

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 227 OF 2012

Wednesday, this the 23rd day of January, 2013

CORAM:

**HON'BLE Dr. K.B.S. RAJAN , JUDICIAL MEMBER
HON'BLE MS.K NOORJEHAN, ADMINISTRATIVE MEMBER**

D.Sunil Kumar
Carpenter, Doordarshan Kendra
Kudapanakunnu
Thiruvananthapuram – 695 043
Residing at Sariga Nivas
VP IV/15A, Manikanteswaram Post
Vattiyoorkavu, Thiruvananthapuram-695 013

- Applicant

(By Advocate Mr.Vishnu S Chempazhanthiyil)

Versus

1. The Director
Doordarshan Kendra
Kudapanakunnu
Thiruvananthapuram – 695 043

2. The Chief Executive Officer
Directorate General : Doordarsan
Prasar Bharati (BCI)
Doordarsan Dhavan, Copernicus Marg
New Delhi – 110 001

3. Union of India, represented by its Secretary
Ministry of Information and Broadcasting
New Delhi – 110 001

- Respondents

(By Advocate Mr.Millu Dandapani, ACGSC for R3 and Mr.N.N Sugunapalan, Sr with Mr.S Sujin for R1-2)

The application having been heard on 23.1.2013, the Tribunal on the same day delivered the following:

ORDER

HON'BLE DR.K.B.S RAJAN, JUDICIAL MEMBER

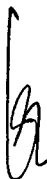
1. The case of the applicant is as under:-

The applicant joined as a Carpenter in Doordarsan Kendra,

Thiruvananthapuram on 18.03.1988. He belongs to skilled category of artists. His job involves designing and executing the sets in the backdrop which enhances the visual value of the programme. There is one post of Scenic Designer in the Kendra. The applicant who is the senior most Carpenter has been carrying out the work of Scenic Designer. The applicant submitted a representation to the Director General requesting to post the applicant as a Scenic Designer. Orders were passed by the DDK Thiruvananthapuram directing that the absence of Scenic Designer, the applicant would coordinate the set erection works in the studios as well as OB's vide Annexures A3, A3(a). As regards posting as Scenic Designer, the applicant was informed by the first respondent that his request could not be acceded to as of present. The applicant moved the 2nd respondent pointing out that ever since the superannuation of the regular incumbent, the applicant has been doing the work of Scenic Designer. Hence, he may be promoted or absorbed in the post of Scenic Designer vide Annexure A4. The previous incumbent who superannuated as a Scenic Designer in October 2010 was also working as a Carpenter, when he was posted as a Scenic Designer. Rejection of Annexure A-4 by the first respondent without even forwarding the same to the 2nd respondent to whom Annexure A4 is addressed, is illegal and arbitrary.

2. The respondents have contested the Original Application and their stand is as under:-

The applicant has been granted financial benefits under the Assured Career Progression Scheme and Modified Assured Career Progression Scheme. The recruitment to the post of Scenic Designer is



75% by Direct Recruitment and 25% by promotion from among the Production Assistants (Set Erection) with 3 years service in that Grade. Carpenter is not eligible for promotion to the post of Scenic Designer. It was not possible to consider the applicant to the post of Scenic Designer and a reply was given accordingly. The applicant has been directed to coordinate the work in the Scenic Section as a stop gap arrangement for the smooth functioning of the recording of programs. This does not mean that the applicant is entitled to the post of Scenic Designer. Since the Rules do not permit to promote a Carpenter to the post of Scenic Designer, this office has rejected the request of the applicant for appointment as Scenic Designer.

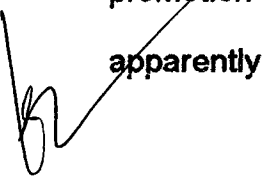
3. The applicant has filed rejoinder, in which he has stated that the previous incumbent in the post of Scenic Designer was working as a Carpenter and was later on absorbed in the said post. As such, it is only just and fair that the applicant is also extend the same benefit.

4. Counsel for the applicant argued on the same lines as contained in the pleadings.

5. Counsel for the respondents invited our attention to the provisions relating to recruitment to the post of Scenic Designer.

6. Arguments were heard and documents perused.


7. It is trite law that the appointment to any post by way of fresh recruitment or promotion shall be strictly in accordance with the statutory Rules. In the instant case, apparently the applicant does not fulfill the qualifications for the post of Scenic

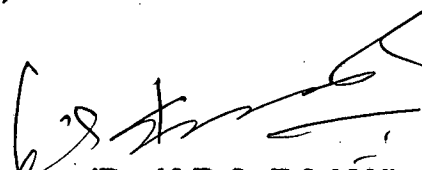


Designer and the post of Carpenter is not a feeder cadre to the said post. That the previous incumbent in the said post was also a Carpenter and as such, same benefit should be extended to the applicant cannot be accepted, as a mistake committed by the respondents cannot be perpetuated on the ground of equality as held by the Apex Court in a number of decisions.

8. In view of the above, we find no merit in the Original Application and it is accordingly dismissed. No costs.

(Dated, the 23rd day of January, 2013)


(K.NOORJEHAN)
ADMINISTRATIVE MEMBER
SV


(Dr. K.B.S. RAJAN)
JUDICIAL MEMBER