

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI

O.A No.928/91

Date of decision: 18-2-92

with

M.P.No.233/92 and
R.A No.3/92.

S.D. Shastri

... Applicant

Versus

Union of India and Ors.

... Respondents

CORAM:

THE HON'BLE MR. JUSTICE RAM PAL SINGH, VICE-CHAIRMAN.
THE HON'BLE MR. I.P. GUPTA, MEMBER (A).

Applicant

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In person.

Mrs. Raj Kumari Chopra - Counsel for the Respondents.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not?

JUDGEMENT

(Delivered by Hon'ble Mr. I.P. Gupta,
Member (A))

In this application filed under section 19 of the Administrative Tribunals Act 1985, the applicant has been working in All India Radio as a Programme Executive (Hindi spoken word) w.e.f. 16-2-78. He was appointed to the said post on the recommendation of the U.P.S.C.

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His turn for departmental promotion to the post of Assistant Station Director has not yet come and he has not been superseded so far.

2. For direct recruitment to the post of Assistant Station Director, the applicant had applied against advertisement in June, 89. The last date for applying was 7.7.89. The posts advertised were 13. Later the posts were increased to 34 (27 General and 7 Reserved for SC/ST) before interview. The 1st^{turn} of interview took place in Oct. 89 and the 2nd turn in December 89. The applicant was interviewed. On representation by some candidates who were not called for interview, a third turn of interview took place on 5-4-1990. His first representation to Respondent No.1 (Secretary, Ministry of Personnel, Public Grievances and Pension) was dated 1-5-90. This was forwarded to U.P.S.C. by Respondent No.1. He made further representations also. They remained unanswered. The results were published in August 1990/September, 1990 and offers of appointments to the selected candidates were issued in Oct./Nov.1990. The result of 27 selected candidates was also published in the Employment News of 24/30 Nov., 1990. The result of 28th selected candidate was intimated to him vide letter of 25-1-1991. The applicant was not selected.

3. Posts of Station Director (O.G) were also

advertised on 30-10-90. The number of posts advertised was 21 (16 General and 5 Reserved for SC/ST). The applicant had applied for these posts as well and was interviewed on 18-12-90. The results were published in Employment News Dated 28/29 March, 91. The applicant was not selected. He represented on 5th April 1991. Subsequently 11 more posts of Station Director (O.G.) were advertised but by then the applicant had become age-barred.

4. The applicant has requested for the reliefs that-

- (1) Respondent No.2 (UPSC) be directed to declare the applicant as selected for the post of Assistant Station Director.
- (2) Respondent No.2 be directed to select the applicant against 16 posts (General) of Station Director.
- (3) Respondents be directed to specify year-wise vacancies.
- (4) Apart from oral test by UPSC, marks should be distributed for various factors such as essential qualification, desirable qualification.

The applicant contended that two cases in O.A. are involved- selection for the post of ~~Assistant~~ Station Director and selection for the post of Station Director (O.G.) and he has paid court fees for 2 sets of cases.

5. The applicant has alleged the following irregularities in the process of selection :--

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- (1) The official observer, Shri C.R. Ramaswamy was present in the interview board, though he was not a member of the Selection Committee.
- (2) Out of 34 posts advertised, though more than 200 candidates appeared, the select list was of 27 posts only. Another candidate was intimated later of his selection. Even then 6 vacancies remained unfilled.
- (3) The selection of even such candidates was made as did not have 7 years' requisite experience on the closing date. He has cited some names where their experiences ranged from 3 years to 4½ years in 1986, when some vacancies of 1986 were also filled.
- (4) The vacancy was not calculated yearwise to determine the eligibility of applicants on the basis of requisite - years of experience, through the general instructions of the Government are for preparation of yearwise panels by DPCs (DPC's OM 2211/3/76-Estt.(D) dated 24.12.80 as amended by OM dated 20-5-81.
- (5) Five candidates were selected as Station Director(OG), who were considered not fit for empanelment even in ASD grade.
- (6) 12 candidates were called for interview much later (5-4-90) on review of their applications.

6. The learned counsel for the respondents contended that -

- (1) The scrutiny of applications was done for 34 posts by clubbing 21 posts with original 13 posts.
- (2) The Commission had received some representations from candidates but not only Delhi based candidates as alleged. Their representations were duly considered by the Commission and it was decided to review the candidatures of all the called (for interview) and uncalled candidates for interview. After review, it was decided to call 12 more eligible candidates. The interview Board was reconvened on 5-4-1990.
- (3) The applicant was called and interviewed for the post of ASD on 26-10-89 but he was not found suitable by the Commission.

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- (4) Recruitment action for remaining 6 posts proved infructuous as other candidates were not found suitable.
- (5) The applicant was also interviewed on 18-12-90 for the post of Station Director (CG).
- (6) The Ministry's representative does not participate in the actual process of selection. His role in the interview Board is confined to appraising the Board and the candidates of the requirements of the post, service conditions, career prospects etc. and to furnish such information as may be required by the Board or the candidates.
- (7) The Commission have nothing to do with yearwise vacancy and they initiate action on requisition received from the Department.
- (8) The qualifications and experience are duly taken into consideration by the Interview Board.

7. Analysing the facts and issues involved in this case, we find that the applicant was interviewed by the U.P.S.C. both for the posts of Assistant Station Director and Station Director. He was not selected. Law is clear. One has the right to be considered for selection but no mandatory order can be passed by us directing the respondents to select him. The preparation of panel was the prerogative of the U.P.S.C. which is a Constitutional body. It has been averred by the respondents that the qualifications and experience of the applicant were duly taken into consideration. In the circumstances the relief as sought cannot be granted.

8. However, we do observe that in a selection process, the selecting agency has not only to be fair and impartial but has ^{also} to appear to be so. In this case 27 persons were selected and the result was published.

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One more name was added later and his name was not published in the Employment News. Some candidates were interviewed much later. The vacancies were clubbed, as a result, some candidates would have ^{been} become ineligible if yearwise consideration was done _{and} and the zone in yearwise consideration would have been smaller. The presence of an authority in the interview Board, who was not a member has also cast doubts in the mind of the applicant.

9. The applicant has however not requested for quashing the proceedings of the interview Board of the U.P.S.C. However, taking the totality of factors into consideration we are of the view that a Review DPC comprising only authorised Members may re-interview the applicant to determine his suitability or otherwise for the post of Assistant Station Director, more so when all his seniors are reported to have been selected (though it is against a direct recruitment quota and not a case of promotion by seniority) and the vacancies exist. In case he is selected, he may be deemed to have been included in the panel alongwith 28 persons but with no back wages. This order in this case will not form a precedent for challenging the results of interview held in Oct./Dec.89 and April, 90.

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10. With this observation, the OA is dismissed along with MPs Nos 1225/91 and 1226/91 and MP 233/92. The request for referring the case to the larger Bench had been rejected by the Hon'ble Chairman on 3-1-1992. RA No.3 of 1992 in OA 928/91 also stands disposed, since this RA was against hearing of MPs No.1225/91 and 1226/91 alongwith OA and it was explained to the petitioner on 27-1-92 that unless we started hearing the OA, we shall not be able to pass any order on the inter-locutory application.

PKK.

I.P. Gupta
(I.P. GUPTA)
MEMBER (A) 18/2/92

Ram Pal Singh
(RAM PAL SINGH)
VICE-CHAIRMAN 16/18/2/92