

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No. 194/2004

New Delhi, this the 8th day of December, 2004

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. S.A.Singh, Member (A)

1. Inderjeet
S/o Sh. Bakhtawar Singh
AE Central Production Center
Doordarshan Asiad Village, Sirifort
Delhi.
R/o H.No.404, Sector 22A
HUDA, Gurgaon – 122 015.
2. Zile Singh
S/o Sh. Ram Prasad
AE Central Production Center
Doordarshan Asiad Village, Sirifort
Delhi.
R/o 99/GH-8, Paschim Vihar
New Delhi – 87.
3. Prabhu Dutt Sharma
AE Doordarshan Kendra
Parliament Street
New Delhi – 1.
4. Neeraj Chaudhary
AE Doordarshan Directorate
Mandi House
New Delhi – 1.
5. Gurjeet Singh
S/o Bakshish Ram
AE Doordarshan Kendra
Parliament Street, New Delhi
R/o L-1/298-B, DDA Flats
LIG, Kalka Ji, New Delhi. Applicants

(By Advocate: Sh. Sachin Chauhan)

Versus

1. Union of India through
The Secretary to the Govt. of India
Ministry of Information & Broadcasting
Shastri Bhawan, New Delhi – 01.
2. Prasar Bharati
Through its Chief Executive Officer
Copernicus Marg, Mandi House
New Delhi-01.

3. UPSC
Through its Secretary
Shahjahan Road
Dholpur House
New Delhi – 110 001.

4. Union of India through
The Secretary, DOPT
Ministry of Personnel, Pension & Public Services
North Block, New Delhi – 110 001.

5. The Director General
All India Radio
Parliament Street
New Delhi. ... Respondents

**(By Advocate: Sh. B.S.Jain for Respondents 1, 2,4 and 5 and
Ms. Abhilasha Dewan for Mrs. B. Rana for UPSC).**

O R D E R(Oral)

By Mr. Justice V.S.Agarwal:

Applicants are working as Assistant Engineers. They joined respondents' department on various dates. The next promotion is to the post of JTS as per the IB (E) Rules, 1989. The grievance of the applicants is that though they fulfil the eligibility criteria but are not being promoted by calling any Departmental Promotion Committee meeting. They pray that a direction should be issued to Respondents No.1 and 3 to conduct the DPCs for promotion to the cadre of JTS.

2. The Union Public Service Commission had filed a separate reply. It has been pleaded that pursuant to the orders of this Tribunal in OA No.243/2002, the Union Public Service Commission had sent a DO letter dated 28.3.2002 to the Ministry of Information and Broadcasting stating that in view of the orders of this Tribunal, the Commission had decided to convene the DPC for filling up the posts in Prashar Bharati. The Ministry of Information and Broadcasting forwarded proposals one by one for promotion to Junior Administrative Grade and Senior

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Administrative Grade but no proposal for holding regular DPC for promotion to JTS of IB (E) grade was received. It is for the concerned department to submit to the Commission complete proposal with all papers and documents, which has not been done.

3. The contest basically was offered by Respondents 1 and 2. It is pleaded that the applicants who are Assistant Engineers, are responsible for the delay. This is because of pending cases in this Tribunal and in different High Courts in India. According to the respondents, pending regular promotion of the Assistant Engineers, they have issued orders for ad hoc promotion of 88 Assistant Engineers. Applicant Nos.1 and 2 have also been promoted on ad hoc basis.

4. We have heard the parties' counsel and have seen the relevant record. It is an admitted fact that all the applicants have been working as Assistant Engineers. So far as the Prasar Bharati Corporation is concerned, the absorption is not complete and, therefore, they continued to be the employees of the Central Government.

5. A similar question had come up for consideration before this Tribunal in OA 2067/2000 (**S.K.GARG & Ors. v. UNION OF INDIA & OTHERS**, decided on 29.10.2001. The Tribunal held:

"4. The learned senior counsel appearing on behalf of the applicants has drawn our attention to the decision rendered in this regard by the High Court of judicature at Madras on 17/1/2001 in *Union of India & Ors. v. Devaraj and Ors.* Whether or not, the Prasar Bharati (Broadcasting Corporation of India) possesses the authority to post and transfer the Engineers currently working on its rolls, was examined by the High Court, who have, after careful consideration of the matter, concluded that the authority to post and transfer the Engineers

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could be exercised by the Prasar Bharati even though the engineers to still remained servants of the Government.

5. We are given to understand that at the same time that the Central Government is yet to initiate requisite action contemplated under Section 11 of the Prasar Bharati Act. That being so, consequently with what the High Court has observed in the aforesaid judgement, we do not find it difficult to arrive at the very same conclusion, namely, that the Applicant-Engineers are still servants of the Government and accordingly, they could and should be considered for promotion to the post of Executive Engineer as hitherto in accordance with the procedure vogue in the Government.

6. When the matter came before this Tribunal, it was decided on 11.9.2001 to serve a fresh notice on UPSC. That notice has also being duly served. However, none had appeared on behalf of the UPSC yet again. Despite their absence in view of what has been discussed above, we are inclined to dispose of this OA by setting aside the OM dated 25.7.2000 and by directing the respondent No.1 to holding meetings of DPC on year-wise bases from 1997 onward in accordance with the DP and AR OMs dated 24/1/1980 and 20/5/1981 and such other rules as might be found to be applicable. The applicants will be considered in the proposed DPC meetings in accordance with the rules and regulations and if found eligible and prayed for the purpose, will be promoted with effect from the date of the accrual of vacancies. The UPSC whose absence has been noted will play their part in the above process of selection in accordance with the aforesaid rules and instructions. The respondent No.1 will forthwith initiate action to hold DPC meetings and ensure conclusion of such meetings within a period of three months from the date of receipt of a copy of this order. The applicants, subject to being found eligible and fit for the purpose, will be promoted as above within 15 days after the recommendations made by the DPC have been finalized at the level of the competent authority. We direct accordingly. The above decision squarely applies in this case and we respectfully agree with it and order accordingly.

7. The present OA is dispose of in the aforesaid terms. No costs."

6. We find ourselves in agreement with the same view.

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7. Resultantly, we allow the present application. Keeping in view that for the past 8 years no Departmental Promotion Committee meeting has been held, it is directed:

- a) that Respondents No.1 and 2 should initiate the procedure for convening the DPC for filling up the vacant posts of JTS after associating with the Union Public Service Commission.
- b) It may be done on year to year basis in accordance with the rules on the subject.
- c) if any of the applicants are found fit for promotion, necessary benefits should be accorded to such person(s) and they should be considered in accordance with law and instructions.
- d) this exercise should be completed preferably within six months from the date of receipt of a certified copy of the present order.


(S.A.Singh)
Member (A)


(V.S.Aggarwal)
Chairman

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