

Central Administrative Tribunal
Principal Bench: New Delhi

O.A. No. 860/94

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New Delhi the 19th day of August 1999

Hon'ble Mr. Justice V. Rajagopala Reddy, VC (J)
Hon'ble Mrs. Shanta Shastray, Member (A)

Shri Ashok Maitreya,
S/o Shri Siya Ram Maitreya
R/o 10/169, Lodhi Colony,
New Delhi.

... Applicant

(By Advocate: Shri Rajiv Garg)

Versus

1. Union of India
through Secretary,
Ministry of Information & Broadcasting,
Shastri Bhawan, New Delhi

2. Director General,
Doordarshan Kendra,
Mandi House, Doordarshan Bhawan,
New Delhi.

... Respondents

(By Advocate: Shri S.M. Arif)

ORDER (Oral)

By Reddy, J.:

The applicant was appointed as Production Assistant in Doordarshan, Delhi on 25.1.82 and he joined as Production Asstt. on 9.2.82. His appointment was confirmed by an order dated 1.1.84. The next promotion post of the Production Assistant is Producer Grade-II and thereafter it is Producer Grade-I. It is submitted by the learned counsel for the applicant that the Recruitment Rules of 1979 for Staff Artists in Doordarshan have been amended in 1989 and again in 1993. As per the amendments, respondents amalgamated the grade of Production Assistant in Doordarshan with the several grades in All India Radio and the common seniority list has come to be prepared.

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2. The grievance of the applicant is, by virtue of the merger and preparation of the common seniority list the promotional avenues to the applicant have been adversely affected. However, though the merger has been effected in 1984 the applicant has not challenged the said merger or the amendments of rules 1983 and 1984 in any court of law. It is, therefore, submitted by the learned counsel for the applicant that only on coming to know that a decision was rendered by the Madras Bench of this Tribunal in OA No. 659/36 in Arunagri Vs. U.O.I and others where an identical question was raised, and favourable directions have been issued in favour of the applicants therein and the applicant filed a representation and on its rejection he moved the Tribunal. Hence the delay in filing the OA. The question as to the merger of the Production Assistant in favour of the applicant with the categories of posts of All India Radio have been considered by the Madras Bench.

3. Learned counsel for the applicant, therefore submits that he is entitled for the same relief as granted by the Madras Bench to the applicants therein. The counsel for the respondents however submitted that subsequent to the judgement of the Madras Bench the respondent issued rules to further amend the All India Radio Group "B" post Recruitment Rules of 1962 wherein the post of Producer (N&CA) Grade-II have also been added in the schedule to the 1962 rules against No.1 relating to the post of Programme Assistant. Hence the Producer Grade-II (N&CA) also stood abolished. Hence no direction could be granted as given by the Madras Bench. It is also submitted by the

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learned counsel for the respondents that the OA is barred by limitation as the grievance of the applicants arose in 1984 when the posts of Producer Grade-II have been merged with the post of All India Radio in pursuance of the amendments in 1983 and 1984.

4. Taking the second point first we have no doubt in our mind that OA is barred by limitation under Section-21 of the Administrative Tribunals Act, Admittedly, in pursuance of the All India Radio Group 'B' Posts Recruitment (Amendment) Rules 1984 together with the schedule therein the posts of Producer Grade-II have been merged with the posts of All India Radio and a common seniority list has been prepared. The applicant's grievance is that by virtue of the merger his promotional avenues have been adversely affected. Thus the cause of action for the OA arose in 1984. But the OA is filed in 1994. The only explanation given by the learned counsel for the applicant for the delay is that he came to know about the order of the Madras Bench in OA-659/88 and on coming to know of the said order which was in his favour, the applicants ~~could~~ moved this Tribunal. The explanation offered is not satisfactory. The delay caused from the date when the cause of action arises that is the date of merger, is not explained at all. In 1996 (6) SCC 267, State of Karnataka and Ors. v. S.M. Kotrayya and Ors it was clearly held that on coming to know of the relief granted by another Bench cannot be taken as ~~as~~ good reason to explain the delay. Besides, the order of the Madras Bench was passed in 1991. Two years have elapsed even thereafter before the OA was filed. It is stated by the learned counsel

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for the applicant that the representation was made on 9.10.92 to the Director General, Doordarshan after the applicants came to know of the judgment and the same was rejected in 1994. It is seen that even this representation was made about one year after the order of the Tribunal was passed. In the circumstances we find that the case suffers from latches for which no proper explanation is coming forth. It is also barred by limitation under Section-21 of the Administrative Tribunals Act. In P.K. Ramachandran vs. State of Kerala JI 1927 (8) SC 189, it was held that law of limitation harshly affects a party but it has to be applied with all its vigour when the statute is prescribed and the courts have no power to extend the period of limitation on equitable grounds.

5. Learned counsel for applicant has drawn our attention to the judgement of the Madras Bench. The only point that was considered in that case was whether the posts of Production Assistant (N&CA) and Producer Grade-II (N&CA) are included in the schedule of All India Radio Group-B posts (amendment) Recruitment Rules 1984 (or short 1984 rules). The 1984 Rules, it was contended by the respondents, did not take into their sweep the posts of Production Assistant and Producer (N&CA) Grade-II and hence the post of Producer (N&CA) Grade-II did not stand abolished, hence the Production Assistant (N&CA) is entitled to be promoted to the post of Producer (N&CA) Grade-II and not to the redesignated post of Programme Executive. The Tribunal accepted the contention and it gave a direction to the respondents to consider the case of the applicants therein for promotion for the post of Producer Grade-II (N&CA).

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But, without going into the validity of the decision, we proceed on the basis of the judgment. Unfortunately for the applicant it is not possible for us for granting such a relief in this OA. For the reasons that, subsequent to the judgment the respondents issued the notification amending the All India Radio rules Group 'B' Recruitment Rules 1962, adding to the schedule the post of Producer-Grade-II (News & Current Affairs). Thus the post of Producer Grade-II (N&CA) also stood abolished and redesignated as Programme Executive. By virtue of the 1993 rules the Production Assistant are entitled only for promotion to the post of Programme Executive as per the combined seniority list of Doordarshan and All India Radio. The basis of the decision of the Madras Bench stood eroded by 1993 rules. Thus it is not possible to hold that the applicant is entitled for promotion to the post of Producer Grade-II (N&CA).

6. The OA is, therefore fails and accordingly dismissed.

Shanta Shastray

(Mrs. Shanta Shastray)
Member (A)

V. Rajagopala Reddy

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

cc.