

CENTRAL ADMINISTRATIVE TRIBUNAL,

LUCKNOW BENCH,

LUCKNOW.

Original Application No.380 of 1990 (L)

Today, the 19<sup>th</sup> day of April 1995.

**HON'BLE MR.JUSTICE B.C. SAKSENA, VICE-CHAIRMAN.**

**HON'BLE MR. V.K. SETH, ADMINISTRATIVE MEMBER.**

Nisar Ahmed,  
aged about 38 years,  
son of late Shri Imam Baksh,  
Resident of C/o.Sri Mohammad  
Iqbal Khan,  
Seth Ram Das Building,  
4th Lane, Nishatganj,  
Lucknow.

::::::: Applicant.

BY ADVOCATE SHRI A.K. SHUKLA

VERSUS

1. Union of India,  
through the Secretary,  
Govt. of India,  
Ministry of Information &  
& Broadcasting,  
Shastri Bhawan,  
NEW DELHI.
2. Doordarshan,  
through its Director. General,  
Mandi House,  
Sansad Marg, New Delhi.
3. Doordarshan Kendra,  
through its Director,  
24-Ashok Marg, Lucknow.        ::::: Respondents.

BY     ADVOCATE DR. ASHOK NIGAM &  
Mrs. Prema Nigam.

O R D E R.

JUSTICE B.C. SAKSENA, VICE-CHAIRMAN.

Through this O.A. the applicant has sought a  
direction to be issued to the respondents to promote him

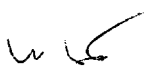
to the post of ~~Wardrobe~~/Property Assistant with retrospective effect from 1976 and for paying the difference of salary from that date. The applicant was appointed on 1-11-1976 on the post of Tailor, Doordarshan Kendra, Lucknow. He alleges that during the period 1976-79 the applicant had been required to work as ~~Wardrobe~~/Property Assistant and from 1979 to 1985 assisted one Shri R.S. Vaish. He further alleges that on 25-2-1985 another person, Shri Dharam Vir Singh, was appointed as ~~Wardrobe~~/Property Assistant, but in spite of the same the applicant had been performing the duties of the said post. The post of a Tailor is in the pay scale of Rs.1200-1800 while the scale of pay for the post of ~~Wardrobe~~/Property Assistant is Rs.1400-2000. The applicant, in support of his claim, has filed certain documents, Annexures 1 to 6.


2. A detailed Counter Affidavit has been filed by the opposite parties and the applicant has filed Rejoinder. We have heard the learned counsel for the applicant.

3. In the Counter Affidavit the stand of the respondents is that the applicant was appointed as Tailor and has been paid in the pay scale prescribed for the said post. As per the Recruitment Rules, viz. Doordarshan Programme (Tech./Gr.'C' Posts), Recruitment Rules 1987, according to the respondents, there is no provision for promotion of Tailor to the post of Wardrob/Property Assistant. It is to be filled up by 100% Direct Recruitment only. The respondents, however, have not denied that due to exigencies of service, the duties of ~~Wardrobe~~/Property Assistant have been assigned to the applicant. It has further been indicated that

the applicant had sought his promotion to the said post and had made an application for the purpose. The said application was considered by the Director, Doordarshan Kendra, and in view of the provisions of the recruitment rules, the application has been rejected. The documents filed by the applicant only indicate that occasionally, for one or two days, when certain functions were being held, the applicant has casually been required to work as Wardrob/Property Assistant. This casual requirement does not cloth the applicant with any right to claim salary of the said post. It has not been disputed that under the Recruitment Rules the applicant cannot be considered for promotion to the said post.

4. We further find that the applicant's claim virtually is for salary of the higher post from 1976 to 1985. The said claim cannot be entertained since the cause of action, if any, can be said to have accrued ~~to~~ 3 years prior to the constitution of the Tribunal. The Tribunal was constituted in November, 1985. Since the applicant has not been appointed nor can be appointed to the higher post, his claim for salary of the said post is untenable. The O.A. is devoid of merit and is accordingly dismissed. The parties shall bear their own costs.

  
MEMBER(A)

  
194/95  
VICE-CHAIRMAN.

(nair).