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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

NO
Promotion

O.A. No. 307/89
T.A. No.

DATE OF DECISION 4-3-1993

Piyushkumar Panabhai Vihola Petitioner

Shri I.S.Supehia Advocate for the Petitioner(s)

Versus

Union of India & others Respondent

Shri Akil Kureshi for Advocate for the Respondent(s)
respondent no. 1 and 2 .

CORAM :

The Hon'ble Mr. N.V.Krishnan

: Vice Chairman

The Hon'ble Mr. R.C.Bhatt

: Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement ? ✓
2. To be referred to the Reporter or not ? ✓
3. Whether their Lordships wish to see the fair copy of the Judgement ? >
4. Whether it needs to be circulated to other Benches of the Tribunal ? >

Piyushkumar Panabhai Vihola

Kantilal Dhulabhai Rathod
Both working as Peons,
A.I.R, Ahmedabad.

Applicants

Advocate

Shri I.S. Suphia

Versus

1. Union of India,
Through Shri H.N. Patro,
Director, Doordarshan Kendra,
Ahmedabad.
2. Dr. Mahavir Singh, Director,
A.I.R., Ahmedabad.
3. Shri S.S. Tejot, Sorter,
Doordarshan Kendra,
Ahmedabad.
4. Shri V.M. Tadvi, Daftary
Doordarshan Kendra,
Ahmedabad.

Respondents.

Advocate

Shri Akil Kureshi for
respondent no. 1 and 2.

J U D G E M E N T

In

O.A. 307 / 1989

Date : ~~4~~-3-1993

Per Hon'ble Shri N.V.Krishnan

Vice Chairman.

The applicants are aggrieved because two persons
who are stated to be junior to them have been promoted as a
Daftary/ Sorter.

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2. The brief facts of the case are as follows:-

- (i) The applicants are peons in the All India Radio Ahmedabad.
- (ii) A vacancy of one post of sorter and one post of Daftary arose in the Doordarshan, Ahmedabad. Admittedly, the Recruitment Rules indicate that these are non-selection posts and have to be filled up entirely by promotion on the basis of seniority-subject to fitness.
- (iii) It is also admitted that for the filling up these vacancies the claims of the peons in the All India Radio Station have also been considered.
- (iv) The applicants state that they also applied for the posts but they were not selected for appointment. It is indicated in the Annexure A-2 order that the respondents no.3 and 4 have been selected for these posts.
- (v) The main grievance of the applicants is that the selected persons are juniors to the applicants and they should have been promoted havein regard to their seniority.

3. The respondents no. 1 and 2 - Dept. for short- have filed a reply. The respondents no.3 and no.4 were issued notices and though they were served they did not either filed a reply or appear before us.

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4. On behalf of the Department the following reply has been filed :-

- (i) It is stated that the Doordarshan and All India Radio are different Departments of Government of India and therefore, the employees working in these organisations are not inter transferable.
- (ii) It is submitted that the vacancies in the Grade D posts such as peon/safaiwala Daftary/Sorter are filled by the respective office where the vacancy arises. However, when the vacancies of the Daftary/Sorter arose in the Doordarshan Kendra, Ahmedabad, no person was found eligible for promotion. Considering the eligibility condition specified in the Recruitment Rules. Therefore, the vacancies were circulated among the stations of the A.I.R in Gujarat, Doordarshan, Ahmedabad.
- (iii) In pursuance of this requisition from the Doordarshan Kendra, Ahmedabad, the All India Radio, Ahmedabad invited applications from Peons, who desire to go to Doordarshan Kendra, Ahmedabad as a Daftary/Sorter on transfer or promotion. Six persons showed their willingness including the second applicant Shri K.D. Rathod and the respondents no.3 and no.4. The respondents no.3 and 4 were selected by the D.P.C.
- (iv) In regard to the seniority and selection, the respondents ^{have} stated as follows :-

" 2. Referring to ground -1 it is submitted that since the seniority

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of group D staff is maintained strictly at the stationwise basis, and not on inter-station basis, the question of considering the willingness of individuals strictly on seniority basis does not arise. The purpose of selection was to select a better performance from amongst the willing persons irrespective of their seniority.

3. Referring to ground-2, it is submitted that for considering the applications and in view of the non-maintenance of CR Dossiers of group D staff, D.D.K. Ahmedabad asked the respective Heads of the Office for the performance reports of the individuals. On consideration of these reports and on the basis of the perusal of over all service records of the individuals the selection was made in view of their sincerity, devotion to duty and satisfactory behaviour . "

The respondents also produced the original record of D.P.C meeting for our perusal.

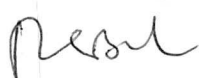
5. We have perused the records and carefully considered the arguments of the Learned Counsel for the parties. It is seen from the original records produced by the respondents that the six persons (Peons), All India Radio, Ahmedabad and two Peons from the CBS All India Radio, Ahmedabad, applied for the posts. In all eight persons were to be considered. It is seen from the note of the DPC that two of the nominees had been debarred by Station Director, All India Radio, for further promotion and hence their names were not considered. The remaining six names, including the names of the two applicants and respondents no 3 and 4, were considered by the DPC. The record also contains reports about the work of the six nominees. After considering the reports, DPC selected the respondents no. 3 and no.4 .

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6. We have seen the Recruitment Rules. They state that the posts have to be filled up by promotion from the Grade of Peon in the same office with three years service in that Grade and it is by seniority/fitness. Therefore, the criteria of seniority applies only if the peons who are considered for promotion belong to the same office where the vacancies of the Daftary/Sorter have arisen. It is stated that the Peons of the Doordarshan Kendra were not eligible because of this condition of service. It is for this reason, the peons of All India Radio, which is a different office, were considered. The criteria of seniority will not apply. This procedure is something in the nature of filling of the posts by transfer or by deputation. In this view of the matter, seniority need not necessarily be the deciding factor. It is seen that the DPC has picked up the best persons.

7. No doubt, the Recruitment Rules does not provide for such a mode of recruitment. But that can be a grievance only of peons of the office where the vacancies arose.

8. In these circumstance, we find that the grievance of the applicant has no basis. Hence the application is dismissed.



(R.C. Bhatt)
Member (J)



(N.V. Krishnan)
Vice Chairman