

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH  
\*\*\*\*\*

Commercial Complex (BDA)  
Indiranagar  
Bangalore - 560 038

Dated : 6 FEB 1989

CONTEMPT

PETITION (CIVIL) APPLICATION NO (S) 1 /89  
IN APPLICATION NOS. 443 & 538/87(F)  
W.P. NO (S) /

Applicant (s)

Shri S.N. Prasad

To

1. Shri S.N. Prasad  
55 (Upstairs), 7th Cross  
Sampige Road  
Mall eswaram  
Bangalore - 560 003
2. Shri H.S. Murdikar  
Advocate  
Cate : Hotel Sangeetha  
Anandaraao Circle  
Bangalore - 560 009
3. The Director General  
All India Radio  
Akashavani Bhavan  
Parliament Street  
New Delhi - 110 001

Respondent (s)

v/s The Director General, AIR, New Delhi 2 Ors

4. The Station Director  
All India Radio  
Rajbhavan Road  
Bangalore - 560 001
5. The Deputy Director General (E)  
All India Radio  
Akashavani Bhavan  
Parliament Street  
New Delhi - 110 001
6. Shri M.S. Padmarajaiah  
Central Govt. Stng Counsel  
High Court Building  
Bangalore - 560 001

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith a copy of ORDER/STAN/INTERIM ORDER  
passed by this Tribunal in the above said application(s) on 1-2-89.

gives  
K.N. 6-2-89

9c

R. Venkatesh  
DEPUTY REGISTRAR  
(JURISDICTION)

**In the Central Administrative  
Tribunal Bangalore Bench,  
Bangalore**

**ORDER SHEET**

C.P.(Civil) Application No. .... 1 ..... of 1989

Applicant

S.N. Prasad

Advocate for Applicant

H.S. Murdika r

Respondent

V/s The Director General, AIR, New Delhi & 2 Ors

Advocate for Respondent

M.S. Padmarajaiah

Date	Office Notes	Orders of Tribunal
		<p style="text-align: center;"><u>KSP/LHAR: 1.2.89</u></p> <p style="text-align: center;"><u>ORDER</u></p> <p>In this petition made under section 17 of the Administrative Tribunals Act, 1985 and the Contempt of Courts Act, 1971, the petitioner has moved this Tribunal to punish the respondents for non-implementation of an order made by this Tribunal in his favour on 8-7-1988 in application No.443 and 538/87.</p> <p>Shri M.S.Padmarajaiah, learned Senior Standing Counsel, appearing for the respondents, has placed before us order No.PF.5/103/72-SVII. Vol. II/76 dated 19-1-1989 of the Director General, All India Radio, New Delhi, implementing the orders made in favour of the petitioner. He has also placed before us a letter written to the petitioner calling upon him to go to the local office and sign the necessary papers to enable the authorities to take further steps for settlement of the retiral benefits due to the petitioner. From this it is clear that the respondents have implemented the order made by us in favour of the petitioner in letter and spirit. We have no doubt that they will settle all such retiral benefits due to the petitioner on his completing requisite procedural formalities <del>concerning</del> for the purpose.</p> <p>On the foregoing discussion, we hold that the respondents have implemented the order made by us in letter and spirit. We, therefore, drop the contempt of court proceedings. But in the circumstances of the case, we direct the parties to bear their own costs.</p>

Sd/-  
VICE CHAIRMAN

Sd/-  
MEMBER(A) *259*

*B. J. D. Subba Rao*  
DEPUTY REGISTRAR (JD)  
CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE

REGISTERED

ANNEXURE A)

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

Commercial Complex(BDA),  
Indiranagar,  
Bangalore- 560 038.

Dated: 14 JUL 1988

APPLICATION NOS. 443 & 538 /87 (F)

W.P.No.

APPLICANT

Shri S.N. Prasad

To

1. Shri S.N. Prasad  
55 (Upstairs), 7th Cross  
Sampige Road  
Bangalore - 560 003
2. Shri C.M. Basavarya  
Advocate  
C/o Hotel Sangeetha  
Anandaraao Circle  
Bangalore - 560 009
3. The Director General  
All India Radio  
Akashavani Bhavan  
Parliament Street  
New Delhi - 110 001

vs

RESPONDENTS

The DG, AIR, New Delhi & 2 Ors

4. The Station Director  
All India Radio  
Rajbhavan Road  
Bangalore - 560 001
5. The Deputy Director General (E)  
All India Radio  
Akashavani Bhavan  
Parliament Street  
New Delhi - 110 001
6. Shri M.S. Padmarajaiah  
Central Govt. Stng Counsel  
High Court Building  
Bangalore - 560 001

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/STAN/

~~ORDER~~ passed by this Tribunal in the above said application

on 8-7-88.

Encl: as above.

*[Signature]*  
for DEPUTY REGISTRAR  
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE

DATED THIS THE 8TH DAY OF JULY, 1988.

PRESENT:

Hon'ble Mr.Justice K.S.Puttaswamy, .. Vice-Chairman.  
And  
Hon'ble Mr.L.H.A.Rego, .. Member(A).

APPLICATION NUMBERS 443 AND 538 OF 1987

S.N.Prasad,  
S/o Sri Nagappa Rao,  
Hindu, Aged about 57 years,  
residing at House No.55  
(Upstairs), 7th cross,  
Sampige Road,  
Bangalore-560 003.

.. Applicant.

(By Sri C.M.Basavarya, Advocate)

v.

1. The Director General,  
All India Radio,  
Akashavani Bhavan,  
Parliament Street,  
New Delhi-110 001.
2. The Station Director,  
All India Radio,  
Rajbhavan Road,  
Bangalore-560 001.
3. The Deputy Director General(E),  
All India Radio,  
Akashavani Bhavan,  
Parliament Street,  
New Delhi 110 001.

.. Respondents.

(By Sri M.S.Padmarajaiah, Standing Counsel)

These applications having come up for hearing, Vice-Chairman made the following:

O R D E R

These are applications made by the applicant under Section 19 of the Administrative Tribunals Act,1985 ('the Act').

2. Sri S.N.Prasad, the common applicant in these cases, joined



service in the All India Radio and Doordarshan ('AIR'), a Department of Government as a Staff Artist on 1-4-1950. Ever since then, the applicant was working in that or other capacity in one or the other AIR station of the country till he retired from service on 31-5-1987 on attaining the age of superannuation.

3. When the applicant joined service, the posts of Staff Artists including Editor-Scripts etc. were all filled in, on contract basis, half yearly or annually, but generally extended from time to time without interruption.

4. On the representations made by the applicant and others, Government of India took a policy decision in 1982, to convert the posts filled in, on contract basis to that on regular basis and absorb those working on contract basis as regular Government servants on certain terms and conditions and the same was communicated by the Union Ministry of Information and Broadcasting in its letter No.45011/26/80-B(A) dated 3-5-1982 (Annexure-F).

5. In pursuance of the same, a Screening Committee ('SC') constituted by Government thereto, considered the case of the applicant who had exercised his option for absorption on 31-7-1986 and communicated its view to the Director General of AIR, New Delhi ('DG') that he was not fit for absorption. Accepting the same, the DG by his order No.10(9)85-SVII(1) dated 2-3-1987 (Annexure-G) declined to absorb the applicant as a permanent Government servant however allowing him to continue on the existing contractual terms. We have earlier noticed that on attaining the age of superannuation, the applicant had retired from service on 31-5-1987.

6. When the applicant was in service, there were certain adverse entries in his Confidential Reports (CRs) for the years 1981, 1982

and 1984 which had been communicated to him. On those adverse entries, the applicant had made representations for their expunction. In his Memorandum No.Ban.15/3/87-SA/613 dated 13-3-1987 (Annexure-E) the Station Director, AIR, Bangalore ('Director') rejected the same.

7. On 3-6-1987 the applicant had made these applications challenging the orders dated 2-3-1987 and 13-3-1987 of the DG and the Director respectively on more than one ground, which will be noticed and dealt by us in due course.

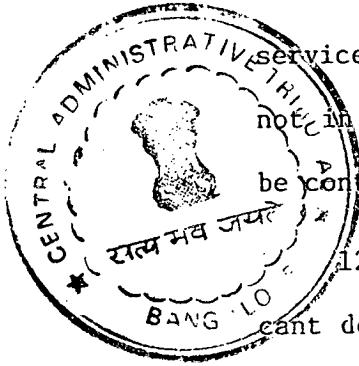
8. The respondents have filed their reply resisting these applications and have produced their records.

9. Sri C.M.Basavarya, learned counsel for the applicant contended that the adverse entries made in the CRs of his client for the years 1981, 1982 and 1984 by the Controlling,Reviewing and Countersigning Officers and the refusal of the Director to expunge them, were unjustified, illegal and improper.

10. Sri M.S.Padmarajaiah, learned Senior Central Government Standing Counsel, appearing for the respondents sought to support the adverse entries made against the applicant and the order of the Director declining to expunge them.

11. We have earlier noticed that the applicant had retired from service on 31-5-1987 on attaining the age of superannuation and is not in service ever since then. He does not also claim that he should be continued in service on and from 1-6-1987.

12. Every adverse entry to which exception is taken by the applicant does not ill-reflect on his integrity. These entries only touch on the performance of his duties when he was in service, on which there can be more than one opinion.

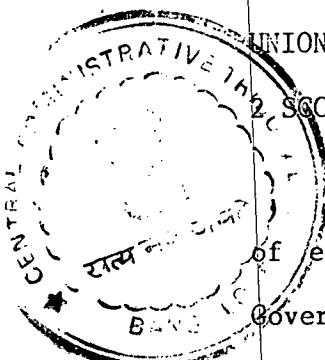


13. But, all of them, even if correct, according to the respondents or otherwise according to the applicant, do not really make any difference since the applicant retired from service from 31-5-1987 and is not aspiring to continue in service thereafter. On this short ground alone, we should decline to examine this contention and reject the same. We accordingly do so.

14. Sri Basavarya, urged that the SC and the DG in deciding not to absorb the applicant as a permanent Government servant had taken into consideration irrelevant criteria and material but not relevant criteria and material and that their decisions were consequently, illegal, improper and unjust and that we should therefore declare the applicant as absorbed and direct the respondents to extend him all such pensionary and retiral benefits to which he was entitled in law as on 31-5-1987. In support of his contention, Sri Basavarya strongly relied on the rulings of the Supreme Court in PARVEZ QADIR v. UNION OF INDIA [1975 SCC (L & S) 274], STATE OF MADHYA PRADESH v. RAMASHANKER RAGHUVANSHI AND ANOTHER [1983 SCC (L & S) 263=AIR 1983 SC 373].

15. Sri Padmarajaiah justifying the decision of the SC and the DG, urged that in any event, this Tribunal cannot select and appoint the applicant as a Government servant and that this has necessaarily to be done by the SC and the DG. In support of his contention, Sri Padmarajaiah strongly relied on the ruling of the Supreme Court in UNION PUBLIC SERVICE COMMISSION v. HIRANYALAL DEV AND OTHERS [(1988) 2 SCC 242].

16. The policy decision of Government to absorb several categories of employees working on contractual basis in the AIR as regular Government servants, was reflected by the Union Information and Broadcasting Ministry in its letter dated 3-5-1982 the material part of which reads thus:



" After carefully considering the question of converting the Staff Artists of All India Radio/Doordarshan as Government servants, the Government have taken the decision detailed in the following paragraphs:

xx                    xx

## II. STAFF ARTIST TO BE TREATED AS GOVERNMENT SERVANTS:-

6. The categories of staff artists of All India Radio and Doordarshan on long term contracts not covered under those mentioned in para 2 above and who have not attained the age of superannuation i.e., 58 years as on 28-2-1982, will be treated as "Government Servants" and the conditions of service applicable to Government servants would become applicable to them subject to the following conditions:-

- (a) The Staff Artists will be required to exercise an option in writing within a period of two months to be invited by Director General, All India Radio and Director General, Doordarshan indicating their willingness or otherwise to be treated as "Government Servants". The opinion once exercised will be final.
- (b) Such of the Staff Artists, who opt to be treated as Government servants will be screened by duly constituted Screening Committee. The Screening Committee will take into account their (i) qualifications, (ii) experience and (iii) record of service and ascertain whether they are fit to be treated as Government servants. The Committee will also assess their suitability for the purpose of fitting them into corresponding scales of the regular civil establishment.

7. The Screening Committee for placement/fitment in Group-A and Group-B posts will be presided over by a nominee of the Union Public Service Commission. For Group-C posts, the composition of Screening Committee will be (i) deputy Director General (Administration), (ii) Deputy Director General (Programmes), (iii) Director of Programmes (Personnel) ion All India Radio and (i) Deputy Director General (Programme and Training), (ii) Deputy Director General (Programmes) and (iii) Controller of Programmes in Doordarshan.

8. Those staff Artists who are found fit to be treated as "Government servants" will be entitled to the same pensionary benefits as are applicable to Government servants in the regular service. They will, however, not be entitled to any special benefits as at present available to them as Staff Artists.

9. Those staff Artists who do not elect or are not found fit to become 'Government servants' or those who have attained the age of 58 years on or before 28-2-1982 and have been allowed to continue under the present contractual terms will be allowed to continue under the present terms and conditions of service as per their respective contracts. They will not, therefore, be entitled for pension.



10. The conditions of service as indicated in the above paragraphs for staff Artists to be placed in either of the categories i.e., 'Artists' or 'Government servants' would be given effect from 6th March, 1982."

In pursuance of this order, the SC presided over by one Sri Qazi Makhtar Ahmed, a Member of the Union Public Service Commission ('UPSC') at the meetings of the SC held on 17th, 21st to 25th, 28th to 31st July, 1986 considered the cases of Artists, for absorption. In its general proceedings relating to those dates, the SC selected a large number of Artists as suitable and considered a few of them as unsuitable.

17. But in the case of the applicant, who figures at Sl.No.9 of Annexure-I of the general proceedings of the and four others with whom we are not concerned the SC merely made an abrupt remark 'in sealed cover'. In a separate proceeding held on 31-7-1986 the SC considered the case of the applicant and expressed thus:

"Having examined the character roll of Shri S.N.Prasad the Screening Committee has assessed him as not suitable for appointment as regular Government employee in the grade of Programme Executive".

In pursuance of this, the DG made his order on 2-3-1987, the net result of which was that the applicant was not absorbed as a regular Government servant.

18. The primary object of Government deciding to absorb/appoint all those working on contract basis as regular Government servants, was to confer on them the security of Government service and pensionary and other retiral benefits available to regular Government servants, which they were not enjoying despite long years of service.

19. In the case of staff Artists also, to which category the applicant belonged, Government required the SC to examine their qualifications, experience and record of service and decide whether they



were fit to be treated as regular Government servants. We cannot exhaustively define and enumerate all categories of mis - conduct which disqualify a person for Government service. We can only enumerate some of them, like indulging in anti-national activity or proven record of criminality for moral turpitude.

20. In evolving the very liberal criteria, Government did not expect the SC and the DG to deal with cases of absorption with extraordinary rigour and rigidity for selection, fresh appointments or promotions to a very limited number of posts where the competition would be keen. The criteria evolved and the process of selection of Artists thereto also in the circumstances was to be liberal and generous so as to enable deserving employees to secure the benefit of being appointed as regular Government servants.

21. With this background we must now proceed to examine whether the SC and the DG had borne in mind the relevant criteria and had made a proper selection of the applicant or not.

22. In his order, the DG had not given reasons for not appointing the applicant as a regular Government servant. In the notes and minutes leading to the order dated 2-3-1987 of the DG, of File No.10/9/85-SVII(Vol.II) the DG had not stated as to why the applicant should not be absorbed as a regular Government servant. He only accepted the recommendations of the SC and had issued his order on 2-3-1987. We must, therefore, examine the correctness or otherwise of the proceedings of the SC and decide the matter.



23. In its general proceedings, the SC had stated that it was adopting the 'sealed cover' procedure in respect of the applicant.

24. The concept of 'sealed cover' procedure, its parameters as also its validity have been examined in great detail by a Full

Bench of this Tribunal in VENKATAREDDY v. UNION OF INDIA [1987(3) ACT 171].

25. On the 'sealed cover' procedure evolved by Government and approved by the Full Bench in Venkatareddy's case, except in certain matters, with which we are not really concerned, it is clear that the 'sealed cover' procedure is adopted when a civil servant is facing a disciplinary proceeding and not otherwise.

26. As on the day the SC considered the case of the applicant and expressed its views or even thereafter the applicant was not facing and has not faced a disciplinary proceeding and this fact was not rightly disputed by the respondents before us.

27. When the applicant was not facing a disciplinary proceeding, it is clear that the use of the term 'in sealed cover' or adopting 'sealed cover' procedure against the applicant was totally inapt. Sri Padmarajaiah informed us that by using that term, the SC really meant that the case of the applicant which did not fall within the category of 'selected' or 'not selected' had to be considered in greater depth separately. In the context, this appears to be a possible and plausible explanation and there is every justification to accept the same as sound on the facts and circumstances of this case. We, therefore, hold that when the SC used the term 'in sealed cover' procedure, though inapt, it was really expressing itself to deal with the case of the applicant in depth separately.

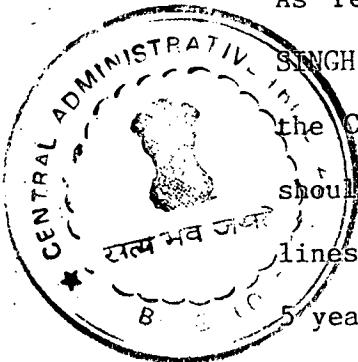
28. We have earlier noticed the proceedings of the SC in their entirety. From what has been stated in these proceedings, it is difficult to infer, as to whether the SC had examined all the CRs of the applicant available till that date or had only confined its attention to the CRs prior to 3-5-1982 only. We cannot say anything

in this regard with any certainty. But, the conclusion that the SC had taken into consideration all the CRs available till 31-7-1986 appears to be plausible.

29. The order of Government is dated 3-5-1982. We must, therefore, treat that date as the cut-off date for selection. If that is so, then the SC will be justified in taking into consideration the CRs of the applicant till that date only and not beyond. But, as noticed earlier, we are here in the region of speculation. We will not be justified in taking exception to the proceedings of the SC on this ground. We, therefore, proceed to examine whether the CRs of the applicant before 3-5-1982 or even thereafter do not really justify his non-selection as a regular Government servant.

30. The SC states that the applicant was not suitable on the basis of his CRs. The SC does not refer to any particular years of CRs or instances to hold against the applicant. The conclusion of the SC is very vague and general.

31. In its order Government, had not specified as to upto what period the CRs should be taken into consideration in assessing the suitability or otherwise of a Staff Artist. In matters of promotion, normally a Departmental Promotion Committee takes into consideration CRs of a Government servant for the past three consecutive years. As regards compulsory retirement, the Supreme Court in BRIJ MOHAN SINGH CHOPRA v. STATE OF PUNJAB (AIR 1987 SC 948) had expressed that the CRs of an official for a period of 5 years immediately preceding should normally be taken into account. In the absence of any guidelines indicated by Government itself, it seems reasonable to adopt 5 years' period immediately preceding the cut-off date to help adjudge the suitability or otherwise of a Staff Artist for absorption as a regular Government servant. But, by this, we do not mean to say



that serious lapses either before the period of five years or thereafter or even after the cut off date cannot and should not at all be taken into consideration. Whether there are any such factors in a given case or not, must be examined and decided on the facts of that case. We have not found any such serious lapse in any of the CRs of the applicant for any year to warrant a decision against him. We must, therefore, examine the case of the applicant with reference to the general principles noticed by us earlier which we now proceed to do.

32. In the CRs of the applicant for the years from 1977 to 1981 and 1982, the Reporting, Reviewing and Countersigning officers have expressed, in so far as they are relevant to the case before us, thus:

For the year 1977

Assessment of the Reporting Officer

xx                   xx

4. Has he any special medium Attends to the work acquirements or aptitude? sincerely.
5. Has he an adequate sense Yes. of responsibility?
6. Is he suitable by charac- Yes. ter and ability to be placed in charge of (junior) members of the staff?
7. Has he made any distinc- tive contribution in No. his field during the year?
8. What is your own assess- Fairly good. ment of the officer's professional performance and ability.
9. General Assessment: Healthy. Does the work entrusted to him. Power, ex- (This should contain pression and originality an overall assessment of mind are normal. He takes of the officer's persona- interest in his work entrust- lity his good qualities ed to him. and shortcomings etc.
10. Integrity.                   Alright.

Sd/- Reporting Officer.

Remarks by the Reviewing Officer

The reviewing officer should fit in his turn. state whether the officer is fit for promotion.

xx xx

In addition the reviewing Officer must give his several assessment.

Diligent and sincere. Has an adequate sense of responsibility.

Sd/- Reviewing Officer.

A diligent and sincere worker.

Sd/- Countersigning Officer.

For the year 1978

Assessment of the Reporting Officer

xx xx

4. Has he any special medium acquirements or aptitude? -
5. Has he an adequate sense Normal of responsibility? -
6. Is he suitable by character and ability to be placed in charge of (junior) members of the staff? Only, if inevitable.
7. Has he made any distinctive contribution in his field during the year? Routine work.
8. What is your own assessment of the officer's professional performance and ability? Average.
9. General Assessment: He should learn to treat all the work of the section in a team spirit. Many a times he feels that certain items of work are not connected with his job chart etc.

10. Integrity.

I think alright.

Sd/- Reporting Officer.

Remarks by the Reviewing Officer

The reviewing officer should state whether the officer is fit for promotion.

I particularly agree with the assessment by the reporting officer i.e, 5 & 7. Yes in his turn.

xx xx

In addition the reviewing Officer must give his several assessment.

I have found him a very good and sincere worker who discharges his duties with sincerity and willingness.

Sd/- Reviewing Officer.



I agree with the assessment of the Reviewing Officer.  
No adverse remarks to be communicated.

Sd/- Countersigning Officer.

For the year 1979.

Assessment of the Reporting Officer

xx xx

4. Has he any special medium acquirements or aptitude? Nil.

5. Has he an adequate sense of responsibility? Strictly restricts himself to the work mentioned in the job chart.

6. Is he suitable by character and ability to be placed in charge of (junior) members of the staff?

7. Has he made any distinctive contribution in his field during the year? Nil.

8. What is your own assessment of the officer's professional performance and ability? Average.

9. General Assessment:  
(This should contain an overall assessment of the officer's personality his good qualities and shortcomings etc.) Good.

10. Integrity. Good.

Sd/- Reporting Officer.

Remarks by the Reviewing Officer

The reviewing officer should state whether the officer is fit for promotion. No comments are offered by the Reviewing and Countersigning officers.

xx xx

In addition the reviewing Officer must give his several assessment.

Reviewing Officer.

For the year 1980.

Assessment of the Reporting Officer

xx xx



15

4. Has he any special medium As usual. acquirements or aptitude?
5. Has he an adequate sense Yes. of responsibility?
6. Is he suitable by character and ability to be placed in charge of (junior) members of the staff? He is not a technical graduate. Hence it does not arise.
7. Has he made any distinctive contribution in his field during the year? Nil.
8. What is your own assessment of the officer's professional performance and ability? Normal
9. General Assessment: Does his work to the best of his ability. Regular to the office. I wish that he should volunteer to work.  
(This should contain an overall assessment of the officer's personality his good qualities and shortcomings etc.)

10. Integrity.

I am satisfied with his integrity.

Sd/- Reporting Officer.

Remarks by the Reviewing Officer

The reviewing officer should Not yet. state whether the officer is fit for promotion.

xx xx

In addition the reviewing Useful for certain type Officer must give his several of rural programmes. assessment.

Sd/- Reviewing Officer.

No comments are offered by the countersigning officer.

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For the year 1981.

Assessment of the Reporting Officer

xx xx

4. Has he any special medium Average. acquirements or aptitude?
5. Has he an adequate sense He does the work entrusted of responsibility? to him.
6. Is he suitable by character and ability to be placed in charge of (junior) members of the staff? This does not arise in the section since there are from Radio Reporters.



7. Has he made any distinctive contribution in his field during the year? Routine work.

8. What is your own assessment of the officer's professional performance and ability. He is holding a post which gets him as much salary as that of a PEX or FRO. He is not satisfied with it. I do not find any reason for it. I wish that he should be willing to take more responsibilities in the unit. Whenever necessary he must come forward to over work. Except these the rest is OK. He should develop team spirit.

9. General Assessment: (This should contain an overall assessment of the officer's personality his good qualities and shortcomings etc.)

10. Integrity. No any adverse report as I know.

Sd/- Reporting Officer.

Remarks by the Reviewing Officer

The reviewing officer should Yes. state whether the officer is fit for promotion.

xx                   xx

In addition the reviewing Could be useful and prove Officer must give his several his worth. Satisfactory. assessment.

Sd/- Reviewing Officer.

No comments are made by Countersigning officer.

For the year 1982.

Assessment of the Reporting Officer

xx                   xx

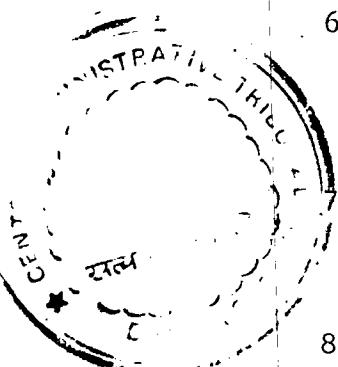
4. Has he any special medium acquirements or aptitude? Routine

5. Has he an adequate sense of responsibility? I wish he should develop team spirit in the section.

6. Is he suitable by character and ability to be placed in charge of (junior) members of the staff? Provided he agrees to accept the responsibilities of his colleagues which is unthinkable in his case.

Has he made any distinctive contribution in his field during the year? Nil.

8. What is your own assessment of the officer's professional performance and ability. He is doing mostly employment news. I do not agree with his statement that he has no chance to show his talent.



9. General Assessment:

(This should contain an overall assessment of the officer's personality his good qualities and shortcomings etc.

He is a routine broadcaster. I very much wish that he should develop team spirit and gladly accept the responsibilities whenever entrusted. He is always reluctant to do anything other job than just translating. As a unit staff member he should, I wish, consider himself as a part of it. He is very conscious of his designation and considers additional responsibilities as below to his dignity. Whenever such occasion arises. As the unit chief I have received negative replies whenever I requested him to share additional responsibilities of other colleagues. His sole aim is always next promotion. I wish to state with a very heavy heart that he should take more initiative, be co-operative, think of new programmes and ideas. There is lot of scope in the unit for him to show his talent if any. Editors post has enough scope for showing talent.

10/ Assessment of Integrity.

The Reviewing Officer must give the overall assessment including the nature of the relationship maintained by the officer with staff in other disciplines also.

No please.

Sd/- Reporting officer.

The Artist has yet to give his best to AIR and prove his utility. He must identify himself with the section, wholeheartedly.

Sd/- Reviewing Officer.

No comments are made by the Countersigning officer.



An overall assessment of these CRs does not establish that the applicant was unfit for Government service in particular, when he had already put in more than 30 years of service and had hardly another 5 years more to serve. Apart from these CRs we have also examined the CRs of the applicant for all the previous years and later years also. We are of the view that on a consideration of all of them,

we find it difficult to hold that the assessment by the SC that the applicant was not suitable for Government service was justified. On the other hand, on an objective assessment of all the CRs with due regard to the relevant criteria and materials, the long service he had rendered and the few years of service he had at his credit before retirement, we are clearly of the view that the applicant deserved to be selected as suitable for regular Government service.

32. In UNION PUBLIC SERVICE COMMISSION v. HIRANYALAL DEV AND OTHERS [(1988) 2 SCC 242] the Supreme Court reiterating the principles stated in STATE OF MYSORE v. SYED MAHOOD [(1968) 3 SCR 363:AIR 1968 SC 1113] was dealing with the case of selection to IPS from the State cadre under the Indian Police Service (Appointment by Promotion) Regulations, 1955. We are of the view, that the principles enunciated in this case do not militate against our finally selecting the applicant and declaring him as having become a regular Government servant. We are of the view that this action is all the more necessary to be adopted by us, as the applicant has already retired from service. We, therefore, hold that this is a fit case in which we should annul the proceedings of the SC and the order of the DG substituting that he had been selected and appointed to regular Government service in terms of the option exercised by him.

33. In the light of our above discussion, we make the following orders and directions:

(a) We quash the proceedings of the SC dated 31-7-1986 in File No.4/19(2)/85-AU-3 and Order No.10(9)85-SVII(1) dated 2-3-1987 (Annexure-G) of the Director, All India Radio, New Delhi and in substitution of the same, we declare and direct that the applicant had been selected to regular Government service as Editor (Script) AIR in terms of Letter No.45011/26/SO-B(A) dated 3-5-1982



of the Government of India, Ministry of Information and Broadcasting and the option exercised by him in that behalf.

(b) We direct the respondents to determine the pension and other retiral benefits due to the applicant on the basis of our declaration in para 33(a) supra from the date of his retirement from service viz., 31-5-1987, in accordance with law and grant him all pensionary and retiral benefits to which he is entitled, without interest thereon, with all such expedition as is possible in the circumstances of the case and in any event, within a period of 3 months from the date of receipt of this order.

(c) We dismiss these applications in all other respects.

34. Applications are disposed of in the above terms. But, in the circumstances of the cases, we direct the parties to bear their own costs.

Sd/-

VICE-CHAIRMAN

Sd/-

MEMBER(A) 27.28

TRUE COPY



*AP/14/1988*  
SECTION OFFICER  
CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDITIONAL BENCH  
BANGALORE