

CENTRAL ADMINISTRATIVE TRIBUNAL

GULESTAN BLDG. NO. 6, PRESCOT RD, 4th FLOOR,

BOMBAY - 400 001.

REVIEW PETITION NO. 36/95 in

ORIGINAL APPLICATION NO. 434/91.

Dated : 3-1-96

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

Hon'ble Shri M.R. Kolhatkar, Member (A).

Doordarshan Programme Producers' Association & 4 Ors.
(Advocate by Shri S.P.Dharmadikari)
V/s.

... Applicants

Union of India & 52 Ors.
(Advocate by Shri V.S. Masurkar)

... Respondents

O R D E R

X Per Shri M.R. Kolhatkar, Member (A) X

who are
in this OA, the Review Petitioners / the original
applicants have prayed for review of our judgement
dated 3/2/1995 which was a common judgement delivered in
OA-547/89 and 434/91. The challenge is to the portion
of judgement relating to OA-434/91 which was filed
by applicants in representative capacity namely
Doordarshan Programme Producers' Association. It has
come out that OA-547/89 relating to transfer of an
employee has been taken in SLP to the Hon'ble
Supreme Court and the judgement in that OA has been
stayed. The Stay however does not operate in respect
of portion of judgement relating to OA-434/91.

2. The main grounds for review are that the judgement
contains an error apparent on the face of the record in
as much as 1988 Doordarshan Programme (Technical/Group

'C' posts) Recruitment Rules 1988 and 1990 Rules (Indian Broadcasting (Programme) Service Rules 1990) which had a vital bearing on the outcome of the OA were not available to the original applicants i.e. the Review Petitioners/could not trace/despite due and diligent search. The existence of these rules being the later rules has the effect that the later rules namely 1988/1990 rules would prevail over the ie 1984 rules earlier/in view of the general principle that the later special rules shall prevail over the earlier general rules. The petitioners have also relied on the judgement of Madras Bench of the Tribunal in OA-659/1988. The Government namely, respondents original in this petition and the/official respondents have opposed the review petition. According to the respondents the All India Radio (Group 'B') Recruitment (Amendment) Rules 1984 are by and large meant for making recruitment/promotion to the grade of PEX which includes the posts designated as Producer Grade-II. As per these rules, production assistants are one of the feeder grades for promotion to the PEX, whereas the Doordarshan Programme (Technical Group 'C' posts) Recruitment Rules, 1988 are meant for making recruitment to the posts of Production Assistants. Thus, 1984 and 1988 Rules have separate purposes. Regarding 1990 Rules, feeder cadre for promotion to Junior Time Scale of Programme Production Cadre are Producer(Grade-II etc. which are erstwhile Staff Artists categories and declared Government servants. With the 1984 amendment, the post of Producer Grade-II has been equated with

that of PEX, which is a common Cadre of All India Radio/Doordarshan and there has been no further recruitment as Producer Grade-II after 23.10.94. But there are Officers who were appointed/promoted as Producer Grade-II as per earlier Staff Artists Rules and with a view to provide promotional avenues to these Officers they have been made one of the feeder grades for promotion to Junior Time Scale of the Programme Production Cadre of IB(P)S.

3. We have considered the submissions made by the respective parties and we have also gone through the 1988 and 1990 rules whose existence according to review petitioners warrants a review of our judgement. In the schedule of 1988 rules, in column No.12, it is specified that the method of recruitment to this cadre is 100% by direct recruitment. It is therefore clear that 1988 rules are made for direct recruitment to the cadre of Doordarshan Programme (Technical Group-C posts) and have no bearing on the promotion which was the issue in the OA.

4. Regarding 1990 rules, the clarification given by the respondents appears to be in order.

5. We are therefore not impressed by the arguments that our judgement requires review because of 1988 and 1990 rules whose existence could not be pointed out to us by the applicants earlier. So far as the reliance placed by the review petitioners on the decision of Madras Bench in OA-659/88, in our judgement we had referred to OA-659/88 vide para-13

and we were of the view it did not help the applicants. We have gone through the said judgement afresh and we have noticed that the claim of the applicants in that case was for promotion against the post of Production Assistant, (News and Current Affairs) for which there were vacancies and for which applicants claimed to be qualified. The Tribunal while upholding the legality of amendment rules of 1984, states its reasoning in para-13 as below:-

"It may be noted that the term Programme Executive in the schedule extracted above includes only those posts which are designated as Programme Executive, Translator, etc. as reproduced above. In order to come within the purview of this term in the Schedule, any post must be designated as one of the seven categories specified therein. If a category is not specified and is not found to be one of the seven categories designated there the Schedule provisions obviously will not apply. Whereas the category of Producer and Producer Grade-II simplicitor is designated in the list of seven categories, the category of Producer Gr.II (News and Current Affairs) is not found to be so designated. In view of this fact, it follows that the category of Producer Grade-II (N & CA) is not covered by the schedule item and, therefore, not covered by the 23.10.1984 Recruitment Rules cited above."

6.

The contention of the respondents that the Producer Grade-II mentioned in the schedule is the general description and covers even producer Grade-II (News and Current Affairs) was not accepted by Tribunal and the relief as mentioned in para-13 of our judgement was granted in the facts and circumstances of the case.

7. The statement in the review petition/vide page 14 & 15 that this Tribunal ought to have accepted the findings recorded by another Division Bench of the Tribunal

at Madras where it granted this specific relief that the Grade of Production Assistants and Producers Grade II (News and Current Affairs) are not covered by All India Radio (Group 'B' posts) Recruitment (Amendment) Rules, 1984 in view of rules framed under Article 309 of the Constitution of India in 1988 lacks legal foundation. Infact, the Madras Bench nowhere refers to 1988 rules in their judgment. In the result we find no merit in the review petition and dismiss the same. We had given a preliminary hearing to both the parties and accordingly the Judgment is being pronounced in the open court.

M.R.Kolhatkar

(M.R.KOLHATKAR)
MEMBER (A)



(B.S. HEGDE)
MEMBER (J)

abp.