

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 17 of 1999

Thursday, this the 31st day of May, 2001

CORAM

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER
HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

1. P. Hareendranathan,
S/o late Parameswara Panicker,
Assistant Station Engineer,
All India Radio, Alappuzha,
residing at Sopanam, Pazhaveedu PO,
Alappuzha.Applicant

[By Advocate Mr. P. Ramakrishnan]

Versus

1. Union of India represented by
Secretary to Government,
Ministry of Information and Broadcasting,
Sasthri Bhavan, New Delhi.

2. The Director General of All India Radio,
Akashavani Bhavan, Parliament Street,
New Delhi.

3. The Superintending Engineer,
High Power Transmitter,
All India Radio, Alappuzha.Respondents

[By Advocate Mr. Govindh K. Bharathan, SCGSC (rep.)]

The application having been heard on 31-5-2001, the
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

The applicant seeks to quash A1, to declare that he is entitled to notional promotion and consequential fixation of pay with effect from the date of occurrence of the vacancy to which he has been promoted as Assistant Station Engineer and to direct the respondents to grant him notional promotion as

Assistant Station Engineer, pay fixation and consequential benefits including an opportunity for exercising a fresh option for fixation of his pay.

2. The applicant is an officer in the Junior Time Scale of Indian Broadcast Engineering Service presently working as Assistant Station Engineer of All India Radio. He commenced service on 19-12-1974. On 29-5-1985 he became an Assistant Engineer. In the year 1996 he was promoted as Assistant Station Engineer. Though placed in the panel of 1991-92 and promoted, he was not given the benefit of pay fixation and reckoning of service with effect from the date of occurrence of the vacancy. He submitted A4 representation to which A1, the impugned order, has been issued.

3. Respondents contend that DPC for promotion to AE to JTS against vacancies of 1987, 1988, 1989 and 1990-91 was held simultaneously in the year 1990 and promotion order was issued on 1-1-1991. DPC for promotion to JTS against 1991-92 was held on 16-8-1993 and the applicant was considered. Due to his lower rank in the eligibility list, he was not empanelled for promotion. He was later promoted against de-reserved vacancies of 1991-92. Had sufficient candidates from the reserved category been available the applicant would have got promotion only against vacancies of the subsequent year. Only when a junior is promoted earlier than his senior, for any reason not attributed to the senior, notional promotion and consequential pay fixation is admissible. Direct recruits of 1992 and onwards were placed junior to the applicant in the seniority list. No person junior to the applicant has been promoted to the next higher grade.

4. The applicant says that he has not been given the benefit of pay fixation and reckoning of service with effect from the date of occurrence of vacancy. From A1, the impugned order, it is clearly seen that the DPC meeting to fill up 74 vacancies relating to the year 1991-92 was held on 16-8-1993 which recommended a panel of 58 persons (57 General and 1 SC) for appointment, as there was only one SC and no ST candidate in the eligibility list against 17 reserved quota (12 SC and 5 ST), that though the applicant was considered in the DPC, he could not find a place in the panel of 1991-92, that subsequently the remaining 16 vacancies were got de-reserved with the approval of the Department of Personnel and Training and a proposal for filling up of these vacancies along with the vacancies pertaining to the recruitment years 1992-93 and 1993-94 was sent to the Union Public Service Commission in January 1995, and that the DPC considered 18 vacancies for 1991-92 due to non-joining of two persons recommended by the earlier DPC and 18 general category candidates were recommended where the name of the applicant figured at S1.No.15 of the panel for appointment.

5. There is no dispute that the applicant's name did not find a place in the panel of 1991-92 before de-reservation of the reserved quota. So, the position is clear that but for the de-reservation the applicant would not have got promotion during the year 1991-92 and only would have got subsequently. What the applicant says is that he was not given the benefit of pay fixation and reckoning of service with effect from the date of occurrence of the vacancy. Here, in this case, vacancy for the applicant has arisen only as a result of the de-reservation.

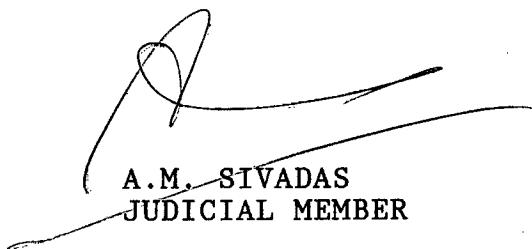
On that basis the benefit has been granted to him. That being so, the applicant is not entitled to any relief sought in this OA.

6. Accordingly, the Original Application is dismissed. No costs.

Thursday, this the 31st day of May, 2001



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.M. SIVADAS
JUDICIAL MEMBER

ak.

List of Annexure referred to in this order:

1. A1 True copy of order No. 310/11/98-B(D) dated 29-4-1998 issued by the 2nd respondent.
2. A4 True copy of the representation dated 11-3-1997 sent by the applicant before the 1st respondent.