

(10)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

O.A.2533/89
CCP 29/91

New Delhi, This the 27th Day of May 1994

Hon'ble Mr. Justice V.S. Malimath, Chairman

Hon'ble Mr. P.T. Thiruvenkadam, Member(A)

1. Shri S K Oberoi
s/o J L Oberoi
B-30/2 M.G.Road
Adarsh Nagar
Delhi - 110033
Doordharshan Kendra
New Delhi.
2. Shri C Kannaiyan
S/o V Chandirakasan
M 22/9 Moovendar Colony
West Mambalam
Madras 600 033.
Doordharshan Kendra
Madras - 600 005.
3. Shri Jawahar Lal Shah
s/o Shri Mohanlal Shah
C/o Modern Furniture Books
Guindhi - Ahilmac
Nai Sadak, Sri Nagar
Doordharshan Kendra
Madras - 600 005.
4. Shri Ab Rashud Bhat
s/o Kh Modh Shaifi Bhat
Bhat Building No I
Gazribal - Srinagar
Doordharshan Kendra
Srinagar
5. Shri Pram Nath Kaul
s/o Shri Pram Nath Kaul
B-102, Kidwai Nagar
East, New Delhi -110023.

...Applicants

By Shri S K Oberoi, Applicant No.1 in person

Versus

1. Director General All India Radio
Parliament Street
New Delhi
2. Director General Doordharshan
Mandi House
New Delhi.

...Respondents

By Shri P H Ramachandani Senior Counsel with
Shri J C Madan

O R D E R (Oral)

Hon'ble Mr. Justice V.S.Malimath, Chairman

1. There are five petitioners in this case. It is only the first petitioner Shri S K Oberoi was present and argued the case. He is aggrieved in this case in regard to the adhoc promotion granted to Smt Kamlesh Rehman. The petitioner joined on 13.3.77 as Property Assistant on contractual basis. So far as Smt Kamlesh Rehman is concerned she was appointed as Production Assistant also on contractual basis like the petitioner. As both of them are contractual appointees they could not have aspired for promotion to the regular posts which were reserved for regular Government employees. Smt Kamlesh Rehman was however given adhoc promotion in the production line in the year 1983. The petitioner was a Property Assistant on that date and was not eligible for promotion to that post. The broader nomenclature Staff Artist included both the Property Assistant as also the Production Assistant and others.

2. An attempt was made to absorb the contractual employees falling in the broad category of Staff Artist in the Government Service. Recruitment Rules were amended for this purpose which inter alia provided for screening of contractual employees falling within the category of staff artists. Such of those who were found fit and suitable were absorbed

in regular Government Service. But for further promotion they were not merged along with their counter part in the Government Service. A ratio was prescribed for those who came from the contractual side and those who were from the inception in Government service. The Rules provide that once they got promotion for the purpose of further promotion in the Department of All India Radion they will be merged together. The promotion which was accorded to Smt Kamlesh Rehman in the year 1983 remained undisturbed for quite some time. Only steps were taken to prepare the seniority lists according to new rule. In accordance with new rules steps were taken to prepare the list of persons who were fit for promotion to the cadre of Programme Executive. The same is issued as Annexure II to DG:AIr Order No.60/91-SI(B) in file No.4(289)91-SI(B) dated 11.6.91. So far as the petitioner is concerned he has been placed at Serial No.22 wheras Smt Kamlesh Rehman was placed at Serial No.24. Thus with effect from June 1991 the petitioner gets placed above Smt Kamlesh Rehman in the category of Programme Executive. But Shri S K Oberoi the petitioner further submitted that injustice has been caused to him in the matter because after the new recruitment rules came into force the adhoc promotion earlier granted to Smt Kamlesh Rehman was not terminated and the petitioner who was senior

to her was not considered. There is no doubt some substance in this complaint. However, it is necessary to note that on the date promotion given on adhoc basis to Smt Kamlesh Rehman as Production Asst Grade II the petitioner was not eligible according to then existing provision for promotion to that post even on adhoc basis. In that way the adhoc promotion already granted to Smt Kamlesh Rehman was continued. The question for consideration is whether her continuance in that way can be regarded as an arbitrary act justifying interference. It must be borne in mind that Smt Kamlesh Rehman was rightly given adhoc promotion in preference to the petitioner as on that date the petitioner could not have been promoted. After the new rules came into force the petitioner has undoubtedly been placed above her in the promotion order. But it took certain time for administration to realise the correct position to ascertain the date he was entitled to be considered as per seniority list. Under these circumstances it cannot be said that there was arbitrariness or favouritism. We must bear in mind that the petitioner was not eligible when Smt Kamlesh Rehman was promoted. He became eligible only after the new rules came into force. Having regard to these factors, failure of the administration to terminate the adhoc appointment of Smt Kamlesh Rehman cannot be regarded as

discriminatory. Any interference at this stage is not justified. Therefore we dismiss this original application. Consequently the CCP 29/91 is also dropped. No costs.

J. S. D.

(P.T. THIRUVENGADAM)
Member (A)

(V.S. MALIMATH)
Chairman

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