

**CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW**

**Reserved on 2.9.2015.**

**Pronounced on 15.09.2015.**

**Original Application No.77/2010**

**Hon'ble Mr. Navneet Kumar, Member (J)**

**Hon'ble Ms. Jayati Chandra, Member (A)**

Dr. N.S.Raghuvanshi, aged about 40 years, S/o Sri Raj Mani Singh, R/o Doordarshan Colony, Viraj Khand, Gomti Nagar, Lucknow.

-Applicant.

By Advocate: Sri A. Moin.

**Versus.**

1. Union of India through Secretary, Ministry of Information & Broadcasting, New Delhi.
2. Director P&EA) Office of Director General, All India Radio, New Delhi.
3. Prasar Bharti (Broadcasting Corporation of India) through its Chief Executive Officer, New Delhi.
4. Director General, All India Radio, Akashwani Bhawan, New Delhi.
5. Director, All India Radio, Lucknow.

-Respondent.

By Advocate: Sri H.G. Upadhayay

**ORDER**

**By Ms. Jayati Chandra, Member (A)**

The applicant has filed this O.A. under Section 19 of Administrative Tribunals Act, seeking the following relief(s):-

- (a) *to quash the impugned order dated 1.12.2009 issued by the respondent no.4 as contained in Annexure no.A-1 to the O.A.*
- (b) *to direct the respondent no.4 to consider the applicant for promotion to the post of Farm Radio Officer/ Programme Executive (F&H) on the basis of the seniority list dated 4.9.2008 within a specified time w.e.f. the date of the seniority list dated 4.9.2008 within a specified time w.e.f. the date the applicant became eligible for promotion to the higher post.*
- (c) *to pay the cost of this application.*

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(d) *any other order which this Hon'ble Tribunal deems just and proper in the circumstances of the case be also passed."*

2. The facts of the case are that the applicant was recruited through Staff Selection Commission (SCC) on 4.5.1992 as Farm Radio Reporter (FRR). The next level of promotion from the post of FRR is to the post of Farm Radio Officer (FRO) after six years of regular service (Annexure no.2). By means of order dated 29.4.1992, the nomenclature for the post of FRR was changed to that of Transmission Executive (Farm & Home) (TRES F&H) and similarly the post of FRO was changed to Programme Executive (Farm & Home). However, the other conditions remained unchanged. The applicant completed six years of service in 1998, but he was not considered for promotion as the respondents failed to hold the meeting of regular Departmental Promotion Committee (DPC). A draft seniority list dated 2.2.2005 was issued on All India Inter Zonal basis for the post of Transmission Executive and FRR in which the name of the applicant finds place at sl. No. 458. Thereafter, other seniority lists were issued on different dates with different seniority position. The applicant issued a final seniority list of FRR/FRO by means of seniority list dated 4.9.2008. The respondents instead of promoting the applicant from the said seniority list held the DPC and promoted various persons from December 2008. He filed O.A. no. 371 of 2005, which was disposed of by means of order dated 26.3.2009 with following directions:-

*"The M.P. is allowed and O.A. is disposed of with a direction to the respondents to consider the claim of the applicant for their promotion on the post of Farm Radio Officer/Programme Executive (F&H) basing on the seniority list dated 4.9.2008 Farm Radio Reporter with reasoned order within a period of three months from the date of receipt of copy of the order. No costs."*

The respondents have now issued impugned order in compliance with the said direction. The applicant has challenged the impugned order as being in the nature of violation and circumventing of the earlier directions in so far as the respondents were bound to consider the case of the applicant for promotion from the seniority list dated 4.9.2008. Instead they are continuing with their intention as disclosed in para IX of the impugned order of going ahead with a selection based on the All India

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Seniority/eligibility list of Transmission Executives and Allied Categories as on 1.1.2009. In this list, the position of the applicant has been further reduced from the position as was available in the list of 4.9.2008 which is also a separate seniority list of FRR/TREX (F&H)

3. The respondents have filed detailed Counter Reply in opposition to the claim of the applicant. They have stated that as per Recruitment Rules amended upto 1993 the eligibility criteria for promotion on the post of FRO/Programme Executive (Farm & Home) is eight years regular service in the grade of FRR. The applicant having been recruited in the year 1992, was not eligible for such promotion in the year 1998. The post of FRR and others was amalgamated into post of Transmission Executive, as part of a major policy decision taken by the competent authority in 1992 and a common seniority list was maintained for the purposes of consideration of their promotion to the post of Programme Executive and it was not possible to consider the cadre of FRR separately. The directions of O.A. no. 371 of 2005 had been complied with by means of impugned order inasmuch as it is clarified that in view of amalgamation of various posts, the field of eligibility for promotion does not include only that of FRR. A combined seniority list dated 1.1.2009 is to be relied upon and the applicant will be considered as per his position in the said list.

4. The applicant has filed his Rejoinder Reply reiterating the averments made in the O.A. and refuting the contentions of the respondents made in the Counter Reply. More-over, he has stated that except for change of nomenclature from that of FRR to Transmission Executive (Farm & Home), no other condition of service including that of consideration of number of regular years of service for the purpose of promotion to next higher level is changed. Further, by virtue of order dated 26.3.2009 passed in O.A. no. 371 of 2005, the seniority list of FRR dated 4.9.2008 has attained finality and the respondents were directed to consider the claim of the applicant for promotion as per that list alone. This position has also been recognized in the meeting dated 14.7.2008 held under the chairmanship of Deputy Director (Programme). The position of final seniority list dated 4.9.2008 has also been upheld by this Tribunal's order dated 12.5.2005 passed in O.A. no. 226 of

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FRO/Programme Executive (Farm & Home), but he has not provided any order or copy of the Revised Recruitment Rules which would have been notified subsequent to 29.4.1992. It is also clear that various seniority lists were issued from time to time, both of category-wise and a combined list of posts as per revision carried out in 1992. For example, the annexure 4 has a head-note which reads as under:-

“Draft All India Inter Zonal seniority of TREXs, Farm Radio Reporters and Field ..... As on 1.1.2004 while the head-note of Annexure -8 (list dated 4.9.2008) reads as separate final all India seniority list of FR/FRRs (before 1992) as on 1.1.2008 (updated as on 31.8.2008)”

It appears from the impugned order that as part of amended provision contained in All India Group ‘B’ Recruitment Rules amendment notified on 31.12.1993, the post of FRR was equated with Transmission Executive, which according to amended provision, included the post of FRO. The seniority list dated 4.9.2008, is a list of only FRR and Field Reporter as they stood prior to 1992 and would, therefore, be the list to ensure that in the subsequent merged list, the inter-se seniority position is maintained.

8. The applicant has sought the compliance of the order dated 26.3.2008 passed in O.A. no. 371 of 2005, which has been quoted above. A careful scrutiny of the order shows that the respondents were directed to consider the case of the applicant for promotion to the post of FRO/Programme Executive. It is inherent in any order that any direction for consideration has to be done in accordance with law at such would include the question of field of eligibility for promotion. The respondents have made a statement that entire field of eligibility which includes the post of FRR and other categories. The promotion to the post of Programme Executive is not only from amongst the FRR or even made against a specific proportion earmarked for them. The directions passed in O.A. no. 371 of 2005 is not an absolute direction directing the respondents to promote the applicant on the higher post as per seniority list dated 4.9.2008 without referring to the promotion rules. The seniority list dated 4.9.2008 becomes the basis only in the event there is a separate quota for promotion into the said

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2007 (Para 13 thereof). The action of the respondents in passing the impugned order is tantamount to circumventing the specific direction of the Tribunal. He has relied upon the judgment of Allahabad High Court in the case of **Ram Krishna Vs. U.P. Jal Nigam, Lucknow & Others reported in ATJ 2000 (3) 234** wherein exception has been taken to the malafide action of the respondents in attempting to circumvent the legal orders passed by a competent court of law.

5. We have heard the learned counsel for the parties and have also perused the pleadings available on record.

6. The case of the applicant is that he was recruited as FRR in the year 1992. He is placing reliance on the certain Recruitment Rules whereby he is eligible for promotion to the next higher level i.e. to the FRO/ Programme Executive (Farm & Home) on the basis of such conditionalities. The copy of service rules provided by him at Annexure -2 do not indicate any date except a footnote running pages 18 as DG AIR letter no. 11/(5)/71- vig. dated 4.5.71. Para 2 of Annexure no. A-3 dated 29.4.1992 clearly mentions that a copy of the revised recruitment rules will be sent as soon as they are notified. The earlier designations have been renamed as below:-

(i)	Production Assistants	-	TREX (Production)
(ii)	Assistant Editor (F&H)	-	TREX (F&H)
(iii)	Assistant Editor (Script)	-	TREX (script)
(iv)	Assistant Editor (Science Reporting)	-	TREX(Science Reporting)
(v)	Assistant Editor (FW)	-	TREX (FW)
(vi)	Assistant Editor (Tribal Dialect)	-	TREX (Tribal Dialect)
(vii)	Assistant Editor (EB)	-	TREX (EB)
(viii)	Assistant Editor (Translation)	-	TREX (Translation)
(ix)	Sub Editor (Script)	-	TREX (Script)
(x)	Farm Radio Operator	-	TREX(F&H)
(xi)	Field Reporter	-	TREX (FW)

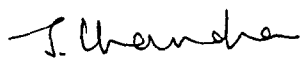
This order does not disclose whether these posts belong to the same cadre or they belong to separate cadre with separate seniority list and channel of promotion.

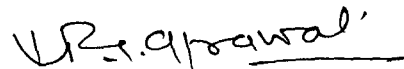
7. The case of the applicant is that having been recruited as FRR, he belongs to separate and distinct category and should be considered for promotion to next higher post that of

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post from the cadre of FRR to which the applicant separately belongs. However, in the event that there is no separate quota and then the seniority list of various categories of posts are utilized only for the purpose of fixation of inter-se seniority in the merged list and then consideration for promotion. In this case, while the respondents have not clarified whether the list dated 1.1.2009 has been drawn relying upon the list of 4.9.2008 as far as the category of FRR is concerned nor have the applicant stated that the list dated 1.1.2009 which is being sought to be the basis of the DPC, has been drawn up without taking into consideration the list dated 4.9.2008.

9. In view of the above, we find no merit in the O.A. and the same is accordingly dismissed. No costs.

  
(Ms. Jayati Chandra)  
Member-A

  
(Navneet Kumar)  
Member-J

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