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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

D.A. No. 699/90

New Delhi this 12th Day of July 1994

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

Shri Romesh Chander,
S/o Shri Kirpa Ram,
R/o 1196 Multi-storey, Timarpur,
Delhi-110 007.
(By Advocate : Shri T.C. Agarwal)

... Applicant

Vs.

Union of India, through

1. Director General,
Doordarshan, Mandi House,
New Delhi.

2. Director,
Doordarshan Kendra,
Akashvani, Parliament Street,
New Delhi.

... Respondents

(By Advocate: Shri ~~MULRAYANNA~~)

OR D E R (Oral)

Hon'ble Shri J.P. Sharma, Member (J)

The applicant has joined as Floor Assistant in the Office of the Director, Doordarshan, Delhi in October 1973. The grievance of the applicant is that the respondents in order to manage the work of promotional post of Floor Manager made promotions arbitrarily without any written order in that respect. He was assigned the job of Floor Manager/ Property Assistant from 2.11.1981 without any break till date. The applicant had ^{all} along had requested for the payment of the pay of the post on which he was discharging his duties. Even after given legal notice he was not paid the same and thereafter he filed the present application in April 1990 praying for the grant of the following reliefs:

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1. That the application may be admitted with costs.
2. That the respondents be directed to issue promotional orders of the applicant against the post of Floor Manager/production Assistant with effect from 2.11.1981 from which date he is holding the post with all consequential benefits, and any other appropriate direction be issued to the respondents.
3. The respondents contested this application and it is pointed out that the applicant was promoted as Production Assistant from July 1977. He is working as Floor Assistant and that he is not working as Floor Manager from 2.11.1981. The post of Floor Assistant and its duties are different from the post of Property Assistant. It is further stated that Floor Manager and Production Assistant posts are 100% by direct recruitment as per the Doordarshan Recruitment Rules, 1979 which have been revised in September 1989 and still posts continues to be filled up 100% by direct recruitment. As such, the applicant is not entitled to any grant of relief.
3. The applicant, when the case was on Board, also filed M.A. 1816/94 annexing a certain documents and praying that direction be issued to the respondents either to admit that the applicant has worked as Floor Manager from 2.11.1981 except in 1989 when he was posted as Property Assistant and Transmission Executive since 2.12.1993 or produce the Studio Log Book since 1981; attendance Register of Property Section for 1989.
4. As regards the MA 1816/94 is concerned, we do not find any merit in this document at this stage when the matter is listed for final hearing and the applicant filed the O.A. and the pleadings were completed in December, 1990. A direction cannot be issued to the respondents that they should

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admit the particular fact. The onus lies ~~on~~ the alleged person to establish that particular fact, the applicant cannot shift the onus to the other side. We do not find, therefore, any substance in this M.A. However, during the course of the hearing the learned counsel of the applicant has referred to us a decision in OA 1734/89 decided by the Principal Bench by its order dated 25.4.1994. A reference has also been made in the O.A. in Para 1 of this O.A. In that O.A. Shri Trilok Singh Rawat, petitioner prayed for the direction that the respondents to pay the pay of the post of Floor Manager for the period from 11.10.1981 to 29.6.1987 when he discharged the duties and functions of the higher post of Floor Manager. The Bench, after considering the matter partly allowed the O.A. with a direction to the respondents to pass an order under FR 49(i) as the petitioner of that case became entitled to draw the pay for the post he worked, for the period from 11.10.1983 to 29.6.1987. The applicant's counsel, therefore, prayed for the grant of the same relief. The applicant has already been given promotion to the post of Floor Manager by the Order dated 23.5.1994.

5. We have given utmost consideration with all sympathy, magnanimity and mercy desired in the circumstances in this case but we find that the relief which have been granted in OA-1734/89 has not been prayed by the applicant in the present OA, though the counsel have been the same in both the OAs. We, therefore cannot grant the relief which have been allowed to Shri Trilok Singh Rawat on the basis of the judgement of OA-1734/89. The application, of course, has become infructuous but on the concensus of pleadings placed before us we ~~feel~~ that the respondents may

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consider the case of the applicant, if the applicant makes a representation to this effect as expeditiously as possible for alleged payment of pay of the post he has allegedly worked in the past substantively and dispose of the representation in the light of the judgement of OA-1734/89. Trilok Singh Rawat. Cost on parties.

B
(B.K. Singh)
Member(A)

J.P. Sharma
(J.P. Sharma)
Member(J)

Mittal