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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No.OA.1141/90

Date of decision: 07.12.1990.

Smt. T.N. Sushama Bai

.....Applicant

Vs.

Union of India through the
Secretary, Ministry of
Information & Broadcasting &
Others

.....Respondents

For the Applicant

.....Shri E.X. Joseph,
Counsel

For the Respondents

.....Shri P.P. Khurana,
Counsel

CORAM:

THE HON'BLE MR. P.K. KARTHA, VICE CHAIRMAN(J)

THE HON'BLE MR. D.K. CHAKRAVORTY, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the judgment? *Yes*
2. To be referred to the Reporters or not? *Yes*

JUDGMENT

(of the Bench delivered by Hon'ble Mr.D .K.
Chakravorty, Administrative Member)

The applicant is working in the All India Radio, News Service Division (Malayalam Unit) as News-reader/Translator Grade III. Her grievance is that she was not called for test and interview for the post of Newsreader-cum-Translator (Malayalam), Grade II for which an advertisement had been issued by the respondents on

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12.7.1989. She has sought the following reliefs:-

- (i) grant of orders quashing and striking down the provision in the advertisement issued on 12.7.1989 and the provision in the Recruitment Rules issued on 14.4.1986 laying down 35 years as the maximum age limit for direct recruitment to the post of Newsreader-cum-Translator Grade II relaxable upto 5 years in the case of AIR Staff Artists;
- (ii) grant of orders directing the respondents to revise the upper age limit to 40, relaxable upto 45 years in the case of AIR Staff Artists in terms of the instructions issued by the Government in OM No.AB/14017/12/87-Estt(RR) dated 18.3.1988 and to apply the same to direct recruitment for the same post advertised as on 12.7.1989;
- (iii) grant of orders directing the respondents to consider the application of the applicant in the context of the upper age limit of 40 years relaxable upto 45 in the case of AIR Staff Artists and to call for test and interview for consideration for recruitment to the post of Newsreader-cum-Translator(Malayalam Unit) Grade II and to select her and appoint her in the same post in case she is placed in the select panel on the basis of such test and interview; and
- (iv) grant of orders quashing and setting aside the

results of the test and interview held on May 10th, 1990 for recruitment to the post of Newsreader-cum-Translator(Malayalam Unit) Grade II.

2. The application was filed in the Tribunal on 1.6.1990. On 4.6.1990 an ad interim order was passed to the effect that no appointment on the basis of the selection finalised on 10.5.1990 should be made. The interim order has been continued thereafter till the case was finally heard at the admission stage on 14.11.1990 when we felt that the application itself could be disposed of at this stage itself.

3. The facts of the case in brief are as follows. The applicant joined the service in ^{the} All India Radio as a casual assignee in August, 1975. She was appointed as Newsreader-cum-Translator(Malayalam Unit), Grade III with effect from 1.3.1980. The pay-scale for the said post is Rs.2000-3500. She has completed 10 years of service in the same grade and is the seniormost in the same grade.

4. The next higher post in which she can be appointed is the post of Newsreader-cum-Translator Grade II in the pay-scale of Rs.3000-4500. According to the relevant recruitment rules, appointment to the post of Newsreader-cum-Translator Grade II shall be made by promotion ^{to the extent of 75%} failing which by direct recruitment and direct recruitment to the extent of 25%. The age limit

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prescribed is "between 21 and 35 years" relaxable upto 5 years in the case of AIR Staff Artists.

5. On 18.3.1988, the Department of Personnel issued an Office Memorandum revising the guidelines for framing/ amendment/relaxation of Recruitment Rules. The said OM provides, inter alia, that for the post in the scale of pay having a maximum of Rs.4500/- the upper age limit may be fixed as 40 years, relaxable for Government Servants. Pursuant to this, the Recruitment Rules for the post of Newsreader-cum-Translator Grade II for which Rs.4500/- is the maximum in the scale of pay was not revised suitably so as to conform to the guidelines as regards the upper age limit. The applicant is of 42 years of age and she would have been eligible to appear for test and interview, had the Recruitment Rules been amended/promptly. The respondents have not done this.

6. On 12.7.1989, i.e., after the Department of Personnel had issued their guidelines, the respondents issued an advertisement for the post of Newsreader-cum-Translator (Malayalam) Grade II wherein the age limit "between 21 and 35 years" was fixed. The applicant made several representations to the respondents but she was not called for the test and interview held on 10.5.1990. There is only one post of Newsreader-cum-Translator (Malayalam Unit) Grade II and no vacancy is likely to

arise for many years. In view of this, she feels aggrieved by denial of an opportunity to her to appear in the test and interview and prove her worth.

7. Respondents have stated in their counter-affidavit that she was over-aged and that the instructions issued by the Department of Personnel in their OM dated 18.3.1988 are only in the nature of guidelines, implying thereby that they are not bound to amend the Recruitment Rules as per the said guidelines.

8. We have gone through the records of the case and have heard the learned counsel of both parties. The applicant has relied upon numerous authorities wherein the Supreme Court has held that every administrative or executive action should be fair, just and reasonable and not arbitrary*. We have considered the legal position learned counsel set out in the cases relied upon by the applicant. There is some force in the contention of the respondents that the guidelines issued by the Department of Personnel on 18.3.1988 for the amendment of Recruitment Rules are directory and not mandatory. However, the Ministries/ Departments are expected to follow these guidelines and take appropriate action. The impugned advertisement for

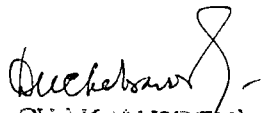
* Cases relied upon by the learned counsel of the applicant

(1) E.P. Royappa Vs. State of Tamil Nadu, 1974 (4) SCC 3;
(2) Ramana Dayaram Shetty Vs. International Airport Authority of India, 1979 (3) SCC 489; (3) Kasturi Lal Lakshmi Reddy Vs. State of J&K, 1980 (4) SCC 3; and
(4) Meneka Gandhi Vs. Union of India, 1978 (1) SCC 248.

for filling up the post of Newsreader-cum-Translator Grade II was issued after the lapse of a period of one year from the date of issue of the guidelines by the Department of Personnel. As there is only one post of Newsreader-cum-Translator (Malayalam), it will not be fair and just to deny an opportunity to the applicant to appear for the test and interview merely on the ground that she was over-aged under the Recruitment Rules. Had the respondents amended the rules in accordance with the guidelines, the applicant would also have been called for the test/interview.

9. In the facts and circumstances of the case, we direct the respondents to consider the application of the applicant in the context of the upper age limit of 40 years relaxable upto 45^{years} in the case of AIR Staff Artists and call her for test and interview, pending formal amendment of the Recruitment Rules in this regard. In case she qualifies in the test and interview, she should be appointed in the post of Newsreader-cum-Translator(Malayalam Unit) Grade II. The respondents shall comply with the above directions within a period of three months from the date of receipt of this order.

The application is disposed of at the admission stage itself with the aforesaid directions. There will be no order as to costs.


(D.K. CHAKRAVORTY)
MEMBER (A)

7 December, 1990


7/12/90
(P.K. KARTHA)
VICE CHAIRMAN(J)