

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 499/90
XXXXXX

X88

DATE OF DECISION 09/4/92

Shri R. Balachandran Nair Applicant (x)

M/s N Nandakumara Menon & Advocate for the Applicant (x)
N Anil Kumar.
Versus

The DG, AIR & 2 others Respondent (s)

Shri A.A. Abul Hassan, ACGSC Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. N.V. Krishnan - Administrative Member

&

The Hon'ble Mr. A.V. Haridasan - 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. To be circulated to all Benches of the Tribunal ?

JUDGEMENT

(Hon'ble Shri A.V. Haridasan, Judicial Member)

The applicant, Shri R. Balachandran Nair, has prayed in this application that the Station Director, All India Radio, Trivandrum, the 3rd respondent, may be directed to appoint the applicant as Announcer (Malayalam) in the AIR, Trivandrum. The case of the applicant is as follows. The applicant was engaged as Announcer (Malayalam) on casual basis in AIR, Trivandrum, initially in the year 1975. He was being engaged thereafter intermittently by separate orders. While so, for filling up the three regular vacancies of Announcer in AIR, Trivandrum, applications were invited.

.....2

Out of around 300 candidates who participated in the written test, about 40 were qualified for interview. The applicant being successful in the written test as well as interview, was included in the panel consisting of seven persons. The applicant was the only person who had experience as casual Announcer among the seven persons in the panel, but he was not appointed in one of the 3 vacancies. The applicant, therefore, submitted a representation to the Deputy Minister for Information & Broadcasting through Shri P.J. Kurien, Member of Parliament, on 5.3.84. In reply to the representation and the covering letter sent by Shri Kurien to the Minister, the Minister sent a reply to Shri Kurien on 1.10.84 (Annexure IV) stating that the applicant was placed at S1 No.7 in the panel on the basis of the selection test that though as a rule the panel should be limited to two or three against one vacancy he had instructed the AIR to keep the whole panel of seven candidates recommended by the selection committee alive and that as there has been only one vacancy which was filled up by S1 No.1 in the panel, the remaining candidates including the applicant could be appointed only in their turn on availability of vacancy. But since the applicant was not appointed as Announcer and/ the 3rd respondent again invited applications for filling up of vacancies in the posts of Announcer (Malayalam), the applicant on 25.10.85 submitted a representation requesting that he may be allowed to participate in the selection relaxing the upper age limit. The 3rd respondent by letter dated 21.3.86 at Annexure VII informed the

applicant that the Directorate did not agree to permit the applicant to sit in the written test for the post of Announcer to be held shortly in relaxation of age limit.

The applicant submitted several representations to different authorities, copies of three of which are at Annexures-VIII, IX and X. For the last representation at Annexure-X dated 15.3.1990, the applicant received the impugned order dated 15.5.1990 at Annexure-XI from the 3rd respondent expressing regret for not being able to agree to his request for regularisation as Announcer since he did not fall within the ambit of approved formula for regularisation of casual artist of AIR, and also for the impossibility to accede to his request for appointment as Announcer based on the selection panel prepared earlier as the life of the panel has already expired. It is in this background that the applicant has filed this application. It has been averred in the application that as the panel prepared by the selection committee which met on 28.1.1984 was kept alive by the order of the Hon'ble Minister for Information and Broadcasting at Annexure-IV, the action of the respondents in not appointing him to the vacancy which arose thereafter is vitiated by malafides, and therefore, the applicant is entitled to an order directing the

M

respondents to appoint him to a post of Announcer (Malayalam) in the AIR in one of the existing vacancies.

2. The respondents have contended that as the period of validity of the panel according to the recruitment rules is only one year or till such time the next panel is drawn up whichever is earlier with a provision for extension upto 18 months by the Director General, the applicant whose name was included in a panel prepared in the year 1984 has no legitimate claim to be appointed in a vacancy which arose after the expiry of the period of validity of the panel. It has been further contended that the applicant had as early as on 21.3.86 vide Annexure VII been informed that the Directorate did not agree to permit the applicant to sit in the written test for the post of Announcer (Malayalam) held in 1986 and so, the present claim of the applicant is barred by limitation. The respondents have also contended that the claim of the applicant that the applicant has been working as a casual announcer is not correct and that he had been engaged on some occasions as an Artist on contract basis for specific assignments indicating the number of days of engagement and fees for the same. This, according to the respondents, did not give rise to any right to the applicant to claim regularisation in the post of Announcer.

3. We have heard the arguments of the counsel on either side and have also carefully perused the pleadings and documents produced. The entire claim of the applicant for appointment

to the post of Announcer (Malayalam) is based on his inclusion in the panel prepared in the year 1984 and the Annexure IV letter of the Minister for Information & Broadcasting to Shri P.J. Kurien and the order at Annexure V of the Director General, AIR, dated 12.9.84. It is not disputed that the applicant was placed in a panel for appointment to the post of Announcer (Malayalam) prepared in the year 1984. From Annexure IV, a letter written by Shri Ghulam Nabi Azad, the Hon'ble Minister for Information & Broadcasting to Shri P.J. Kurien, Member of Parliament, it is seen that the applicant was at S1 No.7 in the panel and that there was only one vacancy at that time which was filled by the person at S1 No.1, that though the practice was to take two or three names in the panel against one vacancy, the Minister had instructed the AIR to keep the panel of seven candidates recommended by the selection committee alive and that the six persons including the applicant could be appointed as Announcer in their turn only on availability of vacancies. Annexure V is a copy of an order of the Director General, AIR, dated 12.9.84 which reads as follows:-

"Reference correspondence resting with the recruitment of Announcers at All India Radio, Trivandrum.

2. In slight modification of para 3 of this Directorate letter No.3(6) 83 S. VIII dated 7.5.84 it has been decided in consultation with the Ministry to allow the panel to include all the seven candidates recommended by the selection committee which met on 28.1.84 for appointment as Announcer (Malayalam) as and when vacancies arise."

Relying on Annexure IV & V, the learned counsel for the applicant argued that AIR should not have resorted to call for fresh applications in any year without appointing all the persons whose names have been included in the panel. The

learned counsel for the respondents on the other hand submitted that the Annexure V order only enables inclusion of all the seven names in the panel recommended by the selection committee which met on 28.1.84 for appointment as and when vacancies arose and did not extend the period of validity of the panel. The learned counsel further argued that the Annexure IV is only a letter written by the Minister for Information & Broadcasting to Shri P.J. Kurien informing him that the applicant's name being at S1 No.7, the applicant would ~~not~~ be eligible for appointment as Announcer only if vacancies arose for appointing all the persons in the panel. Since the period of validity of the panel according to the recruitment rules at Annexure XIII being only one year with a provision for extension by a specific order to be extended upto 18 months, there is no basis for the argument on behalf of the applicant that the applicant is entitled to be appointed towards vacancies which arose in 1986. Since the panel was admittedly prepared in ~~xxxxxx~~ 1984 and the validity of the panel even if extended would expire on the lapse of 18 months from the date of its preparation, we are of the view that the contention of the respondents that the applicant has no right to claim appointment to vacancies which arose in the year 1985 and later is perfectly correct. The applicant himself has understood that on the basis of the panel prepared in the year 1984, he is not eligible to be appointed to the vacancy which was announced in the year 1985 because in his representation dated 25.10.85 at Annexure VI he has sought permission to sit in the selection test for the

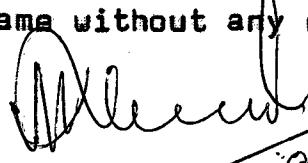
vacancies which were announced then. If the applicant had a case that on the basis of the inclusion of his name in the panel in 1984, he was entitled to be appointed towards vacancies which were notified in the year 1985, he would not have sought permission for sitting in the selection test. Further, by the order dated 21.3.86 at Annexure VII he was informed that the Directorate did not agree to permit him to appear for the test. Inspite of this order, the applicant did not initiate any legal action to get appointment as Announcer until 22.6.90 when he filed this application. xxxxxxxx His claim for appointment on the basis of a panel prepared in the year 1984 has been extinguished and he is barred by limitation for claiming any right on the basis of the said panel. Even the Director General has no competence to extend the panel prepared in January, 1984 beyond 18 months from that date, according to the recruitment rules. The learned counsel for the applicant argued that under clause 13 of the recruitment rules at Annexure XIII, the Government has the power to relax all or any of the provisions of the rules in exceptional cases in the interest of justice and after taking into consideration the recommendations of the Director General, and that a reading of the letter of the Minister dated 1.10.84 at Annexure IV and the order of the Director General dated 12.9.84 at Annexure V would show that the clause regarding period of validity of the panel has been relaxed and that it was decided to keep the panel alive till all the seven candidates included in the panel were appointed. On a careful scrutiny of Annexure IV and V we find that it is not possible to hold that the Government has decided to relax the maximum limit of validity of the panel

prepared in January, 1984 beyond a period of 18 months. In Annexure IV, the Minister had ~~already~~ stated that as against the usual practice of including two or three names against one vacancy, the AIR was directed to include all the seven names in the panel and that the applicant could be appointed as Announcer only in his turn on availability of vacancy. Similarly, in Annexure V, the Director General has only stated that in consultation with the Ministry it was decided to include all the seven candidates recommended by the selection committee which met on 28.1.1984 for appointment as Announcer as and when vacancy arise. This does not mean that the panel in question would be alive without any limitation. If vacancies did not arise during the period of validity of the panel, then the panel naturally would lapse and thereafter, those who were included in the panel would not have any/^{right} to claim appointment.

4. The learned counsel for the applicant argued that having utilised the services of the applicant for a considerably long period as Announcer on a casual basis, it is unjust to deny him regular appointment. From Annexure VI, it is evident that the applicant did not raise any claim for regularisation on the basis of his casual service but only requested that he should be allowed to participate in the selection test in relaxation of age limit. Further, from the documents produced on the side of the respondents especially Annexure R3(c) it is evident that the applicant was engaged on contract for a specific period to work as casual Announcer. There is no evidence on record to show that the applicant has been working

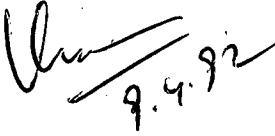
Therefore, the on a post as a Casual Announcer. / argument of the learned counsel that on the basis of continued casual service, the applicant is entitled for regularisation in the post of Announcer also has no force.

5. In the facts and circumstances of the case, we do not find any merit in this application and, therefore, we dismiss the same without any order as to costs.


(A.V. HARIDASAN)

JUDICIAL MEMBER

9/4/92


(N.V. KRISHNAN)

ADMINISTRATIVE MEMBER

09/4/92

*ps