CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA 1094/1997, with OA 1100/1997 and OA 1103/1997

New Delhi, this 17th day of July, 2000

Hon'ble Justice Shri V.Rajagopala Reddy, VC(J)
Hon'ble Smt. Shanta Shastry, Member(A)

S.S. Agyal
Programme Executive, AIR
Jalandhar .. Applicant (OA 1094/97)

(By Shri R.L.Chopra, Advocate, not present)

versus

Union of India, through
1. Secretary
Ministry of Information & Broadcasting
New Delhi
2. Director General, AIR
Parliament Street, New Delhi
3. J.K. Gupta, AIR, Jodhpur
4. A.S.Prasad, AIR, Hassan .. Respondents

(By Shri V.K.Sharma, Advocate, not present)

Smt. K.B. Desai
D-2/109, Jumbo Darshan Society
Behind Regency Restaurent, Andheri(E)
Bombay .. Applicant (OA 1100/97)

(By Shri M.M. Vashi, Advocate, not present)

versus

Union of India, through
1. Secretary
Ministry of Information & Broadcasting
New Delhi
2. Director General, AIR, New Delhi
3. Director General, Doordarshan, New Delhi 4. Director, DD, Worli, Bombay-18
5. Kum.P.vedavathi, AIR, Vijayawada
6. J.L. Raina, AIR, Rohtak
7. S.S.Hiremath, AIR, Mangalore .. Respondents

(By Shri M.I.Sethna, Advocate, not present)

B.P. Kureel
C-229, Rajaji Puram, Lucknow .. Applicant (OA 1103/97)

(By Shri A.P. Singh, Advocate, not present)

versus

Union of India, through
1. Secretary
Ministry of Information & Broadcasting
New Delhi
2. Deputy Secretary
Ministry of I&B, New Delhi
3. Director General, AIR, New Delhi .. Respondents

(By Kum. A. Chaudhary, Advocate, not pressent)

ORDER(oral)

Smt. Shanta Shastry

Neither the applicants nor their counsel are present; None either for the respondents in all the three OAs. The applicants in all the 3 OAs are similarly placed belonging to the same organisation, the facts, issues raised as well as relief sought being the same. We therefore proceed to dispose them of through a common order based on the available pleadings.

2. Applicants have challenged the impugned orders dated 18.7.94 and 22.7.94 promoting their juniors to the Junior Time Scale (JTS, for short) and reverting the applicants in turn at the same time.

3. For the sake of convenience, we are giving below the brief facts of OA No.1094/97. The applicant in this OA was initially appointed on 18.8.77 as Programme Executive through UPSC. He was promoted on ad hoc basis as Assistant Station Director with effect from 14.6.93 vide office order dated 28.6.93. Thereafter, respondents made regular promotion to the JTS vide order dated 22.7.94. Name of the applicant did not figure in this order as he was not selected. Thereafter the applicant was reverted to his regular post of Programme Executive with immediate effect and posted at AIR, Jalandhar vide order dated 18.8.94. Aggrieved by this, the applicant has approached with a prayer to promote him, being senior to R-3 and R-4 and to set aside the impugned order dated 22.7.94.

4. In the other two OAs, the applicants were promoted on ad hoc basis on 14.6.93 and were reverted on 18.7.94.

The reasons given for the non-promotion and reversion of the applicants is that their promotions were purely ad hoc, their cases were considered by the DPC for regular promotion, however they could not make the grading. Since they were not recommended for promotion, they had to be reverted to make way for the others recommended by the DPC for regular promotion.

5. The case of the applicants is that many juniors have been promoted when they happened to be senior according to the seniority list. For example in OA No.1094/97, the applicant was senior to R-3 and R-4. In OA 1100/97, the applicant was senior to R-4 to R-6 and in OA 1103/97 the applicant was senior to juniors promoted. In the seniority list of 28.12.90, the applicant in OA 1094/97 was shown senior to R-3 and R-4. Similarly in the combined eligibility list of 12.11.93 showing the seniority as on 31.7.92, the applicant in OA 1100/97 and 1103/97 were shown seniors to those who were promoted.

6. Respondents in their reply have stated that the applicants could not be empanelled due to lower grading. The DPC was held to consider regular promotion to the post of JTS of the Indian Broadcasting (Programme) Service, [IB(P)S, for short] Rules which is the lowest rung of Group A. However, on the basis of their performance as reflected in ACRs, the DPC did not recommend the names of the applicants for promotion.

7. It is the contention of the applicants that they were promoted on ad hoc basis on the basis of seniority cum fitness after proper screening of their records. Since the records were satisfactory and of requisite standard they were promoted on ad hoc basis. No adverse remarks for the relevant period were ever communicated to them. According to them, the method for promotion to JTS is seniority cum fitness and therefore respondents' action in not considering their case for regular promotion while they were considered for ad hoc promotion is not justified. It has been further stated that OAs by similarly placed officials were filed in various benches of this Tribunal at Lucknow, Patna, Ernakulam and Jodhpur etc. and they had been granted stay on their reversion and in the present cases also stay had been granted at one stage. The Jodhpur Bench had suggested that all the OAs from different benches can be decided at one bench or to place them before a larger bench. However, no action seems to have been taken till date. Of these, the present three OAs are renumbered and have come up for hearing today.

8. It is seen from the counter reply given by the respondents that the posts of Programme Executive/Field Radio Officers/EDs are the feeder posts for appointment to the JTS of IB(P)S against promotion quota. Promotion quota for this post is 50% and the remaining 50% is to be filled by direct recruitment. Promotion is to be made on the basis of the recommendations of the DPC under the chairmanship of UPSC. Since the promotion is

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from Group B to the lowest rung of Group A, the method of promotion adopted is by selection and not seniority cum fitness as per the procedure laid down for holding of DPC in para 6.4.1 of the consolidated instructions of the DoP&T. Accordingly DPC was convened. All eligible officers including the applicants in the present three OAs were considered by the DPC but the DPC did not recommend applicants' names for promotion to the JTS because they could not meet the necessary grade and were comparatively of lesser merit. It is admitted that for purpose of ad hoc promotion seniority cum fitness is the criteria but not for regular promotion where the criteria of selection is adopted because the post of JTS is a a group A post. Also as far as applicants' allegation that the post is to be filled on seniority is concerned, there is no such mention in the said rules as far as the post of JTS is concerned and therefore respondents have rightly adopted the criteria of selection as per Group A post.

Besides, in the order of ad hoc promotion given to the applicants, it was clearly stipulated that their promotion was purely on ad hoc basis for a period of 6 months or till regular incumbents become available whichever was earlier and that it will not confer any right or privilege for continuing or regular appointment in that grade. Therefore, when the candidates became available for regular promotion as per the recommendations of the DPC, the applicants had to be

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reverted and the respondents are therefore fully justified in reverting the applicants to their substantive posts.

9. We have given careful consideration to the arguments advanced by the applicants and the relevant pleadings. We are satisfied that the respondents have followed due procedure as per IB(P)S R/Rules. It is not that the applicants were not considered at all for promotion to JTS but they simply could not come up to the ~~reasonable~~ requisite standard adopted by the DPC. In selection method, the criteria is merit and there is also comparative element in assessment. Merely because their juniors are promoted, seniors cannot be promoted unless they fulfil the requisite criteria. Seniority alone cannot give any right to the applicants for regular promotion.

10. In view of the detailed discussion above, there is no merit in these three OAs. We are therefore not inclined to interfere with the orders of the respondents. In the result, all the three OAs are dismissed being devoid of merit. We do not order any costs.

(Smt. Shanta Shastry)
Member(A)

(V.Rajagopala Reddy)
Vice-Chairman(J)

/gtv/

Original judgement placed on OA 1094/97.

Attested
Vide Srinivasan
26/7/2000
C.O. Cell