

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

O.A.No.744/2001

Dated this Wednesday the 10th Day of April, 2002.

Hon'ble Shri Justice Birendra Dikshit, Vice Chairman
Hon'ble Smt.Shanta Shastry, Member (Administrative)

Smt.Usha Prabha Page,
Station Director,
All India Radio,
Pune - 411 005.

-- Applicant.

(By Advocate Shri A.K. Sharma)

Versus

1. Union of India,
Through the Secretary,
Ministry of Information and
Broadcasting, Shastry Bhavan,
New Delhi - 110 001.
2. The Chief Executive Officer,
Prasar Bharati,
Doordarshan Directorate,
Mandi House,
New Delhi - 110 001.
3. The Director General,
All India Radio,
Akashvani Bhavan,
Sansad Marg,
New Delhi - 110 001.

-- Respondents.

(By Advocate Shri S.S. Karkera
holding the brief of Shri P.M.
Pradhan).

ORDER (Oral)
{ Per : Smt. Shanta Shastry, Member (A) }

Disciplinary proceedings were initiated against the applicant by issuing a chargememo on 25.7.1996. A regular inquiry was held and the inquiry report was submitted some time in 10.2.1999. However, the inquiry report was forwarded to the applicant only on 6.12.2000.

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The applicant has given his representation on inquiry report, thereafter no final decision has been conveyed by the Disciplinary Authority. In the meantime the applicant being Group "A" officer was due for promotion to the selection grade (Non Functional) and the JAG. The applicant by this O.A. has sought a direction to the respondents to pass final orders in the inquiry which has been inordinately delayed and to promote the applicant on adhoc basis as per Department of Personnel & Training's instructions, since more than 2 years have passed after the departmental inquiry was initiated.

2. The respondents submitted that the departmental enquiry against the applicant had been referred to U.P.S.C. It has now been decided to conduct an enquiry only for a minor penalty. It is likely to take some time, therefore, the respondents themselves are considering grant of adhoc promotion to the applicant, according to rules.

3. According to the Department of Personnel & Training guidelines in Para 17.8.1 on the procedure for adhoc promotion, it has been stated that if inspite of 6 monthly review there are some cases¹ where disciplinary case/criminal prosecution against the Government servant are not concluded even after the expiry of 2 years from the date of the meeting of the first DPC which kept its

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findings in respect of the Government servant in a sealed cover, in such a situation the appointing authority may review the case of the Government servant provided he is not under suspension to consider the desirability of giving him adhoc promotion keeping in view certain aspects. In case appointing authority comes to a conclusion that it would not be against the public interest ^{to} allow the adhoc promotion to the Government servant, his case should be placed before the next DPC held in normal course after the expiry of 2 years period to decide whether the officer is suitable for promotion on adhoc basis. [DOPST OM dated 14.9.1992] ⁴

4. The applicant submitted that 2 DPCs have already taken place. Applicant's case has been kept in sealed cover as per procedure. In view of this provision of the Department of Personnel & Training there is scope for considering the applicant for adhoc promotion as 2 years have already lapsed since the initiation of the departmental proceedings. Both the learned counsel for the applicant as well as respondents have submitted that these ^{instructions} ⁴ have not been superseded or cancelled. In view of this, in our considered view the applicant has a case for being considered for adhoc promotion, pending the finalisation of the departmental inquiry. In our view, therefore, ends of justice will be met if the respondents could consider the applicant for adhoc promotion. We

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direct the respondents, therefore, to consider the applicant for adhoc promotion as per the rules, in the immediate next DPC to be held to the selection grade (Non Functional) and in any case within a period of 3 months from the date of receipt of a copy of this order. The applicant is not pressing for the other reliefs. The O.A. is disposed of accordingly, no costs.

Shanta
(Smt. Shanta Shastry)
Member (A)

B. Dikshit
(Birendra Dikshit)
Vice Chairman.

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dt 10/4/02
Order/Judgement despatched
to Applicant, respondent (s)
23/4/02

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Dated this Thursday the 17th day of July, 2003

Review Application No.49 of 2003
in
O.A. No.744 of 2001

1. Union of India
through the Secretary,
Ministry of Information &
Broadcasting, Shastri Bhavan,
New Delhi.
 2. Chief Executive Officer,
Prasar Bharati, Doordarshan
Directorate, Mandi House,
New Delhi - 110 001.
 3. Director General,
All India Radio, Akashwani
Bhavan, Sansad Marg,
New Delhi - 110 001
- Applicants

Versus

Smt.Usha Prabha Page,
Station Director,
All India Radio,Pune.

- Respondent

ORDER BY CIRCULATION

The respondents in the Original Application have preferred the instant Review Petition on 25.4.2003 pointing out difficulties in implementation of the directions dated 19.4.2002. It has been stated therein that as the departmental proceedings have ended in imposition of penalty the directions to consider her for ad-hoc promotion needs to be considered.

There is no separate application for condonation of delay though condonation has been sought on the ground that various agencies had to be consulted.

2. The case of the applicant was that his juniors had been given Non-functional Selection Grade w.e.f. 1.7.1994. The minor penalty charge sheet was issued on 16.6.1995. It was withdrawn and a major penalty charge sheet was issued on 25.7.1996.



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The applicant had sought for the following reliefs -

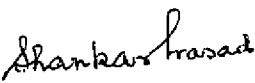
- (a) To direct the respondents to pass final orders in enquiry.
- (b) To grant ad-hoc promotion as per Department of Personnel and Training as more than two years had passed.

The Tribunal passed the following order -

" In view of this, in our considered view the applicant has a case for being considered for ad-hoc promotion pending the finalisation of departmental enquiry. In our view, therefore, ends of justice will be met if the respondents could consider the applicant for ad-hoc promotion. We direct the respondents, therefore, to consider the applicant for ad-hoc promotion as per the rules, in the immediate next DPC to be held to the Selection Grade (Non-functional) and in any case within a period of 3 months from the date of receipt of a copy of this order."

3. The cardinal principle of review is that it is only to correct errors apparent on face of record. It is also for applicant/^{of review petition} to point out these errors. The respondents were given three months time. They do not appear to have carried out the exercise in 3 months nor did they move a miscellaneous application for extension of time. In this case a minor penalty charge sheet was issued in 1995, a major penalty charge sheet in lieu thereof was issued and finally a minor penalty only imposed on 9.10.2002.

4. There is no merit in the Review Application. It is also barred by limitation. It is dismissed.


(Shankar Prasad)
Member (A)


(R.R.K. Trivedi)
Vice Chairman

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 order/Judgment despatched
 to Applicant/Respondent(s)
 on 06/8/03
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The applicant had sought for the following relief:-

- (a) To direct the respondents to pass final orders in conformity with the orders of the Tribunal.
- (b) To grant ad-hoc promotion as per Department of Personnel and Training as more than two years had passed.

The Tribunal passed the following order:-

In view of this, in our considered view, the applicant has a case for being considered for ad-hoc promotion pending the finalisation of departmental enquiry. In our view, therefore, orders of justice will be met if the respondents could consider the applicant for ad-hoc promotion. We direct the respondents, therefore, to consider the applicant for ad-hoc promotion as per the rules, in the immediate next DPO to be held to the Selection Grade (Non-Functional) and in any case within a period of 3 months from the date of receipt of a copy of this order.

3. The cardinal principle of review is that it is only to correct errors apparent on face of record. It is also for applicant to point out these errors. The respondents were given three months time. They do not appear to have carried out the exercise in 3 months nor did they move a miscellaneous application for extension of time. In this case a minor penalty charge sheet was issued in 1992, a major penalty charge sheet in 1993 and finally a minor penalty only imposed in 1994.

4. There is no merit in the Review Application. It is also barred by limitation. It is dismissed.

(R.K. Khivadi)
 Vice Chairman

(A. K. Khivadi)
 Member