

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. NO.2947/2004

New Delhi this the 10th day of August, 2005

10

**HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)
HON'BLE MR. S.K. MALHOTRA, MEMBER (A)**

Bachan Lal
S/o late Shri Moti Ram,
Director Engineering
All India Radio and Doordarshan
Office of the Chief Engineer (NZ),
Shahjahan Road,
New Delhi-110 001.

.... Applicant.

(Applicant in person)

Versus

1. Union of India
through the Secretary to the Govt. of India,
Ministry of Information and Broadcasting,
Shastri Bhawan,
New Delhi-110 001.
2. Union Public Service Commission,
through its Secretary,
Dholpur House, Shahjahan Road,
New Delhi-110011.
3. Union of India
through the Secretary to the Govt. of India,
Ministry of Personnel, Public Grievance & Pension,
Department of Personnel & Training, North Block,
New Delhi-110 001.
4. Prasar Bharti,
through its Chief Executive Officer,
PTI Building Parliament Street,
New Delhi-110 001. Respondents.

(By Advocates Shri K.R. Sachdeva and Mrs. Jyoti Singh)

O R D E R (ORAL)

Hon'ble Mrs. Meera Chhibber, Member (J)

By this O.A., applicant has sought the following reliefs:

"7.1 issue appropriate directions and orders to the Respondent No.1,2&3 to convene DPC in accordance with the norms laid down by the Respondent No.3 for yearwise vacancies upto March, 2006 in association with the Respondent No.2 for the post in SAG cadre of IBES and issue the promotion orders as per panels.



7.2 Direct the Respondent No.1 to issue promotion orders by convening DPC in association with the Respondent No.2 from JAG to SAG of the IBES in consonance with the DOPT OM No. 2201/9/98 Estt (D) dated 8.9.1998, 13.10.1998, 1.2.1999, 6.10.1999 & 14.12.2000 i.e. promotion orders to be effective in accordance with the model calendar and from the date of accrual of respective vacancies;

7.3 Direct the Respondents to fix responsibility for the lapse in not adhering to the prescribed time frame, and adherence to model calendar which has been devised as a system improvement measure in terms of DOPT OM 22011/9/98-Estt (D), dated 14.12.2000; and

7.4. Allow the original application of the applicant with costs including promotion with financial and other associated benefits from the date of accrual of vacancy in SAG grade i.e. w.e.f. 1.8.2004 against which the applicant would have been promoted in the regular course in favour of the applicant;

7.5 Grant any other relief deemed fit by this Hon'ble Tribunal in the fact and circumstances of the matter".

2. It is submitted by the applicant that he is aggrieved by the inaction of the respondents in not holding DPC for the post of regular Chief Engineer i.e. Senior Administrative Grade even though 19 vacancies are available and applicant fulfils the requirement as per the RRs. It is submitted by the applicant that no DPC has been held since 1998 nor any regular promotion has been made for the last 6 years even though there are clear instructions that panel of promotion has to be made every year before 31st March. All his ACRs are very good, therefore, he is sure that as soon as DPC is held, he would be selected but he is being deprived of his promotion on account of inaction on the part of the respondents.

3. Applicant has clarified that he became eligible for promotion from JAG to SAG w.e.f. 1.12.1991 after completion of 4 years of regular service in JAG and more than 17 years of Group 'A' service. He has reliably learnt that on 7.1.2003, a DPC has been conducted for promotion from JAG to SAG but it appears that respondents have not prepared correct panel yearwise. He, therefore, requested the Secretary, Ministry of Information and Broadcasting on 3.9.2004 to kindly hold the DPC as he was due to retire in March, 2005. He even gave his request in writing through proper channel on 20.9.2004 but since respondents are not convening the DPC, he has no other option but to file the present O.A.



4. Respondents 1,2 and 4 have filed their replies wherein they have stated that a DPC for the vacancies upto the year 2002-03 has already been held. Recommendations have been approved by the competent authority on 2.12.2004 and the order for promotion has already been issued on 9.12.2004 after the recommendations of earlier DPC were completed. They have again sent a proposal for convening DPC for promotion to SAG of IB (E) S for the vacancies for the years 2003-04 to 2005-06 to UPSC on 25.2.2005 but no date has been fixed by the Commission as well. The applicant is also in the consideration zone, therefore, his case would also be considered. They have explained that earlier there was confusion about the competent authority to convene DPC for the posts in Prasar Bharati and the UPSC had refused to convene such DPC as there was no mandate for the posts of Prasar Bharti. However, this position has already been clarified and now the Commission is holding the DPCs for the posts in Prasar Bharati. They have thus stated that it was due to these reasons that DPCs could not be held earlier. They have further stated that promotion cannot be given from the date of occurrence of vacancies. However, DPC proposes yearwise panels which regulate seniority. To support his contention, he has relied on number of judgments:

(1) Union of India Vs. Majri Jungamayya and Ors. (AIR 1977 SC 757);

(2) Union of India Vs. K.K. Vadera and Ors. (1989 Supp (2) SCC 635);

(3) K. Madhvan Vs. UOI (AIR 1987 SC 2291);

(4) Baiji Nath Sharma Vs. Hon. Rajasthan High Court, Jodhpur and Anr. (1988 SCC (L&S) 1754);

(5) V.K. Jain & Ors. Vs. UOI (CAT, Principal Bench in OA 1750/2000)..

5. UPSC has also filed a short counter affidavit wherein they have stated that the Ministry of Information and Broadcasting had sent a proposal for convening DPC vide their letter dated 03.7.2003 for promotion to Senior Administrative Grade but it was also stated therein that ACR dossiers of 9 officers who were



within the zone of consideration were with the DOP&T in connection with the ACC approval for the panel earlier recommended by the DPC, therefore, those 9 ACRs would be furnished shortly. Shri Bachan Lal, applicant, is also one of the officers who is eligible for consideration but since all the ACRs were not sent by the Ministry, the Commission wrote letters dated 18.7.12003 and 19.9.2003 for sending the deficient ACRs and other documents so that the proposal could be processed further. However, since all the ACRs were not sent, UPSC finally informed the Ministry vide their letter dated 8.12.2003 that in the absence of all the ACRs, it could not be possible for the UPSC to process the case.

6. The Ministry of Information and Broadcasting forwarded a fresh DPC proposal for promotion to SAG on 23.2.2005 received in UPSC on 2.3.2005 but it was again found to be deficient in some respects. Accordingly, those deficiencies were informed to the Ministry of Information and Broadcasting on 10.3.2005. The DPC will be held as soon as those documents are completed by the aforesaid Ministry. They have thus submitted that there is no fault of UPSC in this case.

7. This counter affidavit was filed by UPSC on 25.4.2005 but when the matter was called for arguments on 5.7.2005, counsel for the Ministry wanted to take instructions from the Department with regard to the latest position. Accordingly, the matter was adjourned to a next date and it was made clear to both the counsel of Ministry of Information and Broadcasting as well as UPSC that they should try to find out the solution for the problem as simply passing the buck is not going to help the officers who are awaiting their promotion and have to knock the doors of the court for getting the DPCs convened which should be done in normal course by all the Ministries and Departments.

8. Today when the matter was called out, counsel for UPSC submitted that after the last order, officers of the Ministry of Information and Broadcasting have met the officers of UPSC and they have promised to send all the documents within two weeks from today. She further assured that as soon as complete documents are received from the Ministry, UPSC shall convene the DPC within two weeks thereafter.



9. Since the only grievance of applicant in this case was that respondents were not convening the DPC and now both Ministry as well as UPSC ^{have} assured us that DPC would be convened latest within four weeks from today, we dispose of this O.A. by giving the following directions to Respondent Nos. 1 and 4:

- (i) Respondent Nos. 1 and 4 shall send complete dossier files and all connected documents, as required by the UPSC for convening DPC for the post of SAG within two weeks positively from today so that UPSC may convene DPC within two weeks thereafter as assured by the counsel for UPSC;
- (ii) Counsel for the applicant placed for our perusal an order dated 4.5.2005 to show that even as per the said order, all the officers who were granted promotion in SAG have been given the benefit of notional promotion w.e.f. 7.4.2003. The same benefit should be given to the applicant as well. From the facts as narrated by the applicant, he had stated that he is at serial No. 35 in the seniority list and the last person promoted is upto Serial No. 19 meaning thereby, there are persons above him who still have to be promoted. Therefore, at this stage, we do not want to make any observation on this aspect. However, we are sure that respondents would apply their mind and pass appropriate orders in accordance with law, of course, keeping in view the order passed by them on 4.5.2005.

10. O.A. is disposed of in terms of the directions made in para 9 above. No order as to costs.


 (S.K. Malhotra)
 Member (A)


 18/8/05
 (Mrs. Meera Chhibber)
 Member (J)

'SRD'