

Central Administrative Tribunal, Lucknow Bench, Lucknow
Original Application No. 219/2009

Reserved on 21.4.2014

Pronounced on 19-05-2014

HON'BLE SHRI NAVNEET KUMAR MEMBER (J)
HON'BLE MS. JAYATI CHANDRA, MEMBER(A)

Gyanendra Dutt Mishra, kaged abaout 47 years, Son of Late (Shri) H. B. Mishra Resident of 2/78, Vishal Khand, Gomti Nagar Lucknow Assistant Engineer (High Power Transmitter) Doordarshan At Magarwara, District Unnao In the office of the Station Enginner (HPT) Doordarshan A.I.K.R, Kanpur(Present Official Address)

Applicant

By Advocate: Sri Rakesh Bajpai

VERSUS

1. Union of India, through the Secretary, Ministry of Information and Broadcasting Shastri Bhawan, New Delhi.
2. The Secretary, Ministry of Information and Broadcasting Shastri Bhawan, New Delhi.
3. The Secretary, Ministry of Human Resources Development Department of Education.
4. The Director General, All India Radio Akashwani Bhawan Sansad Marg, New Delhi.
5. The Director General, Doordarshan Mandi House, Copernicus Marg, New Delhi.
6. Prasar Bharti Corporation of India, through its Chief Executive Officer, Second Floor, PTI Building, Sansad Marg, New Delhi.
7. The Engineer-in-Chief, All India Radio Office of the Director General All India Radio Akashwani Bhawan, Sansad Marg, New Delhi.
8. The Chief Engineer (Development), All India Radio Office of the Director General All India Radio Akashwanti Bhawan, Sansad Marg, New Delhi.
9. The Director, Engineering (HRD) Doordarshan Office of the Director General, Doordarshan Mandi House, Copernicus Marg, New Delhi.
10. Departmental Promotion Committee constituted under Serial No. 6 of Schedule IV to the Indian Broadcasting (Engineers) Service Rules, 1981 for Junior Time scale posts of Indian Broadcasting (Engineers) Service, through its Chairman, All India Radio, Akashwani Bhawan, Sansad Marg, New Delhi.
11. Deputy Director of Administration (E) Office of the Director General All India Radio Akashwani Bhawan, Sansad Marg, New Delhi.
12. University Grants Commission Through its Secretary, Bahadur Shah Zafar Marg, New Delhi.
13. All India Council for Technical Education through its Member Secretary, I.G. Sports Complex, I.P. Estate, New Delhi.
14. Distance Education Council through its Director, Indira Gandhi National Open University Maidan Garhi.
15. The Joint Committee of U.G.C., A.I.C.T.E & D.E.C> through its Co-ordinator, Indira Gandhi National Open University Maidan Garhi New Delhi.
16. Allahabad Agricultural Institute, Deemed to be University through its Registrar, Naini Allahabad.

17. Union Public Service Commission Through its Secretary,
Shahjahan Raod, New Delhi.

Respondents

By Advocate Sri Yogesh Kesharwani for R.No.1,2,4 and 11
Sri Pankaj Awasthi for Sri A.K.Chaturvedi for R.No. 17
None for other respondents.

ORDER

BY HON'BLE SRI NAVNEET KUMAR, MEMBER (J)

The present Original Application is preferred by the applicant
u/s 19 of the AT Act, with the following reliefs:-

- a) to direct and command the Union of India (the respondent No.1), the Ministry of Information and Broadcasting (the respondent No.2), The Director General, All India Radio (the respondent No.4), and the Director General, Doordarshan (the respondent No.5) to include the name of the applicant in the modified final eligibility list of Assistant Engineers working in All India Radio/ Doordarshan as on 1.1.2007 published under the covering letter dated 27.4.2009 (Annexure No.3 to this Original Application).
- b) to direct and command the Departmental Promotion Committee All India Radio and Doordarshan (the respondent No. 10) to consider the candidature of the applicant, for promotion to the junior time scale post in the Indian Broadcasting Service, after inclusion of his name in the Modified Final Eligibility list of Assistant Engineers working in All India Radio/Doordarshan as on 1.1.2007 published under the covering letter dated 27.4.2009.
- c) to direct and command the Union of India (the respondent No.1) the Ministry of Information and Broadcasting (the respondent No.2), the Director General, All India Radio (the respondent No.4), and the Director General, Doordarshan (the respondent No.5) to promote the applicant , from the post of Assistant Engineer to the Junior Time Scale post in the Indian Broadcasting Service.
- d) to declare Degree of Master of Technology in I.T. (M.Tech) (IT) through distance education mode of Allahabad Agricultural Institute

deemed to be University , Allahabad possessed by the applicant is a requisite academic qualification as envisaged in schedule II to the Indian Broadcasting (Engineers Service Rules, 1981)

e) to declare degree of Master of Technology in I.T. (M.Tech (I.T.)) through distance education mode of Allahabad Agricultural Indistute , Deemed to be university , Allahabad posted by the applicant is recognized and approved by the Joint Committee of UGC-AICTE-dTC.

f) to declare that for the purposes of employment to post and services under the Central Govt. there is no discrimination in the requisite academic qualification on the basis of mode education through which the same is acquired i.e. is either through distance education mode.

g) to quash the impugned decision dated 28.7.2008 of the Committee headed by the Engineer-in-Chief, All India Radio (the Respondent No.7) and having its members as the Chief Engineer (Development), All India Radio (The respondent No.9) and the Director Engineering (HRD), Doordarshan (the respondent tNo.8), contained as Annexure No. 2 to this Original Application, after calling the original from the respondents.

h) to quash the impugned letter dated 22.11.2007 of the Deputy Director ,Administration (E), Prasar Bharti , EG, AIR , New Delhi (the respondent No.11) contained as Annexure no.1 to this Original Application, after calling the original from the respondents.

i) to quash the portion of the letter dated 25.7.2008 of the University grant Commission (the respondent No.12) which states that "the UGC has not granted any approval to the courses run under distance mode by the Deemed Universities" as contained in Annexure No.4 to this original application , after calling the original from the respondents.

j) to quash the portion of the letter dated 23.7.2008 of the All India Radio Council for Technical Education which states that

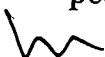
"AICTE (Respondent No. 13) has not approved any institution for offering technical education programmes through distance mode." Contained as Annexure no. 5 to this original application after calling the original from the respondents.

k) to quash the letter dated 14.7.2008 of the Distance Education Council (respondent No. 14) contained as Annexure No. 6 to this original application, after calling the original from the respondents.

l) to pass any other order or direction, which this Tribunal may deem fit and proper in the circumstances and facts of the instant case.

m) to award the cost of the original application.

2. The applicant was initially appointed on adhoc basis on the post of Engineering Assistant, All India Radio in 1985. Subsequently, he was appointed on regular basis on the post of Engineering Assistant. The applicant through the present O.A. prayed for issuing a direction to include the name of the applicant in the Modified Final Eligibility list of Assistant Engineers and also to direct the Departmental Promotion Committee to consider the candidature of the applicant for promotion to the Junior Time Scale post in the Indian Broadcasting Services, after inclusion of his name in the Modified Final Eligibility list of Assistant Engineers in All India Radio/ Doordarshan. The learned counsel for the applicant has also drawn our attention to the order passed by the Principal Bench in O.A. No. 1308/2009 which was preferred by the five applicants aggrieved by the order dated 27.4.2009 whereby the modified eligibility list of Assistant Engineers working in the All India Radio (AIR) and Doordarshan as on 1.1.2007 for promotion to Junior Time Scale cadre was issued by deleting their names from the list. Assailing the said order, the applicants have approached the Tribunal under Section 19 of the A.T. Act. The said O.A. was dismissed by the Tribunal by means of order dated 21st December 2011 and thereafter, the applicants preferred the writ petition before the Delhi High Court vide Writ Petition No.(C)




1149/2012 and the Hon'ble High Court while deciding the writ petition has been pleased to observe that the Tribunal held that the degree obtained by the writ petitioners is not a recognized degree. The reason is the view taken that technical education cannot be imparted through distance education. While deciding the writ petition, the Hon'ble High Court has also taken a view and pointed out that the Division Bench of Punjab and Haryana High Court in W.P. No. (C) 1640/2008 has also decided the same issue. The said matter was taken up before the Hon'ble Apex Court and the matter currently awaits adjudication before the Hon'ble Supreme Court, in which the notices has been issued and the Hon'ble Apex Court passed an interim order on 14.12.2012. As such, the writ petition preferred before Hon'ble High Court disposed of with the consent of the parties subject to view taken by the Hon'ble Apex Court finally.

3. The learned counsel for respondents have filed their reply and has also argued that since the matter is seized with the Hon'ble Apex Court and the Hon'ble Apex Court has also granted the interim order staying the decision of Punjab and Haryana High Court, therefore, this O.A be also disposed of in the light of the directions given by the Hon'ble Delhi High Court as well as interim order granted by the Hon'ble Apex Court.

4. The learned counsel for applicant has also filed a Supple. Affidavit through which he has also filed copy of the Hon'ble Delhi High Court's order as well as interim order granted by the Hon'ble Apex Court. Not only this, the learned counsel for the applicant has also brought to the notice of this bench about order passed by the Principal Bench.

5. Heard the learned counsel for the parties and perused the record.


6. The Delhi High Court in writ petition No.1149/2012 dated 28.1.2013 has held that the issue with regard to recognition of degree



in Engineering obtained through distance education . The fall out of this issue would be if the degree so obtained is recognized, then the applicants therein would be eligible for promotion otherwise they would not be so eligible for further promotion on the basis of degree so obtained from distance education mode. The similar view was taken by the Division Bench of Punjab and Haryana High Court in Writ Petition No. 1640/2008 titled Kartar Singh Vs. Union of India and others. The matter is currently awaiting adjudication before the Hon'ble Apex Court wherein the notice has been issued seeking special leave to appeal against the decision of the Punjab and Haryana High Court (SLP (C) No.s 35793-96 of 2012. The Hon'ble Apex Court has also been pleased to pass an interim order on 14.12.2012. Accordingly , the writ petition was disposed of with observation that if once the Hon'ble Apex Court set aside the said decision of the Punjab and Haryana High Court in Kartar Singh (supra)'s case, the applicant would be entitled to the benefit of degree obtained by the applicant through distance education treating the degree to be legal and valid.

7. The learned counsel for applicant also submitted that issue raised in present O.A. is squarely covered by the decisions of Hon'ble High Court and the present O.A. can also be disposed of on the same terms which has not been opposed by the learned counsel for respondents. Accordingly, the present O.A. is disposed of subject to final out come of the SLP No. 35793 to 35796 of 2012 pending before the Hon'ble Apex court.

8. Accordingly, the O.A. is disposed of as above. No order as to costs.


(JAYATI CHANDRA)
MEMBER (A)


(NAVNEET KUMAR)
MEMBER(J)

HLS/-