

(15)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 676/91

Transfer Application No.

Date of Decision 18.12.95

Shri A.K.Sidhpuri

Petitioner/s

Shri M.S.Ramamurthy

Advocate for
the Petitioners

Versus

Union of India & Ors.

Respondent/s

Sh. S.S.Karkera for Sh.P.M.Pradhan

Advocate for
the Respondents

CORAM :

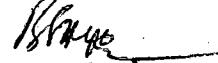
Hon'ble Shri. B.S.Hegde, Member (J)

Hon'ble Shri. P.P.Srivastava, Member (A)

(1) To be referred to the Reporter or not ?

(2) Whether it needs to be circulated to
other Benches of the Tribunal ?


(P.P.SRIVASTAVA)
MEMBER (A)


(B.S.HEGDE)
MEMBER (J)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

OA.NO. 676/91

Shri Arun Kumar Sidhpuri ... Applicant

V/s.

Union of India & Ors. ... Respondents

CORAM: Hon'ble Member (J) Shri B.S.Hegde
Hon'ble Member (A) Shri P.P.Srivastava

Appearance

Shri M.S.Ramamurthy
Advocate
for the Applicant

Shri S.S.Karkera
for Shri P.M.Pradhan
Advocate
for the Respondents

JUDGEMENT

Dated: 18/12/95

(PER: P.P.Srivastava, Member (A))

The applicant was directly recruited as Cameraman Grade II in the year 1974 in terms of the guidelines and rules. The applicant states that Respondents Nos. 5 to 45 were appointed to the post of Cameraman but their appointments were absolutely irregular and illegal as the appointments of Respondents Nos. 5 to 45 were made without any rules or guidelines of the All India Radio Manual.

The applicant has further brought out that no advertisements were issued as laid down in the rules when Respondents No. 5 to 45 were appointed. The applicant has also brought out that Respondents Nos. 5 to 45 were Engineering Assistants employed in All



India Radio and they were inducted as Cameraman Grade II and they were neither qualified nor experienced to work as Cameraman. The applicant has also brought out that it was for the first time in the year 1974 that regular and valid appointments for Cameraman Grade II were made in terms of AIR Manual 1970 and he was selected as Cameraman Grade II in the first batch of recruitment. The applicant has, therefore, claimed that since he was the first Cameraman Grade II regularly appointed and the Respondents Nos. 5 to 45 not regularly appointed, he should be placed senior to all the irregular cameramen recruited from 1970 to 1974. The applicant has further brought out that the draft seniority list of Video Executives and Cameramen Grade II was issued on 17.10.1989 for the first time. This draft seniority list was circulated to all the Doordarshan Kendras and at that time the applicant was shocked to learn that many people whose names were appearing in the Draft Seniority List of Cameramen Grade I and Video Executive were in fact irregularly and illegally appointed by respondents and that their appointments as Cameraman Grade II were without following the rules and regulations set out in the AIR Manual 1970. The applicant submitted a representation against the above seniority list on 1.12.1989 and brought out his grievances. The applicant did not receive any reply on this representation.



Thereafter, the applicant further submitted another representation dated 13.3.1990 in continuation of previous representation dated 1.12.1989. Since the applicant did not receive any reply to his representation, he filed an OA. No. 592/90 in this Tribunal praying for his promotion as Cameraman Grade I and Video Executive from the date on which any of the respondents Nos. 5 to 45 were promoted. The OA. was disposed of by the order of this Tribunal on 20.12.1990 (placed at Ex. 'G'). The operative portion of the judgement reads as below :-

" In ~~this~~ view of the matter this application is disposed of at the admission stage with a direction to the respondents to pass final orders on the applicant's representation dated 1.12.1989 and finalise the draft seniority list ~~supra~~ by 30.6.1991. Simultaneously, M.P.No. 1024/90 is disposed of as no longer surviving. In case the applicant continues to remain aggrieved after his representation is disposed of and the final seniority is published, he is at liberty to approach the Tribunal again."

The applicant has further brought out that the respondents thereafter replied his representation vide their letter dated 23.4.1991 (Ex. 'I'). The respondents also published the final seniority list dated 19.4.1991 (Ex. 'H') containing the names of Cameramen Grade I.

2. The applicant has further brought out that the ^{have} points raised by the applicant ~~has~~ not been properly considered and the Memorandum dated 23.4.1991 is issued with non-application of mind and therefore is bad in law.



The applicant has, therefore, sought relief in this OA, that Respondents Nos. 5 to 45 having been recruited to the post of Cameramen Grade II against the provisions of AIR Manual 1970 should be ranked junior to the applicant and also that the applicant's seniority should be fixed by placing him above Respondents Nos. 5 to 45 and the applicant should be considered for promotion to the post of Cameraman Grade I and Video Executive on the basis of revised seniority list.

3. The respondents have brought out that the allegation that the recruitment of Cameraman Grade II without following the advertisement is not correct. They have brought out in their reply to the applicant's representation dated 23.4.1991 that the Selection Committees were duly constituted for selection of Cameramen Grade II and as such the recruitment of all Cameramen Grade II were made as per Recruitment Rules in force at that time. They have also denied that the norms of recruitment were made for the first time in the year 1974. In the reply the respondents have also brought out that as far as promotion of the applicant is concerned, according to the seniority list he was given promotion as Cameraman Grade I in 1986 but he did not accept the same. He was again considered in the year 1989 but was not recommended for promotion by the DPC at that time.



4. The respondents have also brought out that the private respondents in the OA.No. 592/90 who are also respondents here were Engineering Assistants prior to their appointments as Cameramen Grade II, they have applied in terms of advertisements of 1970 and 1971 for the post of Cameramen Grade II. They were interviewed and they were selected and appointed on the basis of recommendations of the Selection Committee.

5. Admittedly, Respondents Nos. 5 to 45 have been appointed prior to the applicant to the post of Cameramen Grade II. There is no material before us to show that the appointments were not according to the rules prevalent at that time and they were already working as Cameramen Grade II when the applicant joined the service as Cameramen Grade II in 1974. We also see that the representation of the applicant dated 10.12.1989 has been replied by the respondents in terms of their Memorandum dated 23.4.1991 and it cannot be said that this reply is without application of mind or arbitrary.

6. Counsel for the applicant has submitted that in terms of Supreme Court judgement in the Direct Recruit Class II Officers' case read with clarification given in Aghore Nath Dey's case the service rendered by Respondents Nos. 5 to 45 as Cameramen Grade II without following the rules cannot be taken into account for their seniority. We are unable to agree with this proposition as there is no material to show that the appointment of

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the Respondents Nos. 5 to 45 was irregular or against the rules and therefore the proposition laid down in the above cited judgement has no applicability in the present case.

7. In the facts and circumstances of this case, we are of the opinion, that this is not a fit case wherein we should interfere with the seniority list of Cameramen and Video Executive. The OA. is dismissed as being without merit. There will be no order as to the costs.



(P.P. SRIVASTAVA)

MEMBER (A)



(B.S. HEGDE)

MEMBER (J)

mrj.