

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.768/93

Hon'ble Shri T.N.Bhat, Member(J)
Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this 15th day of October, 1996

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Shri Mahendra Nath Maharishi
s/o Late Shri T.N.Maharishi
r/o 43 - Hastings Square
Gole Market
NEW DELHI

... Applicant

(By Shri S.K.Bisaria, Advocate)

Vs.

1. Union of India through
Secretary
Ministry of Information and Broadcasting
Shastri Bhavan
NEW DELHI.

2. The Director General
Doordarshan
Mandi House
Doordarshan Bhavan
NEW DELHI.

... Respondents

(By Shri M.K.Gupta, Advocate)

ORDER

Hon'ble Shri R.K.Ahooja, Member(A)

The applicant was initially appointed as a Producer Grade-II (News and Current Affairs) on contract service vide letter dated 15.11.1978. Vide letter dated 24.11.1986, the respondents declared the applicant and other Staff Artists working on contract basis as Government employees. He is aggrieved that though 15 years have passed since his initial appointment, and though he has completed the requisite qualifying service, he has not been considered for promotion to Producer

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Grade-I (News and Current Affairs) even though vacancies were available. The respondents, in their reply, state that the applicant has no cause of action as he has already been promoted as Assistant Station Director under the Indian Broadcasting Programme (Service) as per IBP(S) Rules, 1990 applicable to him. They submit that the applicant had opted for the IBP(S) which was notified on 5.11.1990 and his option being final, the same cannot be reversed. It is also their contention that there are no longer any posts of Producer Grade-I or Producer Grade-II (News and Current Affairs). The applicant working as Producer Grade-II in the scale of Rs.2000-3500 is to be considered for promotion to Junior Time Scale of IBP(S) which is Rs.2200-4000. This promotion has already been granted to him vide order dated 09.06.1993.

2. We have heard the counsel on either side and gone through the pleadings on record. Shri S.K. Bisaria, learned counsel for the applicant submits that the Rules for promotion from Producer Grade-II to Grade-I may be seen in Doordarshan Manual, Vol.III, Book of Appendices, published in January, 1987. Page 131 of this Manual shows that as per the Recruitment Rules for appointment to the post of Producer Grade-II(News and Current Affairs), the same is to be done 50% by direct recruitment and 50% by promotion on the basis of seniority-cum-merit. Page 130, similarly describes Recruitment Rules

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for the post of Producer Grade-I (News and Current Affairs) and the method of recruitment stated therein is 100% by promotion on the basis of seniority-cum-merit. The promotion is to be made from amongst the Producers Grade-II (News and Current Affairs) with three years service in that Grade. Learned counsel for the applicant contended that this Manual is self-sufficient and self-contained and there being ~~describes~~ Recruitment Rules both for the post of Producer Grade-II and Grade-I (News and Current Affairs), and the vacant posts in Grade-I have to be filled in by the method and mode prescribed in the Recruitment Rules. He refuted the argument advanced by the respondents that there was no separate post of Producer (News and Current Affairs) and invited our attention to Pages 136 and 137 of the aforesaid Manual wherein, Recruitment Rules are given for the post of Producer Grade-I and Producer Grade-II of the general category. This in the opinion of the learned counsel clearly establishes that there are two different categories of Producers, one the 'General' and the other the 'News and Current Affairs'. There being separate Recruitment Rules for the two categories, the Producer Grade-II in the general category could not be intermixed with those in the News and Current Affairs category. The applicant thus had a right to be considered for promotion in his own channel exclusive of the Producers Grade-II in the general category. Shri S.K. Bisaria also cited the Judgment of the Madras Bench of this Tribunal in OA No. 659/88.

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Shri Arunagiri & Another Vs. Union of India & Others,
wherein it was declared that the grades of Production Assistants (News and Current Affairs) and Producer Grade-II (News and Current Affairs) are not covered by the All India Radio (Group 'B' posts) Recruitment (Amendment) Rules, 1984 and the schedule thereunder. The learned counsel for the applicant vehemently argued that it was only vide notification dated 31.12.1993, ^{that} ~~namely~~, the All India Radio (Group 'B' Posts) Recruitment (Amendment) Rules, ^{of} 1982 were amended to include in the category of Producer Grade-II, Producer (News and Current Affairs) also.

This Amendment and Rules could not have retrospective effect and were thus not applicable to the case of the applicant. It was also submitted on behalf of the applicant that he had given his option for absorption in the IBP(S) under pretest and without prejudice to his claim of promotion as Producer Grade-I (News and Current Affairs) with retrospective effect.

3. We have given careful consideration to the above mentioned arguments but are unable to agree with the learned counsel for the applicant. The Doordarshan Manual, Volume-III, a Book of Appendices, which contains the Rules for promotion to Producer Grade-II and I of the News and Current Affairs category are part of the Recruitment Rules 1979 for Artist Staff of Doordarshan. The applicant was initially ^{recruited} ~~appointed~~ on contract basis in 1978, as a Staff Artist and appointed as Producer Grade-II.

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However, in 1982, he became a permanent Government employee. Thereafter, the All India Radio (Group 'B' Posts) Recruitment (Amendment) Rules, 1984 dated 23.10.1984 were promulgated relevant portion of which have been extracted at Page-12 of the Original Application. In the ~~order~~ of the Madras Bench (Supra) therein, category 6 and 5 in the schedule thereto are Producer Grade-II and Producer Grade-I respectively.

4. We do not agree with the interpretation of the learned counsel for the applicant that as 1992 Amendment Rules separately mentioned Producer (General Programme) and Producer (News and Current Affairs), it would indicate that Producer Grade-II mentioned in the 1984 Rules did **not** mention Producer (News and Current Affairs). The 1993 Amendment is more comprehensive and describes not only Producer (News and Current Affairs) but also categories such as Producers (Sports), (Drama), (Music) and (Dance) etc. It is difficult therefore, to accept that the category 'Producer Grade-II' in 1984 Rules related only to Producer (General Programme). When in the face of so many ^{sub-}categories only ^{one} category is mentioned, it must be assumed that the reference is to all the sub categories.

5. In so far as reliance on the Judgment of the Tribunal in OA No.659/88 is concerned, that case related to the promotion of Production Assistants to Producer Grade-II under the 1979 Staff Artists

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Rules. Thus the ratio of that cannot be applied to the present claim of promotion to Producer Grade-I also.

6. We agree with the learned counsel for the respondents that since applicant has become a member of the Indian Broadcasting Programme (Service) and has been promoted also, he has to be governed by the rules of that Service. The relief sought for in the O.A. is that the applicant's name should be considered for Producer Grade-I from the date when the applicant became eligible for such promotion. No date has been mentioned when the right of such consideration had accrued. The application was filed only in 1993. The relief sought for cannot be granted on a vague claim. More so, it is not possible to determine the question of limitation and latches rules ^{unless} promotion is claimed from a specific date. The applicant has already become a member of the IBP(S) from 1990, and according to the respondents, he has obtained his next promotion also in 1993. Hence, it is not possible in any case to consider the position prior to 1990.

7. In the light of the above discussion, we dismiss the application. There shall be no order as to costs.

R. K. Ahuja
(R.K. AHUJA)
MEMBER(A)

/rao/

T. N. Bhat
15.10.1996
(T.N. BHAT)
MEMBER(J)