

**CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK**

**ORIGINAL APPLICATION NO. 83 OF 1998
Cuttack this the 13th day of April, 1999**

Radharani Sarkar

Applicant(s)

-Versus-

Union of India & Others

Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? *Yes*

2. Whether it be circulated to all the Benches of the
Central Administrative Tribunal or not ? *No*

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
13.4.99

23.4.99
(G. NARASIMHAM)
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIINAL APPLICATION NO.83 OF 1998
Cuttack this the 13th day of April, 1999

C O R A M:

THE HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
THE HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)

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Smt.Radharani Sarkar,
aged about 63 years,
W/o. Shri Satish Chandra Sarkar
of Rao's Kutir, Palitpara,
Cuttack-753002, P.S.Lalbag,
Dist: Cuttack

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Applicant

-Versus-

By the Advocates : M/s.N.P.Choudhury
R.S.Choudhury

-Versus-

1. Director General,
All India Radio,
Akashvani Bhawan,
Parliament Street
New Delhi-110001
2. Station Director,
All India Radio,
Cuttack-753001
3. Station Director,
Commercial Braodcasting Service
All India Radio,
Cuttack-753001

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Respondents

By the Advocates : Mr.B.K.Nayak,
Addl.Standing Counsel
(Central)

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ORDER

MR.G.NARASIMHAM, MEMBER(JUDICIAL):

Applicant,

Smt.Radharani Sarkar, who retired on 2.2.1995 as Selection Grade Announcer of All India Radio, joined in the year 1961 in All India Radio, Cuttack as Announcer on contractual service. As per Clause 10 of Circular dated 26.8.1993(Annexure-1) of Respondent-1, viz. Director General of All India Radio, Announcers, who are treated as Artists will be retained in the service upto age of 60 years as Central Government servant, subject to being fit and suitable. However, in exceptional cases, the Selection Board may recommend the grant of extension beyond 60 years in short spells of contracts less than five years each, but in no case extension shall be granted beyond 65 years. On 3.4.1992, the applicant represented(Annexure-2) for her promotion to Grade-I and the Station Director, All India Radio, Cuttack(Res.2) recommended to fit her in the scale of Rs.2000-3200/-. On 23.6.1993, Respondent No.2, viz., the Station Director of All India Radio, Cuttack intimated her that her case of promotion to the post of Announcer Grade-I was under consideration at the Directorate level and that final decision would be intimated to her as and when received from the Directorate. As there was no response, she sent representation dated 3.10.1994(Annexure-5) to Respondent No.1 praying for extension of her service at least for two years, explaining her domestic problems and her efficiency along with Certificate of Fitness issued by the C.D.M.O., Cuttack. However, without any communication being received, she retired on 2.2.1995, apparently on

attaining 60 years of age, after putting in 33 years of service. Through Annexures-6 and 7, she received intimation from the Ministry of Information & Broadcasting(Administration-IV Section) that the Director General, All India Radio would intimate her as to the action taken in the matter. However, finally she received intimation dated 9.9.1997 from Respondent No.1 that the Ministry did not agree to the proposal to give her extension.

These facts are not in controversy. The applicant through this application seeks for quashing Annexure-12 dated 9.9.1997 and for direction to respondents to consider her case for extension and further to consider Annexure-2 judicially, impartially and without prejudice, mainly on the following grounds :

- a) She had successfully managed 33 years of service with credibility without being suffered from serious ailments and without drawing a single paisa towards medical reimbursement either for self or for any of her dependent members.
- b) She still maintains her voice fit and suitable in Microphone. She was even elevated to the status of an Artist in drama voice and considering her experience and performance, her Grade was enhanced to 'A' Grade, as intimated to her in letter dated 6.6.1997 by Respondent No.2(Annexure-10)
- c) Her fee scale was last fixed at Rs.2000-2500 on 28.12.1984 and she remained stagnant in that scale for about 11 years till her retirement.
- d) Rejection under Annexure-12 is arbitrary and without consideration as is apparent from the fact that after sleeping over the matter for about two and half years, this rejection order has been issued in haste in response to the letter of Grievance Cell of the Ministry of Information & Broadcasting under Annexure-11.

2. The respondents in their counter take the stand

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that the applicant ~~was~~ ^{not} stagnated for 11 years and her representation dated 3.4.1992(Annexure-2) would itself reveal that she reached the maximum scale in January, 1994. In fact minimum qualifying service for promotion to next higher Grade is 8 years service in Grade-II, which the applicant was holding. Promotion to the higher Grade depends upon suitability of an employee, availability of vacancy, recommendation of the D.P.C. and acceptance by the competent authority. The applicant could not have been promoted only on the recommendation of the Station Director. For extension of service, medical fitness is not the sole criterion. Other important factors like requirement of the Department's promotional avenues of the juniors in the Cadre, suitability of the employee ~~and~~ on every aspect are usually taken into account before deciding the case for extension. Moreover, the service of the applicant was extended till 60 years of age. Beyond ~~this~~ age the Department is not bound to extend her service. Empanelment in casual panel after superannuation (as under Annexure-10) and extension of service are two separate issues. Hence, the applicant cannot claim that she should have been given extension, because she was found suitable for such casual booking, because, duty, responsibility and accountability of regular Announcer ~~is~~ much higher than those of such casuals. Lastly it is submitted by the respondents that rejection of her prayer for extension of service as intimated to her under Annexure-12 is ~~not~~ arbitrary nor whimsical.

3. We have heard Shri N.P.Choudhury, learned counsel for the applicant and Shri B.K.Nayak, learned Addl. Standing Counsel appearing for the respondents and

taken note of their submissions and also perused the records.

4. As earlier stated the applicant's case comes up with four prayers one of which is to direct the respondents to consider her representation dated 3.4.1992(Annexure-2) for her promotion to Grade-I from Grade-II. Admittedly, she retired on 2.2.1995 without being promoted to Grade-I in the scale of Rs.3000-4500/-. However, she preferred this Application on 6.2.1998, i.e., after three years of her retirement seeking the specific prayer which is apparently barred by limitation under the relevant provision of the Central Administrative Tribunals Act, 1985. Therefore, the prayer made in this regard cannot be allowed.

The other prayer is for quashing Annexure-12 rejecting her prayer for extension of service beyond 60 years. This letter is dated 9.9.1997 with reference to her representation dated 15.7.1997. However, her pleadings nowhere indicate that she sent any such representation dated 15.7.1997. Be that as it may, her averment in the pleadings that this Annexure-12 was passed in a haste and without application of mind because of pressure from Grievance Cell authorities under Annexure-11. Annexure-11 is dated 10.1.1997 and Annexure-12 is dated 9.9.1997. In other words Annexure-12 was passed about more than eight months after issue of Annexure-11 dated 10.1.1997. Hence it cannot be assumed that this Annexure-12 was passed in a haste under pressure of letter dated 10.1.1997(Annexure-11). We are also not inclined to accept the contention that the

decision in rejecting her prayer for extension of service beyond 60 years was in any way arbitrary or without application of mind. Clause-10(iii) of the circular dated 26.8.1983(Annexure-1) dealing with provision for extension of service is clear that only in exceptional cases, Selection Board may recommend grant of extension and that too in short spells of contracts less than five years each and in no case, beyond 65 years. Thus, it is clear that extension of service is not a matter of right. Extension is not generally given and only in exceptional cases such extension is given. Question for consideration is whether the applicant has made out any exceptional case as stated above. As averments in this connection are that she still maintains her voice and she has been elevated to the status of an Artist of drama voice and her Grade had been enhanced to A Grade, apparently for casual purpose, and that she successfully managed her 33 years of service without remaining absent on account of major ailment and even without drawing a single paisa towards medical reimbursement, we do not feel that these two grounds do make an exceptional case. If these factors are taken as exceptional grounds, almost all the Artists would be entitled to claim for extension of services, because sense of accountability and responsibility under an extended service are definitely far more greater than a casual Artist. This apart, we cannot sit on appeal on the decision of the competent authority in the matter of giving extension or no extension in service. The decision of such competent authority is, however, subject to judicial review, if it is arbitrary. We have already held that the applicant has not been able to convince us that

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decision taken under Annexure-12 is arbitrary.

5. In the result we do not see any merit in this application which is accordingly dismissed, but without any order as to costs.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

B.K.SAHOO

3.4.99

13.4.99
(G.NARASIMHAM)
MEMBER (JUDICIAL)