

Central Administrative Tribunal
Principal Bench, New Delhi.

(21)

O.A.No. 2700/90

New Delhi this the 2nd Day of May, 1995.

Hon'ble Mr. J.P. Sharma, Member(J)
Hon'ble Mr. B.K. Singh, Member(A)

Shri V.P. Vachaspati,
Superintendent Engineer,
All India Radio, Aakashvani Bhawan,
Sansad Marg,
New Delhi-1.

Applicant

(through Sh. T.C. Aggarwal, advocate)

versus

1. Union of India,
through the Secretary,
Ministry of Information & Broadcasting,
Shastri Bhawan,
New Delhi.
2. The Director General,
All India Radio,
Aakashvani Bhawan,
Sansad Marg,
New Delhi-1.
3. Union Public Service Commission,
Dholpur House,
New Delhi,
through its Chairman. Respondents

(through Sh. P.H. Ramchandani, Sr.Counsel)

ORDER(ORAL)

delivered by Hon'ble Sh. J.P. Sharma, Member(J)

The applicant while working as Superintendent Engineer of All India Radio filed the present application in December, 1990 aggrieved by the order dated 28.05.90 rejecting his representation dt. 27.01.90. The applicant also assailed the revised seniority list of Station Engineers upto 1983 circulated by memo dated 10.06.1990.

A notice was issued to the respondents who contested the application on number of grounds. The stand of the respondents is that the revised seniority list of Asstt. Station Engineers has been prepared as

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per directions issued by the Principal Bench of Central Administrative Tribunal in T.A.No.1083/85 (C.W.No.440/77) dt. 23.1.1987. Aggrieved by the said decision, the Union of India filed an S.L.P. before the Hon'ble Supreme Court which was dismissed. In view of this, the Directorate General: All India Radio issued a memorandum dated 11.02.89 circulated the proposed revised seniority list inviting objections by 10.03.1989 to the same. It is also the case of the respondents that after the revised seniority list, a review D.P.C. was held and the applicant could not make a better grade for getting promotion to the post of Station Engineer alongwith those who are promoted in March, 1980.

We heard the learned counsel for the applicant at considerable length. Though the learned counsel has given a statement at the Bar that if in the review D.P.C. the applicant and all others have been similarly reconsidered then he will have no case and will not press this original application. We have, therefore, seen the review D.P.C. conducted by the respondents after notification of the revised seniority list dt. 11.02.89. The review D.P.C. has considered all those who are considered in the year 1980 D.P.C. and the name of the applicant is at Sr. No.35 in the revised seniority list of Asstt. Station Engineers. He was also considered in the review D.P.C. in 1980-1981 and the applicant is at Serial No.23. Thus the applicant alongwith others have been considered on

the basis of revised seniority list of Asstt. Station Engineers. By the statement of the learned counsel, the application, therefore, cannot be pursued further.

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However, we have considered the application also on merit. The learned counsel for the applicant argued that the review D.P.C. has given the same grading as was given in earlier D.P.Cs. of 1980, 1980-1981. It is, therefore, contended that there was ~~unfair~~ self appraisal of the applicant and all others in order to upgrade the seniority in the rank of Station Engineers. We do not accept this contention of the learned counsel. It is for the D.P.C. to lay down its own criteria of laying down a bench mark and considered those who have attained that bench mark for promotion in a selection post. Merely because the grading of the applicant in the revised D.P.C. as well as in the earlier both D.P.Cs is the same, would not reach to the conclusion that the review D.P.C. which met in 1989 did not objectively consider the applicant alongwith others for promotion to the post of Station Engineers.

The learned counsel for the respondents pointed out that soon thereafter the Indian Broadcasting Services Rule came into force where the promotional post of Station Engineers, instead a selection post only, was to be considered on the basis of seniority-cum-fitness. The applicant got his promotion as Station Engineer in 1982 and that position still in existence and he ~~is still to be~~ ^{has been} promoted to higher grade of Superintending Engineer. In view of the above contention, we find that the applicant's

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contention by upgrading his seniority and giving him promotion as Station Engineer and subsequently as Superintending Engineer cannot be accepted.

We are also on the other aspect of the matter. The Constitutional Bench in the case of Direct Recruit Class-II Engineering officers' Association & Ors. Vs. State of Maharashtra & Ors. reported in AIR 1990(2) P.264 held that the matters which are settled should not be unsettled after long years. The same picture has arisen here. The seniority list of 1976 was subject to revision of the Tribunal judgement delivered on 23.1.1987. The revised seniority list has been prepared in 1989. There is a gap of 13 years and by this time the promotions from one promotional post to another promotional post were given to the post of Station Engineers as well as Superintending Engineers. The applicant as an ^{individual} ~~independent~~ cannot have better ^{as a class} claim because a group of ~~others~~ who have not challenged that seniority list nor the proceedings of the D.P.C., full satisfaction in service matter can hardly be an achievement when there is a long litigation for years together. Some sufferance against a group has to be accepted.

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We have seen the reliefs prayed for by the applicant for quashing the order dated 28.5.90 rejecting his representation cannot be allowed as the respondents have passed the order on the basis of the recommendations of the revised D.P.C. As regards the revision of the seniority list, the applicant was given adequate and sufficient time to file objection against

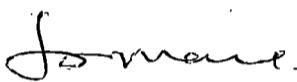
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the same. There is nothing in the grounds taken by the applicant to justify that the revised seniority list is not according to the directions issued by the Tribunal in its judgement dt. 23.1.1987. Merely referring to a fact that the revised seniority list is not according to the liking of the applicant will not make him entitled to the reliefs prayed for. Regarding relief No.(c) we find it vague.

In view of the above facts and circumstances, the applicant has not made out a case for the grant of reliefs prayed for. The application, therefore, is dismissed, leaving the parties to bear their own costs.


(B.K. Singh)

Member(A)


(J.P. Sharma)

Member(J)

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