

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

CP No.305 of 2013

IN

OA No.1324 of 2004

New Delhi, this the 15th day of May, 2014

HON'BLE SHRI G. GEORGE PARACKEN, MEMBER (J)
HON'BLE SHRI SHEKHAR AGARWAL, MEMBER (A)

Rudranath Sanyal,
S/o late Somenath Sanyal,
R/o 11-B, Royale, Shipra Sun City,
Indirapuram, Ghaziabad (UP).

Presently working as TV Assistant News
Correspondent, Room No.513,
Tower-B, Doordarshan Bhawan,
Mandi House, Copernicus Marg,
New Delhi-110001.

....petitioner

(By Advocate : Shri Kailash Basudav, learned senior counsel
with Shri J.K. Singh)

versus

Shri U.K. Verma, Secretary,
Ministry of Information & Broadcasting,
Govt. of India, Shahstri Bhawan,
New Delhi-110001.

....Respondent

(By Advocate: Shri D. S. Mehandru)

ORDER (ORAL)

SHRI G. GEORGE PARACKEN, MEMBER (J) :

This Contempt Petition has been filed by the petitioner alleging non-compliance of the Order of this Tribunal dated 28.4.2008 in OA No.1324/2004. Being a short Order, the same is reproduced in full as under:-

"Heard the counsel.

2. As rules by the Apex Court in Food Corporation of India vs. Purushottam Das Bansal 2008 (2) SCALE 205 that despite a provision of Assured Career Progression Scheme, promotional avenues in the service jurisprudence are necessarily to be bestowed upon a Government servant.

3. In the light of above, applicant, who is a TV Assistant News Correspondent, seeks encadrement for grant of promotion, which is not permissible in law, as in policy decision creation of posts is prerogative of the Government, yet keeping in light the dicta of the Apex Court (supra), respondents are directed to consider the claim of the applicant for creation of promotional avenues to remove any heart burning within the cadre. This shall be done, on a thorough consideration, by passing a speaking order within a period of three months from the date of receipt of a copy of this order.
4. In view of above, OA stands disposed of. No costs."

2. As the aforesaid directions of this Tribunal have not been complied with, the petitioner has filed Contempt Petition No.309 of 2008 and the same was disposed of vide Order dated 15.1.2009. Being a short Order, the same is reproduced in full as under:-

"Heard the counsel on both sides.

2. MA as well as CP are disposed of with a direction to the respondents to take a final decision as to compliance our directions in true letter and spirit may be in consultation with the appropriate authorities within a period of three months from today. If directions are not complied with, liberty is granted to the applicant to revive CP which is accordingly disposed of. Notices are discharged."

3. Thereafter respondents in purported compliance of the aforesaid directions passed Office Memorandum dated 12.9.2008 which reads as under:-

"NO 515/44/2004-BA(E)
GOVERNMENT OF INDIA
MINISTRY OF INFORMATION & BROADCASTING

New Delhi, dated the 12th September, 2008

OFFICE MEMORANDUM

Subject: O.A.No. 1324/2004 filed by Shri

Rudranath Sanyal, TV Assistant
News Correspondent in CAT, PB,
New Delhi.

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Shri Rudranath Sanyal, TV Assistant News Correspondent, DG" News Delhi has filed an O.A. No.1324/2004 v/s UOI before CAT, Principal Bench, New Delhi seeking the following relief:-

- (i) Direct the Respondents to encadre the posts of TV ANC and another analogous posts in a specific cadre and further grant them all the benefits of the same with retrospective effect.
- (ii) Direct the Respondents to declare the feeder line promotion of the post of TV News Correspondents and TV Assistant News Correspondents and grant them the reliefs as may be permissible under the said Rules with all other consequential service benefits from the date they became actually eligible.

2. The Hon'ble Court has disposed of the O.A. on 28.4.2008 with the following directions to the Respondents(UOI):

"....Applicant, who is a TV assistant News Correspondent, seeks encadrement for grant of promotion, which is not permissible in law, as in policy decision creation of posts is the prerogative of the Government. Yet keeping in light the dicta of the Apex Court (Supra) Food Corporation of India vs. Purushottam Das Basal 2008(2) SCALE 205, respondents to consider the claim of the Applicant for creation of promotional avenues to remove any heart burning within the cadre. This shall be done, on a thorough consideration by passing a speaking order within a period of three months from the date of receipt of a copy of the Order."

3. In compliance of the directions dated the 28th April, 2008 to the Respondents (received in the office on 13th June 2008) in O.A.No.1324/2004 filed by Shri Rudranath Sanyal, TV Assistant News Correspondent, the claim for creation of promotional avenues that is to encadre the post of TV ANC and other analogous posts in a specific

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cadre declare the feeder line promotions of the posts of TV News Correspondents and TV Assistant News Correspondents has been considered. The post of the TV Assistant News Correspondent is one of the isolated posts in Doordarshan having no promotional avenues. The incumbents were initially recruited to these posts on contract basis and later the services of the applicant and other persons were regularized by the order dated 27.8.1998 of the Govt. of India and they were declared thereby as Govt. servants. TV Assistants News Correspondents is a distinct category created to assist the News Editor/Assistant News Editor and it cannot be equated to or compared with other Group "A" services like Indian Information Services (IIS) or Indian Broadcasting (Programme) Services (IB(P)S. Since he was earlier under contract, hence, he was not entitled to get any benefits under any Scheme and the applicant was aware of the same at the time of his initial contractual appointment. Still, keeping in view the stagnation in the post two financial upgradation under the ACP Scheme have been approved. Further, it is pointed out that the Government has since accepted with modification the recommendations of the Sixth Central Pay Commission in which three upgradations under ACP Scheme have been introduced on completion of 10, 20 and 30 years of regular service. The earlier benefit given to the applicant will be further reviewed in the light of the recommendations of the Sixth Central Pay Commission. As such adequate upgradation has already been provided for and no further action is contemplated for creating promotional avenues."

4. Further vide Order dated 17.7.2012 passed in CP No.754/2012 in OA No.1324/2004, this Tribunal was of the view that respondents have not committed any contempt of court but we observed that since they are taking necessary steps in compliance with the aforesaid directions, they should periodically review the case to ensure full compliance of the Order. The relevant part of the said Order reads as under:-


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“2. However, from the reply filed by the respondents, it is seen that they are taking positive steps in the matter and they have referred the matter to the UPSC as a requirement in cases of creation of posts. The UPSC is not a party in the Original Application and, therefore, no direction can be issued to them. Being a statutory authority, the respondents have also no control over it. However, the learned counsel for the Respondents Shri D.S. Mehandru on instructions from Ms. Jayanthi, Director who is present in the Court has submitted that four months more time is required to comply with the direction of this Tribunal. She has also submitted that if the UPSC's concurrence is received within the aforesaid period, the matter will have to be referred to the Ministry of Finance for creation of these posts and to the Ministry of Law for drafting/framing/notifying of the Recruitment Rules.

3. In our considered view, the Respondents have not committed any contempt of court in this matter as alleged by the petitioner. Therefore, this Contempt Petition does not lie and is accordingly dropped and the notice issued to the alleged contemnor is discharged. However, we observe that though the Respondents are taking necessary steps in comply with the aforesaid directions of this Tribunal, they should periodically review the case to ensure full compliance of the order, at the earliest.”

5. Now they have also issued Notification dated 24.3.2014 notifying the Rules called as 'Prasar Bharati (Broadcasting Corporation of India) TV News Correspondent Recruitment Rules 2014. In the said notification, they have also notified the Recruitment Rules for the posts of Principal correspondent, Special News Correspondent and Television News Correspondent.

6. Learned senior counsel for the petitioner has submitted that the Hon'ble High Court of Andhra Pradesh in Writ Petition Nos.5471,5721 and 14673 of 2001 vide its Order dated 30.3.2014 and learned Lucknow Bench of this Tribunal in OA No.743/1994 in the case of **A.P. Diwan & Ors. vs. Union of India** decided on 14.2.2011 had earlier considered



the similar issue and decided the same in favour of the petitioner/applicant therein.

7. In the above facts and circumstances of the case, we reiterate our earlier view that there is no contempt of court committed by the respondent in this case as the direction to the respondents was to consider the claim of the petitioner for creation of promotional avenues to remove any heartburning within the cadre. It is settled position that creation of promotional post is the sole prerogative of the Government. However, if the applicant has any legitimate grievance for not getting the promotion in time, he has to make out a case on merit as to how he is entitled for such promotion. Since this Tribunal has not considered this issue on merits vide its Order dated 28.4.2008, through this Contempt Petition it is not appropriate for us to give any verdict as to whether the petitioner is entitled to seek creation of any promotional post.

8. In view of the above position, this Contempt Petition is closed. However, it goes without saying that the petitioner will have liberty to re-agitate his entire issue through appropriate original proceedings, if so advised, in accordance with law.



(SHEKHAR AGARWAL)
MEMBER (A)

/ravi/



(G. GEORGE PARACKEN)
MEMBER (J)