

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

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PRINCIPAL BENCH
O.A. No. _____ 199
T.A. No. _____ R.A No.12/91 in
O.A 659/89

DATE OF DECISION 20/2/91

A.K.Singh Applicant (s)

T.C.Aggarwal Advocate for the Applicant (s)

Versus

Union of India, through Respondent (s)

Chief Producer, Films Division,
24 Dr.Deshmukh Road, Bombay-26 and another

Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. S.P MUKERJI, VICE CHAIRMAN

The Hon'ble Mr. G.SREEDHARAN NAIR, VICE CHAIRMAN

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. To be circulated to all Benches of the Tribunal?

JUDGEMENT

(Hon'ble Shri S.P.Mukerji, Vice Chairman)

I have gone through the Review Application and the original file carefully. In our judgment dated 17.12.90 in O.A 659/89 we could not count ^{for seniority} the applicant's service as an adhoc promotee against a direct recruitment vacancy as the various rulings of the Supreme Court including the ruling of the Constitution Bench of that Court excluded such service for seniority. The applicant was holding the post of Assistant Recordist since 25.7.79 and was promoted as Recordist with effect from 27.8.84 purely on an adhoc basis. The respondents had stated that he was promoted on an adhoc basis against a direct recruitment vacancy as there was a ban on direct recruitment ^{as} when the applicant was not even qualified for such promotion since he had not completed the required length of service in the feeder category ^{as} prescribed in the Recruitment Rules. In the Review Application the applicant has urged that he was duly selected

by the UPSC against the direct recruitment vacancy held by him with effect from 27.8.84 and that his claim is for seniority ⁱⁿ ~~on~~ the direct recruitment quota and not against promotion quota and that the respondents had misrepresented the matter of his direct recruitment by stating that he was promoted.

2. In order to reassure myself that we were not misled by the respondents, I have gone through the case file again and ^{am} ~~am~~ satisfied that it was never the contention of the applicant nor of the respondents that the applicant had been promoted in 1984 after due selection by the UPSC as a direct recruit. Para 4.2 of the OA states "that the applicant was promoted as Recordist in his turn of promotion with effect from 27th August 1984....". In para 4.3 the applicant again states that "the applicant was promoted against a post". In para 4.7 of the O.A he again states [~] that "as such applicant has a vested right on the promotional post of Recordist held by him continuously for about 5 years ...". In the rejoinder also at various places the applicant has averred that he was promoted and that "the post has not been filled by direct method". The applicant has tried to interpret the impugned order at Annexure-A2 whereby he as an Assistant Recordist was 'appointed' as Recordist on an adhoc basis, to indicate that he was appointed through the UPSC as a direct recruit. There is no reference in that order to his being selected by the UPSC. In the circumstances I see no force in the contention of the applicant that in 1984 he was appointed as a Recordist through the UPSC as a direct recruit. He was nothing more or less than an adhoc promotee holding the post of Recordist in the direct recruitment quota on an adhoc basis due to ban on direct recruitment. Such a service has been held by us on the basis of the latest ruling of the Constitution Bench of the Supreme Court to be not valid for seniority. If the applicant is aggrieved by the wisdom of our decision

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he can get it set aside by the Supreme Court through an appeal. No error apparent on the face of record has been brought out for accepting the Review Application. The new material ^{put up by him} about his being a direct recruit is only a figment of his wishful imagination. In the circumstances if Hon'ble Vice Chairman agrees with me the Review Application be rejected by circulation.

Selli/20.2.91.
(S.P.Mukerji)
Vice Chairman

Hon'ble Shri G.Sreedharan Nair,
Vice Chairman
C.A.T., Patna

I agree that there is no ground for review.
The review petition is rejected.

3.6.1991.
(G.SREEDHARAN NAIR)
Vice-Chairman