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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH.

O.A. NO. 1615/90

New Delhi this the 19th day of August, 1994.

Shri N.V. Krishnan, Vice Chairman(A).

Shri C.J. Roy, Member(J).

Puran Singh  
S/o Shri Dalip Singh,  
R/o Qr. No. 724, Sector II,  
R.K. Puram,  
New Delhi.

...Petitioner.

By Advocate Shri T.C. Agarwal.

Versus

Union of India:

1. Secretary,  
Ministry of Information & Broadcasting, .  
Shastri Bhavan,  
New Delhi.

2. Director,  
Central Production Centre,  
Doordarshan Asiad Village Complex,  
New Delhi.

...Respondents.

By Advocate Shri M.L. Verma.

ORDER (ORAL)

Shri N.V. Krishnan.

The applicant was appointed as Gestetner Operator in the Central Production Centre (CPC for short) by the order dated 24.2.1990, Annexure A-7, on the recommendation of the Departmental Promotion Committee on probation for a period of two years w.e.f. 24.2.1990. He filed an application seeking the following directions:

"(b) That respondent may be directed to place applicant on probation for 6 months instead 2 years as provided in the Recruitment Rules.

(c) That respondent be directed to treat applicant 'permanent' as Gestetner Operator on completion of the probationary period of six months".

2. The admitted facts are that the applicant joined

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the Doordarshan Upgrah Kendra as a Peon on 15.12.1979 and was promoted as Daftry on 8.7.1986. Sometime thereafter, the CPC of the Doordarshan was set up and he agreed to his transfer as Daftry in the CPC where he joined on 1.9.1988.

3. The post of Gestetner Operator fell vacant in the CPC and a circular was issued on 27.7/1.8.1988, Annexure A-II. The circular indicates the rules of recruitment applicable to the various posts, including the post of Gestetner Operator. The eligibility condition for the post of Gestetner Operator is that Daftry/Jamadar/Studio Guards should have three years service in the grade having proficiency in handling the Gestetner Machines. A copy of the circular was sent to all heads of Doordarshan Kendras/offices at New Delhi. They were requested to forward the names of suitable candidates who could be spared for consideration.

4. Apparently, the recruitment could not be made on the basis of that circular. A fresh circular was issued on 9.8.1988 (Annexure A-5) which indicated that several posts in the CPC, including the post of Gestetner Operator, had to be filled up on promotional quota from Group 'D' employees of Doordarshan Offices located in Delhi. It was mentioned that preference may be given to Group 'D' employees in the CPC.

5. It is in pursuance of these steps taken for recruitment, the applicant's name was recommended by a DPC and he was appointed by the Annexure A-7 order dated 24.2.1990. However, the grievance of the applicant is that as a result of the representation

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made by the class IV Association of Doordarshan Directorate General, his appointment was sought to be unsettled because they had made a demand that a combined seniority of all Group 'D' staff of the offices of Doordarshan in Delhi should be prepared from which promotion to this higher post should be made. It is on that apprehension this O.A. has been filed.

6. The respondents have filed a reply contesting the claim of the applicant. It is stated that the Class IV Association had made a representation that the promotional post in Group 'D' should be filled by employees in Doordarshan Offices located in Delhi on a common seniority basis which has been found reasonable by the respondents. It is stated that the post was filled up earlier without considering this aspect of the matter and 7 Daftries with service ranging from 4 to 10 years were available. It is further pointed out that when the applicant was promoted on 24.2.1990, he did not have the necessary qualifying service of 3 years as Daftry as he was appointed as Daftry in the CPC only on 1.9.1983. In the circumstance, the respondents contend that the applicant's case has necessarily to be reviewed and a proper recruitment has to be made considering the claims of all the Group 'D' employees of Doordarshan in Delhi.

7. We have heard the learned counsel for the parties. They have reiterated the pleadings and emphasised their respective claims.

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8. The basic ground that persons in other organisations have not been considered does not bear scrutiny. The Annexure A-II letter dated 1.8.1988 was issued by the CPC and copies were endorsed to the Head of all Doordarshan Kendras/Offices at New Delhi. The subsequent O.M. dated 9.8.1989 was issued by the Director General, Doordarshan, i.e. by the Head of the Department. It was mentioned therein that the vacancies have to be filled up from among the Group 'D' employees of Doordarshan Offices located in Delhi. The respondents have no case that this was not circulated to the other offices. What is on record is a letter issued by the respondents, (Annexure A-5) which is a copy addressed to the Director, CPC. Similar letters must have been issued to the other offices. It indicated that preference would be given to the Group 'D' employees in the CPC.

9. The second issue raised by the learned counsel for the respondents is that the applicant does not have three years service also lacks foundation. The only rule produced before us is the Annexure A-II letter dated 1.8.1988. This stipulates only three years service as Daftry, etc. It does not state that the three years service should be in the CPC itself. Obviously, in the very nature of things, such restrictions could not have been imposed for, if such a restriction was imposed, the selection could have been made only from the CPC Group 'D' staff. As both the Annexure A-2 circular and the Annexure A-5 office memo contemplate recruitment of superior staff from any offices of the Doordarshan at New

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10 Delhi, it is clear that the restriction of having worked in the CPC for three years cannot be read in the eligibility conditions. The applicant was a Daftry from 8.7.1986. He had, therefore, rendered three years service by 8.7.1989. He was, therefore, qualified to be appointed on 24.2.1990.

10. The appointment was, admittedly made on the recommendations of the DPC. It is, therefore, a regular appointment and that ~~xxx~~ appointment cannot be questioned by the respondents.

11. When the matter came up for admission, an interim direction had been issued that the status quo of the applicant as on 13.8.1990 should be maintained which is continuing till today.

12. In case the respondents wish to formulate the fresh rules, they will have application only for the future. That will not in any way affect the regular appointment of the applicant by the Annexure A-7 order.

13. In so far as the prayer that the probation should be reduced to six months instead of two years is concerned, the applicant has not produced any rule to show that the probation should be of six months only. Therefore, that prayer cannot be granted.

14. In the circumstance, we allow this application in part with a declaration that the applicant has been regularly appointed as a Gestetner Operator by Annexure A-7 dated 24.2.1990 and the question of his confirmation on the post will be considered in accordance with law after completion of two years probation from 24.2.1990.

The O.A. is disposed of as above. No costs.

(C.J. ROY)  
Member(J)

(N.V. KRISHNAN)  
Vice Chairman(A)