properly constituted body, we have no reason to sit in/ judgment over it. If the petitioners are aggrieved by their non selection, it is for them to seek appropriate relief if available in accordance with law. Finding that the respondents have substantially complied with the directions contained in the order/judgment, we find no need to further proceed with this Contempt Petition.

The Contempt Petition is, therefore, dismissed. Notice discharged.

  
(K. MUTHUKUMAR)  
MEMBER (A)

  
(A.V. HARIDASAN)  
VICE CHAIRMAN

RKS