

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Review Application No. 180/00067/2017 in
Original Application No. 657 of 2005

Wednesday, this the 8th day of September, 2021

CORAM:

Hon'ble Mr. P. Madhavan, Judicial Member
Hon'ble Mr. K.V. Eapen, Administrative Member

1. T.K. Manojan, S/o. T. Karunakaran, aged 55 years, Programme Executive, All India Radio, Kochi, residing at Permanently at Ravindramandiram Njarakal, Perinad PO, Kollam District – 691 601.
2. K.V. Sarathchandran, S/o. K.V. Narayanan, aged 51 years, Transmission Executive, All India Radio, Kannur, residing at C3, AIR quarters, Thrikkakkara PO, Kochi, now residing at Saradam, Ramaram, Neeleswaram PO, Kasargod – 671 314.
3. Udayakumar V., S/o. T.R.V. Nair, aged 53 years, Programme Executive, All India Radio, Thrissur, residing at D3, AIR Staff Quarters, Ramavarmapuram PO, Thrissur – 680 631, now residing at Pranavam, Karunya Nagar, House No. 41, Pulinchodu, R.V. Puram PO, Thrissur – 680 631.
4. C. Krishnakumar, S/o. T.R.V. Nair, aged 51 years, Transmission Executive, All India Radio, Calicut, residing at AIII, Neelambari, HI Lite Royal Crest Apartments, Chulliode Road, Kottooli PO – 673 016.
5. M.V. Sasikumar, S/o. M.B. Menon, aged 49 years, Transmission Executive, All India Radio, Trivandrum, residing at Geethanjali, TC 13/651, Kunnukuzhi, Trivandrum – 37.
6. R. Unnikrishnan, S/o. K. Radhakrishnan Nair, aged 49 years, Transmission Executive, All India Radio, Calicut, residing at Sravanam Rose Gradens, PVS Partk, Kuthiravattrom, Calicut-16.
7. K.V. Sudha, D/o. K.V. Vasu, aged 58 years, Transmission Executive, All India Radio, Thrissur, residingat Njattuvetti House, Ponjanam PO, Kattur PO, Thrissur.

8. K.S. Pardhan, S/o. S. Kuttappan Nair, aged 52 years, Transmission Executive, All India Radio, Trivandrum residing at Attoor Veedu, Pnganadu, Kilimanoor PO, Trivandrum. Review Applicants

(By Advocate : Mr. M.R. Hariraj)

V e r s u s

1. K.S. Rajasedharan, Production Assistant
Doordarshan Kendra, Trivandrum
residing at RC 9/783, V.J. Lane
Sasthamangalam,
Trivandrum-695 010
2. M.N. Unni, Production Assistant (Retired),
Doordarshan Kendra, Trivandrum,
residing at K 7/17, Drisya JP Lane,
Kudappanakkunnu,
Trivandrum -695 043.
3. D. Rajan, Production Assistant
Doordarshan Kendra, Trivandrum
residing at Udayam, KP5.1002
Kudappanakkunnu PO, VP Thambi Road,
Trivandrum -695 043
4. K. Sreekumar,
Doordarshan Kendra, Trivandrum
residing at Kakkad, T.C. No. 14/231(1)
Silver Hill, Anayara PO
Trivandrum -29.
5. E. Sethumadhavan, Production Assistant
Doordarshan Kendra, Trivandrum
residing at KP V /253-D
MLA road, Kudappanakkunnu
Trivandrum-43.
6. G. Chandran, Production Assistant (Retired)
Doordarshan Kendra, Trivandrum
residing at Soura Kulathoor PO
Trivandrum-695 583
7. G.R. Kannan, Production Assistant
Doordarshan Kendra, Trivandrum
residing at 110, AKG Nagar,
Peroorkkada PO,
Trivandrum-5.

8. R. Rajendran Pillai, Production Assistant
Doordarshan Kendra, Trivandrum
residing at D8, Doordarshan Quarters,
Trivandrum-43.
9. B.S. Mini, Production Assistant
Doordarshan Kendra, Trivandrum
residing at Nirmalyam,
Pandit Lane, Survey School Road,
Peroorkada, Trivandrum-43.
10. C.R. Harikumar, Production Assistant
Doordarshan Kendra, Trivandrum
residing at Thirumuttom,
Kudappanakkunnu PO
Trivandrum-43.
11. P.J. Radhakrishnan, Production Assistant (Retired)
Doordarshan Kendra, Trivandrum
residing at Paradyil, Manappally PO
Thazhava, Karunagapally Kollam.
12. S. Rajaram, Production Assistant
Doordarshan Kendra, Trivandrum
residing at Souparnika, KP 41
JP Lane, Kudappanakkunnu PO, Trivandrum-43.
13. Renjith Ravi, Production Assistant
Doordarshan Kendra, Trivandrum
residing at RC 14/1738
Ravi Sree, Vazhuthacaud,
Trivandrum-14.
14. M.R. Sheeba, Production Assistant
Doordarshan Kendra, Trivandrum
residing at Moothaseril House,
Peringasserry PO
Thodupuzha (via) Idukki.
15. Director, Doordarshan Kendra, Kudappanakkunnu,
Trivandrum-43.
16. Director General, Doordarshan, Prasar Bharathi,
Doordarshan Bhavan, Copernicus Marg,
New Delhi-110 001.
17. Director General, All India Radio, Prasar Bharathi,
Parliament Street, New Delhi-110 001

18. Chief Executive Officer, Prasar Bharathi Corporation
Doordarshan Bhavan, New Delhi-110 001

19. Departmental Promotion Committee to the
post of Programme Executive,
represented by its Chairman,
Akashavani Bhavan, Parliament Street,
New Delhi-110 001.

20. Union of India rep. by the Secretary
Ministry of Information & Broadcasting,
Shastri Bhavan, New Delhi. **Respondents**

[By Advocates : Mr. R.S. Sarat (R1, 3, 4, 5, 9, 12, 13 & 14) – Not present & Mr. N. Anilkumar, SCGSC (R15-20)]

This application having been heard on 2nd March, 2021 the Tribunal on 08.09.2021 delivered the following :

ORDER

Per: P. Madhavan, Judicial Member -

This is an RA filed by the third parties who are affected by the order of this Tribunal in OA No. 657/2005 dated 13.3.2008. The RA was heard by this Bench earlier and the RA was allowed as per order of this Tribunal dated 24.1.2019. Aggrieved by the said order, the respondents in RA filed OP (CAT) No. 182 of 2019 before the Hon'ble High Court of Kerala and the Hon'ble High Court had set aside the order passed by the Tribunal in this RA and directed this Tribunal to consider the RA afresh and pass a speaking order. Both sides appeared and we had heard this RA in detail.

2. OA No. 657 of 2005 was filed by the Production Assistants working under respondent No. 1. According to the applicants, respondent No. 1 had prepared an all India eligibility list of erstwhile Staff Artists including

Production Assistants as Annexure A5 (in the OA). The said list contained the list of all categories of erstwhile Staff Artists working in All India Radio and Doordarshan as on 1.1.2001. The next promotion to the applicants was to the post of Programme Executives (PEX). The Recruitment Rules governing promotions is produced as Annexure A6. As per Annexure A6, promotion to the post of Programme Executive from the two lists of regular Programme cadre and cadre of Staff Artists will be on quota basis 1:1. The applicants who came as Staff Artists (Production Assistants later) are entitled to be included in the second list of the schedule in Recruitment Rules of the year 1984. Preparation of two lists as per Recruitment Rules is necessary for promotion. On 13.7.2003, the All India Radio NET published a list of persons as Annexure A9 and it was found that applicants' name were not included in it. The removal of the applicants' name was done without notice and in an arbitrary manner. The applicants are denied the eligible promotion due to them. Hence, the OA filed seeking following reliefs:

“1 Call for the records leading to the issue of Annexure A-9 and set aside the same to the extent applicants name are not included in it.

2 Declare that the applicants are entitled to be included in Annexure A-9 eligibility list for purpose of promotion to the post of Programme Executive as per Annexure A-6 recruitment rule and direct the respondents to take action accordingly.

3 Declare that the exclusion of the applicants from the feeder category for promotion to the category of PEX is illegal and arbitrary.

4 Direct the respondents to strictly follow the recruitment rule at Annexure A-6 including the ratio prescribed in the matter of promotion to the posts of PEX

5 Direct the respondents to consider the grievances of the applicants who are Production Assistants and who are facing acute stagnation by creation of appropriate promotional avenues.

6 Any other further relief or order as this Hon'ble Tribunal may deem fit and proper to meet the ends of justice.

7 Award the cost of these proceedings”.

3. The respondents entered appearance and filed their reply. After hearing both sides, this Tribunal has allowed the OA and issued a direction as follows:

“7 For the reasons stated above, we have no hesitation in allowing the OA. The OA is allowed. The respondent No.3 is directed to finalise the seniority list of Production Assistants recruited by Doordarshan after February 1985 and also consider such production assistants for promotion as Programme Executive in accordance with the recruitment rule at A-6 within a period of three months from the date of receipt of copy of this order.”

4. The applicants in this RA were not parties to the OA. They belong to the cadre of Production Assistants in the Prasar Bharti. They filed a Writ Petition (C) No. 22461/2008 before the Hon'ble High Court of Kerala and the Hon'ble High Court dismissed the Writ Petition without going into the merits and without prejudice to the other remedies available against the final order in OA. Hence, they had filed this RA against the order passed in OA No. 657 of 2005.

5. The grounds raised in this RA are:

- a) The order in the OA No. 657 of 2005 will adversely affect the interests of the applicants.
- b) There had occurred some delay in filing this RA owing to the difficulties in consolidating the applicants who were posted at various

places. They had filed a separate petition for condoning the delay.

c) The final order passed in OA No. 657 of 2005 suffers from error apparent on the face of record. According to them Annexure A6 produced in the OA is not the Recruitment Rule for the cadre of Programme Executives.

Annexure RA-3 All India Radio Recruitment Rules, 1958 published on 6.3.1962 is the Rule to be applied in the case of Programme Executive. The Staff Artists who were engaged in the All India Radio were casual/contract employees and for accommodating them All India Radio (Group-B) Posts Recruitment Rules, 1984 was brought. It is at Annexure RA-4. Though it was decided to discontinue the taking of Staff Artists, Doordarshan continued to engage Staff Artists. The RA applicants had made a lot of other arguments regarding the merit of the judgment in OA No. 657 of 2005 and it is not fully extracted as the scope of review is very limited.

6. We have heard the counsel appearing for the RA applicants and respondents. The applicants in this RA were not made parties in the OA and they might have come to know of the order only after some delay especially when they are working at various stations. So, we find that the reason put forward for the delay in filing the RA is satisfactory and we hereby condone the delay in filing the RA.

7. We have heard both sides and perused the review application. Before advertiring to the facts, the scope of Review Application has to be

considered. As per Civil Procedure Code a Review Application can be filed by any person considering himself aggrieved for the following reasons:

a) by a decree or order from which an appeal is allowed but from which no appeal has been preferred.

b) by a decree or order from which no appeal is allowed.

c) by a decision on a reference from a Court of small causes, and who from the discovery of a new and important matter or evidence which after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of record, or for any other sufficient reason, desires to obtain a review of decree passed or order made against him, may apply for review of judgment to the Court which passed the decree or made the order.

8. The same principles also applies to this case also. So the scope of review is very limited. In this case, this Tribunal had passed an order in OA No. 657 of 2005 dated 13.3.2008. Whether there has occurred any mistake or error apparent on the face of record is the main question to be decided. The case of the review applicants is that Annexure A6 produced in OA No. 657 of 2005 is not the Recruitment Rule and it is a document incorrectly produced by the applicants in the case. The Tribunal accepted it as the

Recruitment Rule applicable in this case and a direction was issued to finalize the eligibility list. If we go through Annexure A6, we could not find anything which says that it was part of the Recruitment Rules i.e. All India Radio (Group-B) Post Recruitment Rules, 1962 which was amended in 1984 for facilitating the absorption of Staff Artists in Government service in Programme cadre. Annexure R4(a) clearly lays down the procedure to be completed for absorbing Staff Artists in the Programme cadre. In clause (f) it is clearly stated that for the purpose of promotion, there shall be separate lists of seniority of officers of the regular Programme cadre and that of Staff Artists who have become Government employees. The promotion to the next grade from the two lists shall be on quota basis, and the ratio of which shall be based on the existing number of posts in each category on the date of holding the DPC. It appears that the Tribunal took Annexure A6 in the OA as part of the Recruitment Rules. We find that this is a mistake apparent on the face of the record.

9. On a perusal of the order of the Tribunal, we can see that the Tribunal has directed respondent No. 3 to finalize the seniority list of Production Assistants recruited by Doordarshan after February, 1985 and consider them also for promotion as per Annexure A6. On going through the order we find that the Tribunal has taken into account the judgment in the OA No. 213 of 2005 filed before the Madras Bench of this Tribunal wherein it was held as under:

“2 Before the matter was heard, the counsel for the respondents has furnished a communication No. 2/10/2005/S1 dated 29.11.2005 from the Deputy Director (Admn), Prasar Bharati, DG DDK, New Delhi, before us.

As per this communication it is seen that they are preparing seniority list of Production Assistants recruited by Doordarshan Kendra after February, 1985 and according to them a common seniority list is prepared for incorporation in the common eligibility list for promotion to the grade of Production Executives. The exercise according to the respondents is voluminous and may take minimum six months time. However, considering the submission made by the counsel for the applicant, we direct the respondents to complete this exercise within three months period from the date of receipt of copy of the order.”

The respondents had infact admitted there that they are preparing a seniority list of Production Assistants including the Production Assistants recruited by the Doordarshan Kendras after 1985 also.

10. The Madras Bench allowed the OA No. 213 of 2005 and directed the respondents to complete the exercise within three months. This Bench has also adopted the submissions of the official respondents in OA No. 213 of 2005 and has allowed the OA directing respondent No. 3 to finalize the seniority list of Production Assistants recruited by Doordarshan after February, 1985 and consider them for promotion. There is no dispute regarding the order passed by the Madras Bench of this Tribunal in OA No. 213 of 2005. But the mentioning of Recruitment Rule as Annexure A6 in the order is a mistake which can be corrected without any prejudice or substantial injustice to any of the parties. The other contentions put forward by the counsel for the review applicants cannot be considered within the purview of a Review Application. **So the following portion at paragraph 7 of the order of this Tribunal dated 13th March, 2008 in OA No. 657 of 2005 regarding “Annexure A6” will stand reviewed as under:**

7 For the reasons stated above, we have no hesitation in allowing the OA. The OA is allowed. The respondent No. 3 is directed to finalise the seniority list of Production Assistants recruited by Doordarshan after February 1985 as per the relevant Recruitment Rules within a period of three months from the date of receipt of copy of this order.

11. The Review Application is disposed of as above. No order as to costs.

(K.V. EAPEN)
ADMINISTRATIVE MEMBER

(P. MADHAVAN)
JUDICIAL MEMBER

“SA”

**Review Application No. 180/00067/2017 in
Original Application No. 657 of 2005**

REVIEW APPLICANTS' ANNEXURES

Annexure RA-1 – True copy of the judgment dated 21.12.2016 in WP(C) No. 22461/2008.

Annexure RA-2 – True copy of the final order dated 13.3.2008 in OA 657/2005.

Annexure RA-3 – True copy of the All India Radio (Class-II Posts) Recruitment Rules, 1962.

Annexure RA-4 – True copy of the All India Radio, (Group B posts) Recruitment Amendment Rules, 1984.

Annexure RA-5 – True copy of OM No. 11/1/85-8 VII dated 12.8.1985 issued by the 15th respondent.

Annexure RA-6 – True copy of order No. DDK/TVM/1(2) 85-SA(OC) dated 5.11.1985.

Annexure RA-7 – True copy of Doordarshan Programme (Technical/Group-C Post) recruitment rules, 1987.

Annexure RA-8 – True copy of the order No. DDK/TVM 1(2) 88-S dated 23.5.1988.

Annexure RA-9 – True copy of the All India Radio (Group-B posts) Recruitment (Amendment) Rules, 1992.

Annexure RA-10 – True copy of the All India Radio (Group-B posts) Recruitment (Amendment) Rules, 1993.

Annexure RA-11 – True copy of memo No. 2(3)/86-SC dated 9.6.1992.

Annexure RA-12 – True copy of the memo No. 21(6)/93-A1/DKT dated 2.3.1993 issued by the 15th respondent.

Annexure RA-13 – True copy of list of Production Assistants as on 1.5.1997 issued by the 15th respondent.

Annexure RA-14 – True copy of the order No. 1/5/2000-S VIII/462 dated 10.9.2001.

Annexure RA-15 – True copy of Prasar Bharathi (Broad Casting Corporation of India) (Senior Programme Posts)

Recruitment Regulation, 2002.

Annexure RA-16 – True copy of order No. DEL/23(2)/SL/2002 S VIII (TREX)/6791 dated 20.3.2003 issued by the 17th respondent.

Annexure RA-17 – True copy of order No. 1/13/2004 S VII dated 13.7.2005 issued by the 17th respondent.

Annexure RA-18 – True copy of letter No. 2/10/2005/S1 dated 29.11.2005 issued by 16th respondent.

Annexure RA-19 – True copy of the final order dated 1.12.2005 in OA 213/2005.

Annexure RA-20 – True copy of the judgment dated 9.9.2008 in WP No. 22530/2006 of the Honourable High Court of Judicature at Madras.

Annexure RA-21(a) – True copy of the communications dated 17.12.2009 from the 20th respondent.

Annexure RA-21(b) – True copy of the communications dated 3.3.2010 from the 20th respondent.

Annexure RA-21(c) – True copy of the communications dated 8.5.2012 from the 20th respondent.

Annexure RA-22 – True copy of the note on file No. N-10/11(49)/2015-PBRB dated 12.10.2015.

Annexure RA-23 – True copy of the final order dated 24.8.2016 in OA 2229/2009 on the files of the Principal Bench of this Honourable Tribunal.

RESPONDENTS' ANNEXURES

Annexure R1 – True copy of appointment order of the 1st respondent vide order No. DDK/TVM/1(2)85-SSA(OC) dated 5.11.1985.

Annexure R2 – True copy of order No. DDK/TVM/1(2)85-S dated 23.5.1988.

Annexure R3 – True copy of said order declaring probation of the 1st respondent bearing No. 21(6)89-A1/DKT dated 21.4.1989.

- Annexure R4** – True copy of office memorandum having No. 21(6)/93-A1/DKT dated 2.3.1993.
- Annexure R5** – True copy of order having No. 21(5)/94-A1/DKT dated 20.5.1994.
- Annexure R6** – True copy of order of appointment of 12th respondent bearing No. 2(6)/96-A1/DKT dated 15.7.1996.
- Annexure R7** – True copy of proceedings of the 15th respondent bearing No. 21(5)/99-A1/DKT dated 16.9.1999.
- Annexure R8** – True copy of seniority list of production Assistants under the 15th respondent as on 1.5.1997.
- Annexure R9** – True copy of the relevant pages of all India eligibility list of staff artist including that of production assistants of AIR and DDE including the 1st respondent, 3rd respondent and 5th respondent in all containing 493 persons bearing No. 1/5/2000-SVII/462 dated 10.9.2001.
- Annexure R10** – True copy of Ministry Information of Broadcastings notification No. 45011/83/82-B(A), dated 23.10.1984.
- Annexure R11** – True copy of government notification published on 16.7.1988 in government gazette bearing No. GSR-581 dated 28.6.1988.
- Annexure R12** – True copy of office memorandum dated 25.11.1988, bearing No. 3(1)/88-SI issued by the 15th respondent.
- Annexure R13** – True copy of All India Radio (Group B post) Recruitment Rules, 1992, issued vide notification No. GSR No. 169 dated 17.3.1992.
- Annexure R14** – True copy of gazette notification dated 31.12.1993 issued by the 20th respondent notifying All India Radio (Group-B post) Recruitment amendments rules, 1993.
- Annexure R15** – True copy of instructions furnished on behalf of the Director General All India Radio before the High Court of Madras WP(C) No. 22539/06 dated 5.12.2016.

Annexure R16 – True copy of order passed by the principal bench Central Administrative Tribunal, New Delhi in OA 222/09 with OA 242/15 dated 24.8.2016.

Annexure R17 – True copy of affidavit filed by the 17th respondent before the Hon'ble High Court of Jammu & Kashmir, Sreenagar in SWP No. 1853/2016 dated 5.8.2017.

Annexure R18 – True copy of order of in-situ promotion dated 11.12.2013 having order No. 12(1)2013-A1/DKT issued by the Deputy Director of General personal Prasad Bharati.

Annexure R19 – True copy of draft seniority list in the cadre of PA/PEX(in-situ) of Doordarshan bearing No. 15/2/2014S.I dated 24.1.2014.

Annexure R20 – True copy of minutes of the meeting of Prasar Bharati held on 5.10.2018 vide proceeding No. A10/011(12)2018-PBRB.

Annexure R21 – True copy of reply statement filed by respondents 15 to 20 in the OA.

Annexure R22 – True copy of Prasar Bharati (Broadcasting Corporation of India) amendment Act 2011 dated 8.1.2012 issued vide gazette notification No. 6 dated 9.1.2012.

Annexure MA1 – True copy of the order dated 24.11.2016 in SWP No. 853 of 2013 of the Hon'ble High Court of Jammu & Kashmir.

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