

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 229 of 2011

Wednesday, this the 09th day of November, 2011.

CORAM:

**HON'BLE Mr. JUSTICE P.R. RAMAN, JUDICIAL MEMBER
HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

R. Sethumadhavan,
Daftary, Civil Construction Wing,
All India Radio, Kakkanad, CEPZ PO – 682 037. ...Applicant

(By Advocate Mr.T.D.Salim)

versus

1. Union of India
represented by Secretary to Government,
Ministry of Information & Broadcasting, New Delhi – 110 001.
2. Director General,
All India Radio, Akashavani Bhavan, New Delhi – 110 001.
3. Station Director,
All India Radio, Vazhuthacaud, Thiruvananthapuram – 695 014.
4. The Executive Engineer (Civil),
Civil Construction Wing,
All India Radio & TV, Kakkanad, Kochi – 682 037.
5. P.M. Mohammed Sheriff,
L.D.Clerk, Doordarshan Kendra,
Kaduppanakkunnu PO, Thiruvananthapuram – 43.
6. P.Sureshan,
L.D.Clerk, All India Radio, Kozhikode – 673 001.
7. K.Sivadasan,
L.D.Clerk, All India Radio,
D.M.C., Doordarshan, Kakkanad – 682 037. ...Respondents

(By Advocate Mr. George Joseph,ACGSC [R1-4])

The Original Application having been heard on 20.10.2011, the Tribunal on 9/11/11. delivered the following:

ORDER

HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER

This O.A has been filed by the applicant for the following reliefs :

- (i) To call for the records leading to Annexure A-14 and to quash the same;
- (ii) To declare that the applicant is entitled to seniority in the list of educationally qualified Group-D staff in Kerala Zone with effect from 20.06.84;
- (iii) To declare that the applicant is entitled to promotion as L.D. Clerk with effect from 13.01.82 and subsequent promotion;
- (iv) To grant such other orders or direction as Hon'ble Tribunal may deem fit and proper in the interest of justice.

2. The applicant who joined the All India Radio (AIR), Bombay, on 01.02.1973 as Peon was transferred to the Civil Construction Wing of the All India Radio, Kochi, on 20.06.1984. Subsequently, he was transferred to the office of the Executive Engineer, AIR, Thiruvananthapuram on 25.04.1989. He was promoted as Daftry on 15.11.1989. Challenging the fixation of his seniority from 07.07.1989, he had filed O.A. No. 480/1995 for a declaration that he is entitled to seniority in the cadre of Daftry in Kerala Zone with effect from 20.06.1984, which was disposed of by order dated 07.04.1995 directing the respondents to forward a copy of his representation to the 1st respondent therein who should consider the same and pass a reasoned order thereon within 4 months of the receipt of the representation. The applicant had filed a representation (Annexure A-10) dated 22.03.2010 against the seniority list of educationally qualified Group 'D' staff as on 01.01.2010. His representation was recommended by the Executive Engineer to the Station Director, AIR,



Thiruvananthapuram, vide his letter dated 29.03.2010 (Annexure A-11). In the said representation, it was pointed out that the applicant in O.A. No. 32/1998 who was similarly placed as the applicant herein, was allowed seniority with effect from 13.06.1984 as per order dated 06.09.2000. The Executive Engineer had further recommended the case of the applicant vide letter dated 30.03.2010 (Annexure A-13). In reply, Annexure A-14 letter dated 23.06.2010 was issued stating therein as under :

"In Shri R. Sethumadhavan's case, his representation dated 21.04.1994 to count the seniority in Kerala Zone with effect from the date of his joining in Kerala Zone, i.e. From 23.06.1984 (in the recent communications it is shown as 20.06.1984) was forwarded to the Directorate General (S-II Section) vide Executive Engineer, CCW letter dated 25.04.1994. However, no reply appears to have been received from the Directorate on the matter. Thereafter, seniority lists of educationally qualified Group-D staff in Kerala Zone were circulated and even two educationally qualified Group-D staff members who are juniors to Shri R. Sethumadhavan as per his contention, were promoted to the cadre of Lower Division Clerk (Shri Monachan, Security Guard on 04.10.1999 and Shri Gokuldas, Security Guard on 01.01.2009). Shri R. Sethumadhavan was silent on all these years and represented only in 2010 when the Seniority List of 2010 was circulated."

The applicant retired on 31.05.2011.

3. The applicant submitted that the respondents have not justified in attributing the delay in redressing his grievance solely to the applicant. The 3rd respondent failed to consider the specific recommendation of the 4th respondent. Unless proper seniority is fixed and due benefit by way of promotion is conferred on him, the applicant will be put to recurring monetary loss as also loss in retirement benefits. The reason shown for rejecting the



claim of the applicant that "if the position of staff in the seniority list is revised after a span of about 15 years it will make the issue more complicated and even lead to Court cases" is a baseless and unsustainable contention. The claim of the applicant is based on an order of this Tribunal in similar case in O.A. No. 32/1998. The applicant is deprived of his legitimate right to promotion under the 5% quota earmarked for Group-D staff. Many juniors to the applicant were promoted overlooking his claim. The applicant was denied his promotion as LDC with effect from 13.01.1982 and consequential promotion. The wrong committed should be rectified with retrospective effect.

4. The respondents in their reply statement submitted that the practice still being followed is that till the Sub Division office starts functioning independently in a State, the state-wise seniority list of Ministerial and Group-D (educationally qualified) staff is maintained by the Zonal Station of the AIR where the Division office of Civil Construction Wing is functioning. Even after the direction of this Tribunal in the order dated 07.04.1995 in O.A. No. 480/1995, the applicant had not submitted any representation except the Annexure A-10 on 22.03.2010. The 3rd respondent has circulated the seniority lists of educationally qualified Group-D staff in Kerala Zone during the year 1996, 1998, 2007, 2008 and 2010. The applicant had not raised any objection and was silent all these years about the seniority except during the year 2010, i.e. after a lapse of 19 years. The 5th respondent in this O.A. was promoted as LDC on the strength of the order of this Tribunal dated 06.09.2010 in O.A. No. 32/1998. The applicant herein was respondent No.20 in O.A. No. 32/1998. He did not raise any objection either before this Tribunal



or to the respondents about the promotion of the 5th respondent or about the applicant's seniority claim. The claim of the applicant at this juncture for granting service benefits from 23.06.1984 cannot be acceded to, as this would adversely affect the persons who had already got the promotions. As per the Zonal seniority maintained for educationally qualified Group-D staff, the persons promoted are seniors to the applicant.

5. We have heard Mr. T.C. Salim, learned counsel for the applicant and Mr. George Joseph, learned ACGSC, appearing for the respondents and perused the records.

6. The impugned order dated 23.06.2010 (Annexure A-14) is by way of reply to Annexure A-13 letter of the Executive Engineer dated 30.03.2010 recommending representation of the applicant dated 22.03.2010 for reckoning his service from 20.06.1984. The O.A. No. 480/1995 was filed for counting his seniority with effect from 23.06.1984.) The discrepancy in the date for counting the seniority is not explained by the applicant. The aforesaid OA was disposed of with a direction to the applicant to forward a copy of the representation to the first respondent therein and to pass a reasoned order thereon within four months of the date of receipt of the representation. His representation dated 22.03.2010 (Annexure A-10) does not make any mention of the order of this Tribunal in O.A. No. 480/95 filed by him on the subject of his seniority. He has not submitted any representation complying with the order of this Tribunal dated 7.4.1995 in the said O.A.

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7. In O.A. No. 32/1998 filed by one P. Mohammed Sherief, who is the 5th respondent in this O.A, the applicant herein was the respondent No. 20. The applicant did not raise any objection either before this Tribunal or the respondents about the promotion of Mohammed Sherief or his seniority claim.

8. The representation of the applicant filed on 22.03.2010 is after a lapse of almost 15 years from the date of the order of this Tribunal on 07.04.1995. The applicant did not raise any objection against the promotion of educationally qualified employees all these years. He slept over his claim, if any, for 15 years. There is inordinate delay in seeking relief before appropriate forum, if any, to count his seniority from 20.06.1984 or 23.06.1984. This O.A. has been filed on 18.03.2011, very close to his retirement on 31.05.2011. The long delay and laches on the part of the applicant extinguish his claim for seniority with effect from the year 1984. In the facts and circumstances of the case, we do not find any reason to disturb the long settled seniority and promotion of the employees during last 15 years.

9. In view of the above, the O.A. is dismissed with no order as to costs.

(Dated, 09th November, 2011)


K. GEORGE JOSEPH
ADMINISTRATIVE MEMBER


JUSTICE P.R. RAMAN
JUDICIAL MEMBER

CVR.

