

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY.

Original Application No.383/86.

1. Smt.Jayashri Nilatkar,
431, Ramsmruti,
Ramdaspeth,
Nagpur - 10.

2. Smt. Sanjay R.Pendse,
'Rajas' Shivam Society,
Plot No.3,
Ramkrishna Nagar,
Wardha Road, Nagpur.

... Applicants

V/s.

1. Station Director,
All India Radio,
Civil Lines, Nagpur(Akashwani),

2. Union of India, through the
Secretary, Department of
Information and Broadcasting,
New Delhi,

3. Smt.Anjali R.Durugkar,
Sapre's Bungalow, Chitley Marg,
Dhantoli,
Nagpur-12. o

... Respondents.

Coram: Hon'ble Member(A), Shri S.P.Mukerjee,
Hon'ble Member(J), Shri M.B.Mujumdar.

JUDGMENT:

(Per S.P.Mukerjee, Member(A)) Dated: 17-6-87

The Petitioners Mrs.Nilatkar and Mrs.Pendse have moved the Tribunal with their application dated 22.9.1986 under section 19 of the Administrative Tribunals Act, praying that the letter of appointment dated 21.8.1986 of Respondent No.3 be set aside and the applicants considered by Respondents Nos.1 and 2 for the post of Announcer, Junior Grade w.e.f. 21.8.1986.

2. The brief facts of the case can be recounted as follows. The applicants have been working as Announcer in the All India Radio, Nagpur on short term contract off and on since 1979 (in case of applicant No.1) and 1983 (in case of applicant No.2). On 25.10.1983 Respondent No.1 published an advertisement for the post of Programme Announcer in the scale

of Rs.425 - 750 indicating the essential and desirable qualification and also mentioning that "while calling the candidates, for test/interview, preference will be given to candidates having higher qualification and greater experience". Thereafter, 379 applications were received including those of the applicants and 307 were called for a written test on 27.5.1984. Applicant No.1 having got 19 marks and applicant No.2 17 marks out of 50, did not according to the Respondents qualify for being called for voice test and interview, as they did not obtain~~e~~ at least 50 marks in the written test. ~~Only~~ ⁵⁰ candidates who qualified in the written test were given the voice test and 18 qualified for interview and after the interview a panel of 6 was prepared. Respondent No.3 was included in the panel and given provisional appointment by the impugned order on ~~take~~ ^{date} effect from 19.1.1986. The other two candidates who were included in the panel above her were appointed earlier. According to the applicants the Respondents by fixing 50% qualifying marks in the written test and disqualifying them violated the terms of the advertisement as no weightage was given to them for their higher educational and professional qualifications and experience. As a result of this arbitrary decision of the Respondents the applicants had been deprived of their right of being considered in the voice test and interview and they have thus ^{been} deprived of their Constitutional ~~right~~ and ~~quality~~ of opportunity and treatment under articles 14 and 16 of the Constitution.

They have pertinently referred to the time lapse between the date of advertisement (25.10.1983) and date of being called for written test (27.5.1984) and date of information of the result in April, 1985 and have alleged that the whole selection process is vitiated by favouritism, manipulation and deprivation of their rights of being considered. They have also referred to the two Newspaper Reports of 18.6.1985 and 17.8.1986 in the "Nagpur Times" in which imputations of favouritism had been levelled against the Respondents in relation to these selections. According to the Respondents, the written test was resorted to, for screening the large number of applications and since the applicants did not come up to the minimum standards fixed, they were not called for voice test and interview. They have argued that the written test was related to the type of work which a Junior Announcer has to perform and the recruitment was conducted strictly under the prescribed Recruitment Rules. They have dismissed the claim of the applicants ^{to} ~~of~~ some weightage being given for their past experience as Announcer, by stating that for direct recruitment such experience is not relevant under the Recruitment Rules. The Respondents have also taken up some technical flaws in the application by stating that the same is time barred and the applicants have not impleaded all the 6 candidates ^{who} ~~were~~ included in the panel and even ^{also} ~~the~~ the other two candidates who had been appointed through the impugned selection process earlier than Respondent No.3.

3. We have heard the arguments of the learned Counsel for the applicants, and of Respondents Nos.1 and 2 and the learned Counsel for Respondent No.3 and gone through the documents carefully.

We have also examined the written papers of the two applicants and Respondent No.3.

4. In so far as the allegation of favouritism and bias alleged against the Station Director is concerned, beyond their bland statement and the Newspaper cuttings nothing tangible and convincing has been adduced by the applicants to substantiate their imputation. On the other hand it has been stated by the Respondents in their counter affidavit that when the written test was conducted one Shri Gaekwad was the Station Director and when the ~~vacational~~ ^{Voice} test was conducted, Shri Mahavir Singh had taken over from him. We cannot therefore accept that both the Station Directors had been so favourably inclined to Respondent No.3 and that they had gone out of their way to get her appointed. Further, no other candidate out of more than 250 who had been disqualified in the written test has come up challenging the disqualification on the ground of favouritism. We therefore dismiss the imputation of favouritism or mala fides as alleged by the applicants.

5. The main question which has loomed ~~now large~~ before us is whether by excluding the applicants through a written test, because they had not obtained 50% of the marks and not considering them for voice test and interview the Respondents have violated Articles 14 and 16 of the Constitution.

The written test was admittedly a mode of

screening the 307 candidates who had applied. We have seen the question paper and the duty chart of the post of Announcer in the Junior Grade. The post calls for not merely a voice test, but also a test of General Knowledge and felicity of writing and speech. We are satisfied that the questions were reasonable and relevant and since all the candidates had to answer the same questions, the possibility of any discrimination can be excluded.

6. The next point is whether by drawing a line at 50% of the marks the applicants can be said to have suffered grievously. Since the line had to be drawn somewhere, we have to examine whether by drawing the line at 50% any grave injustice has been perpetrated. Out of 307 candidates who took the written test, 50 were called for voice test, as they had obtained 50% or more marks in the written test. Since the size of the panel was 6, calling 50 candidates for voice test and thereafter 18 candidates for final interview which is three times the size of the panel, to our mind does not seem to be too vigorous or harsh. Even in cases of promotion, the zone of consideration for general candidates is kept at three times the number of vacancies. Accordingly, calling 50 candidates for voice test cannot be said to be too restrictive.

7. The only other point asserted by the applicants worth considering is whether by not giving the applicants any weightage for their past experience as Announcer and excluding them solely on the basis of written test the Respondents have violated the terms of selection as given in the advertisement and therefore have rendered the

whole selection ~~as~~ void. It is true that the advertisement did indicate that for "qualifying calling candidates for test/interview, preference will be given to candidates having higher qualifications and greater experience". So far as the written test is concerned the applicants can have no grievance as they had been called for in the written test. Whether any further preference can be given for their past experience for being called for interview is something which has to be left with the discretion of the administrative authorities and selection committee. It is true that the first applicant did have more than 100 days of experience as an Announcer between 1979 and 1983, but the second petitioner had only 6 days ^{or so} of such experience till the end of October, 1983 when the post was advertised. Thus we cannot give such an overwhelming and preponderant weightage to the element of experience as to neutralise the comparative assessment made on the basis of the written test. The advertisement did indicate that preference will be given to candidates with higher qualifications and greater experience for being called for test/interview, but the statement, to our mind cannot be read to the exclusion of the results of the qualifying written test. Written test has been ^{reliably} universally recognised as one of the ^{few} modes of ^{and} objective assessment, in any case, more objective than an interview which is more likely to be coloured by subjective and impressionistic assessment than a written test. Interviews are generally to supplement the assessment made in a written test and accordingly the results of written test cannot be brushed aside by other adventitious consideration like experience, especially when the

appointment is made by direct recruitment.

8. In the circumstances we do not find any merit in the application and accordingly do not find it necessary to go into the other legal infirmities of the application being time barred and suffering from non-joinder of necessary parties as argued by the Respondents. The application is rejected. There will be no order as to costs.

S.P.M. 17.6.87

(S.P.MUKERJEE)
MEMBER (A)

M.B.M.
(M.B.MUJUMDAR)
MEMBER (J).