

42

Central Administrative Tribunal
Principal Bench

New Delhi, dated this the 18 AUGUST, 2000

Hon'ble Mr. S.R. Adige, Vice Chairman (A)
Hon'ble Mrs. Lakshmi Swaminathan, Member (J)

O.A. No. 1392 of 1997

Shri D.P. Jatav,
Director,
Transcription & Programme Exchange Service,
All India Radio,
S/o late Shri Karam Singh,
R/o V-96/5, Arvind Nagar,
Ghonda, Delhi. .. Applicant

(By Advocate: Mrs. Meera Chhibber)

Versus

1. Union of India through
the Secretary,
Ministry of Information & Broadcasting,
Shastri Bhawan, New Delhi.
2. Director General,
All India Radio,
Akashvani Bhawan,
Parliament Street,
New Delhi.
3. Smt. S.S. Dinengdoh,
Director,
Doordarshan Kendra,
Shillong.
4. Smt. V.L. Liani,
Director,
All India Radio,
C/o D.G., All India Radio, New Delhi.
5. Shri V.L. Gavit,
Director,
All India Radio,
C/o D.G., AIR, New Delhi.
6. Shri N.S. Issac,
Director,
All India Radio,
C/o D.G., AIR, New Delhi.
7. Shri B.R. Hazarika,
Director,
All India Radio,
C/o D.G., AIR, New Delhi. .. Respondents

(By Advocate: Shri Harvir Singh proxy counsel
for Mrs. P.K. Gupta)

O.A. No. 1288 of 1997

Shri I.K. Nirala,
 S/o Shri S.R. Das,
 Retd. Station Director, AIR,
 R/o Sector 8/920, R.K. Puram,
 New Delhi-110022. .. Applicant

(By Advocate: Shri P.M. Ahlawat)

Versus

Union of India through

1. Secretary,
 Ministry of Information & Broadcasting,
 Shastri Bhawan, New Delhi.
2. Director General,
 All India Radio,
 Parliament Street,
 New Delhi-110001. .. Respondents

(By Advocate: Shri S.M. Arif)

ORDER

MR. S.R. ADIGE, V C (A)

As both these O.A.s involve common questions of law and fact, they are being disposed of by this common order.

O.A. No. 1392/97

2. Applicant impugns respondents' letter dated 18.11.96 (Annexure A-2) and seek a direction to respondents to convene a review DPC to consider him for promotion as Station Director (Rs.3000-4500), All India Radio (AIR) w.e.f. 27.9.87; as Station Director Selection Grade (Rs.3700-5000) w.e.f. 8.6.93 and to the Non Functional Selection Grade (NFSG) (Rs.4500-5700) w.e.f. the date his juniors (Private Respondents 3 to 7) (R-3 to 7) were promoted with all consequential benefits.

2

3. Admittedly applicant was senior to private respondents 3 to 7 at the level of Programme Executive. The next level is that of Assistant Director, promotion to which is done through selection on the basis of seniority-cum-merit. It is also admitted that pursuant to the grant of the benefits of C.A.T., P.B. order dated 5.2.88 in O.A. No. 663/86 M.P. Verma & Others Vs. Secretary, Ministry of I & B & Others, to applicant and all those similarly situated, the seniority list as on 1.10.85 was revised, and review DPC was convened to consider the promotion of Programme Executives to the grade of Assistant Director. As recommended by the review DPC, the date of promotion of applicant amongst others, was advanced from November, 1988 (when he was actually promoted) to 23.8.82. The date of promotion of some programme executives who happened to be junior to applicant in the revised seniority list of Programme Executives on 1.10.85 was advanced to 4.11.81 in accordance with the review DPC's recommendations which meant that they were promoted as Assistant Director w.e.f. a date earlier to the date applicant was promoted, they having better record of service as reflected in their ACRs, and thus having superseded him for promotion to the selection post of Assistant Director.

4. Subsequently, DPC was held to review the promotions of applicant and other similarly situated to the next higher grade of Station Director (OG), but the DPC did not recommend any change in the

2

promotion date of applicant, having regard to the availability of posts and applicant's position in the seniority list. The impugned order dated 18.11.96 also makes it clear that none of his juniors have been promoted to the grade of Station Director (OG) prior to him.

5. We have perused the departmental records, and are satisfied that the action taken by respondents is in order. In applicant's rejoinder he has contended that being an S.C. candidate he is entitled to the benefit of reservation in promotion which was denied to him even by the review D.P.C. We, however, note that private respondents 3 to 7 whom applicant has impleaded also belong to SC/ST community and, therefore, applicant does not acquire any superior right vis-a-vis them.

6. The O.A., therefore, warrants no interference.

O.A. No. 1288 of 1997

7. Applicant impugns respondents' letter dated 26.9.95 forwarded to him vide letter dated 8.4.97 (Annexure A-1 Colly.).

8. Respondents admit that applicant who retired from Director General, All India Radio as Dy. Director had received adverse remarks in his ACR for the year 1977 while he was working as Programme Executive, AIR, Mathura. He submitted his

representation against the adverse remarks during the stipulated period, but due to oversight no decision was communicated to applicant on his representation with the result that those adverse remarks remained in his ACR. Eventually those adverse remarks were expunged by the competent authority (D.G., AIR) and applicant was informed accordingly vide letter dated 3.5.94.

9. Meanwhile pursuant to the judgment dated 5.2.88 in M.P. Verma's case (supra), applicant's seniority in the grade of Programme Executive was advanced from Sl. No. 167 to Sl. no.90 and on the basis of this revised seniority list of Programme Executives, he and other similarly situated persons were considered for retrospective promotion to the grade of Assistant Director by duly constituted DPC convened by U.P.S.C. The D.P.C. recommended retrospective promotion of applicant as Assistant Director w.e.f. 23.8.82.

10. Upon expunction of the adverse remarks in his ACR, applicant was required to be considered afresh for promotion as Assistant Director. Respondents state that for this purpose a DPC was convened to consider promotion of applicant as Assistant Director from 1980 onwards but the DPC even after taking note of the fact that the aforesaid remarks stood expunged, on the basis of applicant's overall record did not recommend applicant's promotion as Assistant Director from any earlier date.

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11. Nothing has been shown to us on behalf of applicant to enable us to hold that respondents' actions were illegal, arbitrary, malafide or discriminatory or violative of Articles 14 and 16 of the Constitution so as to warrant judicial interference.

12. Both O.As are, therefore, dismissed. No costs.

Lakshmi Swaminathan

(Mrs. Lakshmi Swaminathan)
Member (J)

Adige

(S.R. Adige)
Vice Chairman (A)

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