

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A No.945/95 AND O.A.32/96

Tuesday, this the 19th day of August, 1997.

CORAM

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

HON'BLE MR S.K. GHOSAL, ADMINISTRATIVE MEMBER

(i) O.A. No.945/95

V.K. Vijayakumar, Production Assistant,
All India Radio, Kozhikode,
Residing at Niazhappallil House,
Ayrapam Post, Via: Konni,
Kollam District.

By Advocate by M/s K.P. Dandapani & Sumathi Dandapani. ..Applicant

Vs.

1. The Station Director,
All India Radio, Kozhikode.
2. The Station Engineer,
All India Radio, Kozhikode.
3. The Director General,
All India Radio, New Delhi.
4. Ministry of Information & Broadcasting,
represented by its Secretary,
AIR Bhavan, New Delhi.
5. Smt. R. Sivambika,
Programme Executive,
All India Radio, Kozhikode. ..Respondents

By Advocate Mr P. R. Ramachandra Menon, ACGSC for R lto4.

(ii) O.A. No.32/96

1. N. Raveendran, Production Assistant,
All India Radio, Thiruvananthapuram.
2. K.J. Baben, Production Assistant,
All India Radio, Thiruvananthapuram.
3. B. Vijayakumar, Production Assistant,
All India Radio, Thiruvananthapuram. ..Applicants

By Advocate M/s Santhosh & Rajan.

Vs.

Union of India rep. by the Secretary,
Ministry of Information & Broadcasting, New Delhi.

The Director General,
All India Radio,
Akshavani Bhavan, New Delhi.



...Contd.p/2

3. The Station Director (Staff Grievances Officer), All India Radio, Thiruvananthapuram.
4. Lekha Gopal, Production Executive, All India Radio, Staff Training Centre, Kozhikode.
5. S.K. Ali, Programme Executive, Doordarshan Kendra, Bhopal.
6. A. Faizi, Programme Executive, Doordarshan Kendra, Bhopal.
7. Smt. Lekha Gopal, Programme Executive, All India Radio, Thiruvananthapuram.
8. S. Gopalakrishnan, Programme Executive, All India Radio, Trissur.
9. C.B.S. Rana, Programme Executive, Doordarshan Kendra, Ranchi.
10. A.S. Chandran, Programme Executive, All India Radio, Thiruvananthapuram.
11. Smt. Rupam Narayan Pandey, Programme Executive, All India Radio, Allahabad.
12. V.K. Dholaria, Programme Executive, All India Radio, Rajkot.
13. Smt. Ragni Verma, Programme Executive, All India Radio, Lucknow.

...Respondents

By Advocate Mr Mary Help John David.J,ACGSC for R 1- 3.

The applications having been heard on 5.8.97, the Tribunal delivered the following on 19th of August, 1997.

O R D E R

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

Facts and reliefs sought in both these O.As are almost identical.

2. The applicant in O.A.945/95 seeks to quash A-11 order dated 5.10.94 and sub-rules (e),(f),(g), and (h) of Rule 4A(1) of A-13 dated 23.10.84, to direct respondents 2 & 3 to prepare a fresh seniority list of Transmission Executives by taking into the total length of service of the incumbents with effect from the date of A-8, and to direct respondent-3 to promote



him giving seniority over respondent-5.

3. Applicants in O.A.32/96 seek to direct respondent-2 to promote them as Programme Executives without applying the ratio and not to promote Transmission Executives who joined after 23.10.84 before promoting them as Production Assistants.

4. Applicants are working as Production Assistants in the All India Radio. They were formerly working as Staff Artists on contract basis. As per order dated 12.12.84, the government accepted the option exercised by the applicants and other Production Assistants to convert them as government servants (A-4 in O.A.945/95). As per A-6 order dated 12.8.85 (in O.A.945/95) the post of Production Assistants/Staff Artists etc. who have been declared as government servants were equated with Transmission Executives. According to applicants, their juniors have been promoted as Programme Executives. As per A-11(in O.A.945/95) it is so done because of separate lists of seniority of officers of regular cadre and that of Staff Artists who have become government employees. A-13 (R-1 in both the O.As) is the All India Radio (Group 'B' posts) Recruitment(Amendment) Rules,1984. As per Rule 4A(1) (f) of A-13, there shall be separate lists of seniority of officers of regular programme cadre and that of Staff Artists who have become government employees and promotion to the next grade from the two lists shall be on quota basis, the ratio of which shall be based on the existing number of posts in each category on the date of holding of the Departmental Promotion Committee.

5. The relief sought by the applicants in O.A.32/96 is to direct respondent-2 to promote them as Programme



Executives without applying the ratio. The ratio is obviously the ratio contained in R-1. There is no challenge in O.A. 32/96 with regard to any of the provisions contained in R-1. In the absence of challenge of Rule 4A(1)(f) of R-1 which says that for the purpose of promotion there shall be separate lists of seniority of officers of regular programme cadre and that of Staff Artists who have become government employees, and promotion to the next grade from the two lists shall be on quota basis the reliefs claimed by the applicants in O.A. 32/96 cannot be considered.

6. Applicant in O.A. 945/95 has challenged Rule 4A(1)(e), (f), (g) & (h) of A-13. According to applicant, as per A-12, the All India Radio and Doordarshan (Transmission Executive) Recruitment Rules, 1992, Production Assistants as well as Field Reporters are designated posts under Transmission Executive and are fused and brought under the same category of Transmission Executive and hence, it is arbitrary to have two lists for the purpose of promotion to the post of Programme Executives. As per A-12, Transmission Executive includes posts designated as Production Assistants, Field Reporters etc. It is a case where staff artists who have become government employees are equated with Transmission Executives who are officers of regular cadre. From A-12, it cannot be said that staff artists who have become government employees and officers on regular cadre are integrated into one. This is a case where two separate services are brought together for certain purposes and are kept as separate categories.



According to applicant in O.A.945/95 there is violation of Article 14 of the Constitution. Article 14 of the Constitution of India is a general provision and has to be

read subject to the other provisions included within the Part on Fundamental Rights. Mere differentiation or inequality of treatment or inequality of burden does not per se amount to discrimination within the inhibition of the equal protection clause. To attract the operation of the clause it is necessary to show that the selection or differentiation is unreasonable or arbitrary. The ratio provided in A-13 for promotion to the post of Programme Executive for officers of regular Programme Cadre and that of Staff Artists who have become government employees is based on the existing number of posts in each category on the date of holding of the Departmental Promotion Committee. It cannot be said to be unreasonable or arbitrary. Article 16 of the Constitution of India does not debar a reasonable classification of the employees in the matter of appointment or promotion, provided the classification is made with reference to the objective to be achieved. Where two separate services are brought together for certain purposes as in this case, and they are kept as separate categories, no question of violation of Article 16(1) of the Constitution of India arises on the ground that the government has not created an integrated cadre. The guarantee under Clause (1) will be violated only when discrimination or preference is made in the matter of promotion between employees recruited from the same source. Staff Artists who have become government servants and officers of regular cadre are not recruited from the same source. It is not a case here where there is no reasonable nexus between differences and the recruitment or promotion. The burden of showing that the classification is unreasonable is on the person who challenges it. The burden is not discharged by the applicant in O.A. 945/95. From the materials available here, it can only be said that the classification is reasonable.



8. As it could not be made out from A-12 that there is complete integration of recruits from different sources, there would be no contravention of Articles 14 or 16 of the Constitution of India, if the government bifurcates the recruits into two cadres or wings. Article 16(1) will be infringed only if equality of opportunity for promotion is denied to government servants holding different posts in the same grade or integrated grade consisting of recruits from different sources absorbed into one cadre or recruits from the same source. As already stated it cannot be spelt out from A-12 that the Staff Artists who have become government servants and officers of regular cadre are integrated into one maintaining separate seniority lists for Staff Artists who have become government servants and for officers of regular cadre cannot give rise to any complaint of discrimination.

9. Hence, we do not find any reason to quash sub-rules (e), (f), (g) and (h) of Rule 4A(1) of A-13.

10. A-11 order is passed based on the provisions contained in Rule 4A(1) of A-13. Hence, A-11 is not liable to be quashed.

11. The 5th respondent has been promoted since she is included in the seniority list officers of regular programme cadre.

12. Accordingly, we find no merit in these Original Applications and these original applications are dismissed. No costs.

Dated the 19th of August, 1997.



Sd/-
S. K. GHOSAL
ADMINISTRATIVE MEMBER

Sd/-
A. M. SIVADAS
JUDICIAL MEMBER

CERTIFIED TRUE COPY
Date 25.8.97

Deputy Registrar 21/8