

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.83 of 1996

DATE OF ORDER: 23 December, 1997

BETWEEN:

Smt. ASHA CHERUKURI

.. APPLICANT

AND

1. Union of India rep. by its Secretary to Govt., Ministry of Information and Broadcasting, New Delhi,
2. Union Public Service Commission, Jodhpur House, New Delhi, Rep. by its Secretary,
3. The Director General, Doordarshan, Doordarshan Bhavan, Mandi House, New Delhi.



RESPONDENTS

COUNSEL FOR THE APPLICANT: Mr.N.RAMA MOHANA RAO

COUNSEL FOR THE RESPONDENTS: Mr.K.BHASKAR RAO, Adl.CGSC

CORAM:

HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

HON'BLE SHRI B.S.JAI PARAMESHWAR, MEMBER (JUDL.)

JUDGEMENT

ORDER (PER HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.))

Heard Mr.N.Rama Mohana Rao, learned counsel for the applicant and Mr.Kota Bhaskar Rao, learned standing counsel for the respondents.

2. The applicant in this OA had obtained M.A.Degree in Psychology from the Osmania University in the year 1976.

Pursuant to her application submitted by her for recruitment to the post of Producer Grade-II in the Upagraha Doordarshan Kendra, Hyderabad, by a communication bearing No.19(7)81-S/TVH/, dated 6.2.81 (Annexure I at page 17 to the OA), she was requested to be present for interview for recruitment to the post of Producer Gr.II. By the order No.19(AC)81-S/TV-H dtd 4.1.92 (Annexure A-II at page 18 to the OA) she was appointed to that post in the scale of pay of Rs.650-1200 after she underwent viva-voce test. She was placed on probation for a period of two years commencing from 30.12.81. She had satisfactorily completed two years of probation and consequently the Staff Artists Contract executed by the applicant has since been extended till such time she attains^{ed} the age of 58 years. Thus the applicant holds the post of Producer Gr.II on a regular basis. The applicant had crossed the Efficiency Bar as informed to her by the order No.A-26012/3/86-S.III dated 23.3.89 (Annexure A-VII at page 29 to the OA).

3. By Aadesh Sankhya 97/94-S.III bearing No.A-32013/9/92-S.III dated 26.4.94 (Annexure A-XI at page 34 to the OA), the applicant was promoted purely on adhoc basis and posted to the Door Darshan Kendra, Hyderabad to the Junior Time Scale of Indian Broadcasting (Programme) Service for a period of one year or till a regular incumbent becomes available whichever is earlier with effect from the date she assumed the charge of the post until further orders. It is stated that some of her juniors also were promoted similarly on adhoc basis. By the impugned order No.106/95-S.III, letter bearing No.A-32013/9/92-S.III dated 14.8.95 (Annexure A-XI at page 37 to

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the OA), the applicant was reverted to her earlier position as Producer Gr.II with immediate effect and posted to the Door Darshan Kendra, Hyderabad presumably because she was not found fit for regular promotion to the Junior Time Scale of Indian Broadcasting (Programme) Service, an organised Group 'A' service, the rules for which was notified on 5.11.90. The applicant submitted representation against her reversion by her representation dated 25.9.95 (Annexure XVI at page 38 to the OA). Her reversion order dated 14.8.95 was issued by R-3 in view of the I&B's order No.10/95-B(A) dated 27.7.95 issued from file NO.32013/3/92-B(A) (Vol.II).

4. This OA is filed for setting aside the order No.10/95-B(A) dated 27.7.95 [in file No.32013/3/92-B(A) (Vol.II)] of R-1 as well as the order No.106/95-SIII [in file No.A-32013/9/92-SIII] dated 14.8.95 (Annexure XV at page 37 to the OA) insofar as those orders seek reversion of the applicant to the post of Producer Gr.II from the post of Programme Officer in the Junior Time Scale of Indian Broadcasting (Programme) Service Rules, 1990 by declaring them as illegal, unconstitutional, unjust, arbitrary and unsustainable and for consequential direction to the respondents to treat the applicant as to have been promoted on a regular basis to the post of Programme Officer in the Junior Time Scale of Indian Broadcasting (Programme) Service Rules, 1990 on and from the date on which such promotion was granted to her juniors with all consequential benefits such as payment of arrears^a of salary and allowances, seniority etc.

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5. The main contention of the applicant is that she is a meritorious candidate and hence not regularising her services in the Junior Time Scale of Indian Broadcasting (Programme) Service and reverting her to the post of Producer Gr.II by the impugned order while regularising the services of her juniors in the Indian Broadcasting (Programme) Service ignoring her seniority, is irregular and cannot be sustained. The reasons advanced by her for the above submission are as follows:-

(i) The applicant is ^{be} only Producer Gr.II having Bachelor Degree to her credit in Communication and Journalism apart from her B.A.qualification and also with certain Field as well as teaching assignment exposure in matters relating to Mass Communication;

(ii) She apart from receiving professional training from the Film & Television Institute of India, had also received extensive training through a FULBRIGHT Internship GRANT from a leading Institute dealing with Public Communications from United States of America.

(iii) The programmes produced and put out by the applicant have impressed the viewers for their qualitative, informative and analytical content;

(iv) The applicant was ^{the} only Producer kept incharge for such a longer spell of five years relating to putting out Telugu News Round-up at Hyderabad Door Darshan Kendra.

6. Thus the applicant possessed necessary ingredi^cents and merit for the purpose of being promoted on regular

basis as a Junior Time Scale Officer. Unfortunately, for no valid and tenable reasons, the Departmental Promotion Committee does not appear to have approved her name for such a promotion and such a declaration of the Departmental Promotion Committee has been mechanically endorsed by the Ministry of Information and Broadcasting without due regard to the academic qualifications and the performance of duties rendered by the applicant so far. This in her opinion is the result of misconception of the relevant material. The decision of the Government of India to revert her to the post of Producer Gr.II from the Post of Programme Officer is arbitrary and illegal.

7. The applicant also submits that she has been issued with a memorandum for her shortcomings twice. One such memorandum asking for explanation, bearing No.12(17)89-AI/TVN dated 21.3.89 (Annexure A-ILV at page 28 to the OA) for absenting herself from office is enclosed and also the Office Order No.1(31)/89-PX/TVH dated 18.3.89 is ~~also~~ enclosed. Another memorandum bearing No.TVH.2(32).89.pI dated 7.7.89 (Annexure IX at page 31 to the OA) was also issued to her for leaving office earlier. She had replied those allegations by her letter dated 5.5.89 (Annexure A-X at page 32 to the OA). She submits that no further action was taken on the basis of those memos issued to her and she is of the opinion that her reply has been found in order and because of that the memos were not pursued further and dropped. Such a minor things should not stand on her way for not regularising her services in the Indian Broadcasting (Programme) Service regularly.

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8. The applicant also submits that her record of service in-juxta-position with that of those juniors in whose favour promotions to the post of Programme Officer in the Junior Time Scale of the Service have been ordered, would reveal that the applicant had all through possessed the necessary ingredients for purposes of conferring the promotion on her. By promoting her juniors, the applicant has been subjected to hostile treatment for reasons unconnected with the merit of her candidature as well as the requirement of the service. The decision to revert her is also wholly unsustainable, unjust and improper.

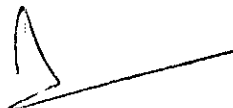
9. The respondents have filed reply. The posting of the applicant as Producer Gr.II as well as her adhoc promotion to the Junior Time Scale is not denied. The respondents submit that the recruitment/promotion to the various posts under the Government is done in accordance with the provisions of the statutory Recruitment Rules applicable to those posts. The Indian Broadcasting (Programme) Service, an organised Group 'A' service, was notified on 5.11.90. This service has the following four cadres:-

- (a) Programme Management Cadre of All India Radio.
- (b) Programme Management cadre of Doordarshan;
- (c) Programme Production Cadre of All India Radio;
- (d) Programme Production Cadre of Doordarshan.



The posts in Junior Time Scale carry the pay scale of Rs.2200-4000 and those posts are to be filled 50% by direct recruitment and 50% by promotion. The promotions to the Junior Time Scale are to be made by Selection Method. The eligibility criteria for promotion to the Junior Time Scale of the Programme Production Cadre of both All India Radio and Doordarshan is that the officers in the category of Producer etc. with 3 years regular service in the grade are to be considered. Since the applicant had been working as Producer Gr.II since 30.12.81 in Doordarshan Kendra, Hyderabad, she was considered ^{for} to the post of Programme Production Cadre of Junior Time Scale of IB(P) Service. Since this is a promotion from Group.B to the lowest rung of Group 'A', the selection is to be done by associating Union Public Service Commission. The Member of UPSC assigned for the selection heads the Selection Board. The assessment of DPC is based on the service records of the candidates falling in the consideration zone and the recommendations are made after taking into account their comparative merit. The assessment of DPC is based on the past performance as reflected in the service record of the candidate and as the applicant did not figure in the promotion list as she was not recommended for promotion by the duly constituted Departmental Promotion Committee though some officers who were juniors to the applicant have^d been recommended for promotion as their performance as reflected in the ACR_s was better than the applicant, ^{hence} she was not selected.

10. From the above submission, the respondents conclude that she has been reverted following the extant



rules as she failed to make necessary grading in the selection as per the proceedings of the Departmental Promotion Committee. The Ministry's letter dated 27.7.95 was communicated to the applicant by memo dated 6.9.95 and hence there is no irregularity in reverting her as Producer Gr.II as her name was not recommended for regular promotion to the Junior Time Scale in Indian Broadcasting (Programme) Service by the Departmental Promotion Committee.

11. From the above contentions of both sides, the only course left to us is to pursue the selection proceedings and find out whether there was any irregularity in the selection which resulted in ignoring the case of the applicant for empanelment for regular promotion to the Junior Time Scale of Indian Broadcasting (Programme) Service in accordance with the rules by the Selection Committee. Accordingly the relevant proceedings were produced in a sealed cover. We have perused the proceedings and returned it back in a sealed cover.

12. The Recruitment Rules have been enclosed to the OA at Annexure XVII at page 40 to the OA. The composition of Selection Committee is given at Serial No.5/ of the rules. As per that regulation, Chairman/Member, UPSC, Deputy Director General, Doordarshan and All India Radio and Deputy Secretary of the Ministry are ^{the} members for the Selection Committee for consideration for promotion to the Junior Time Scale of Indian Broadcasting (Programme) Service. Absence of a Member other than the Chairman or a Member of the Commission shall not invalidate the proceedings of the Committee if more than half the Members of the Committee

had attended its meeting. As per the above constitution, the Committee consisting of Member, UPSC as Chairman, Deputy Director General, Doordarshan, Ministry of Information and Broadcasting as Member, Deputy Director General, All India Radio, Ministry of Information and Broadcasting as Co-opted Member and the Deputy Secretary, Ministry of Information and Broadcasting as Member was constituted. The Departmental Promotion Committee met from 21.3.95 to 24.3.95 at Bangalore. The Deputy Secretary, Ministry of Information and Broadcasting, Member of the Committee, was not present. But the coram was complete as three other members were present. Hence, the proceedings were conducted in accordance with the statutory provisions as indicated above and the absence of the Deputy Secretary, Ministry of Information and Broadcasting will not vitiate the proceedings in view of the extant rules.


13. The cases of all the eligible officers in the feeder category were considered for promotion to the Junior Time Scale of Programme Production Cadre of All India Radio/Doordarshan in the scale of pay of Rs.2200-4000 in the Ministry of Information and Broadcasting. The number of vacancies to be filled up for the years 1990-91, 1991-92 and 1992-93 for All India Radio and Doordarshan are as follows:-

YEAR	All India Radio				Doordarshan				Total			
	Gen	SC	ST	Total	Gen	SC	ST	Total	Gen	SC	ST	Total
1990-91	41	9	4	54	26	5	3	34	67	14	7	88
1991-92	5	-	1	6	15	4	1	20	20	4	2	26
1992-93	16	3	1	20	10	1	1	12	26	4	2	32

14. The Committee for the assessment for the year 1990-91 enclosed as Annexure I to the proceedings had considered the applicant who was placed at Sl.No.96 in that list. Her juniors were also considered. The applicant was assessed as "Average" whereas a number of her juniors were given the gradings above her assessment. Her case for assessment for the year 1991-92 was also considered and for that year also she was given the grading "Average" whereas a number of her juniors were given the gradings above her. Her assessment for the year 1992-93 was also considered and she was given same grading whereas a number of her juniors were given much higher gradings. In view of the gradings above, she has not been empanelled in any of the years namely 1990-91, 1991-92 and 1992-93. As she was not found fit, her name also did not figure in the consolidated panel enclosed to the proceedings. In view of the above, in the media wise panel of Doordarshan for the years 1990-91, 1991-92 and 1992-93 also her name did not find a place.

15. The only point for consideration in this OA is whether deletion of her name from the panel is an arbitrary action on the part of the Selection Committee or her case was considered in accordance with the rules. In this connection, we will like to quote the observations of the Apex Court reported in 1992(2) ATC SC 562 (National Institute of Mental Health and Neuro Sciences v. Dr.K.Kalayana Raman and others) in regard to the selection proceedings of Departmental Promotion Committee. The Apex Court held as follows:-

"1. The function of the Selection Committee is neither judicial nor adjudicatory. It is purely




administrative. There is no rule or regulation which requires the Selection Committee to record reasons. In the absence of any such legal requirement the selection made without recording reasons cannot be found fault with.

2. Administrative authority is under no legal obligation to record reasons in support of its decision. Indeed, even the principles of natural justice do not require an administrative authority or a Selection Committee or an examiner to record reasons for the selection or non-selection of a person in the absence of statutory requirement.

3. The procedure fairness is the main requirement in the administrative action. The 'fairness' or 'fair procedure' in the administrative action ought to be observed. The Selection Committee cannot be an exception to this principle. It must take a decision reasonably without being guided by extraneous or irrelevant consideration.


4. Selection committee consisted of experts in the subject for selection and they were men of high status and also of unquestionable impartiality. The Court should be slow to interfere with their opinion."

From the above it is clear that the Selection Committee need not give reasons for ignoring candidature of any of the candidates. But procedural fairness is the main requirement in the administrative action and the Selection Committee is not an exception to that principle. As the Selection Committee consisted of experts in the subject for



selection and Members of the committee are holding high status and unquestionable impartiality, courts/Tribunals would be slow to interfere with their opinion.


16. From the proceedings of the meeting there is no reason to come to the conclusion that the Committee had overlooked the Recruitment Rules in regard to the selection procedure. There is only one exception that has been made in the case of Shri Sachidanand Singh, Programme Executive for assessing his merit. But that was done in view of the directions of the Central Administrative Tribunal, Lucknow Bench. Hence that deviation cannot be a reason for setting aside the proceedings of the Selection Committee. The Proceedings of the Selection Committee clearly state that the Committee "having examined the Character Rolls of the seniormost eligible officers, assessed their suitability as indicated in the Annexure-I". As per Annexure-I assessment, the applicant was not found eligible for promotion to the Junior Time Scale of Indian Broadcasting (Programme) Service. The proceedings in our opinion do not reflect any deviation from the normal procedural rules for conducting Departmental Promotion Committee proceedings nor exceeded the power in regard to the selection procedure. A careful perusal of the proceedings clearly indicates that the DPC had assessed each and every candidate as per their character rolls and came to the conclusion in regard to the merits of all the candidates in the zone of consideration. The case of the applicant was also done in accordance with the above and she was found ineligible for promotion to the Junior Time Scale of Indian Broadcasting (Programme) Service.



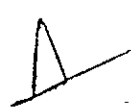
17. Thus, from the above, it is evident that the procedural fairness was adhered to which is the main requirement in the administrative action and that of the Selection Committee. As there is no requirement to give reasons by the Selection Committee as to the fitness or otherwise of each candidate assessed by the Committee, the overall ^{hand} grading had been indicated in the Annexure-I.

18. The applicant in this OA has given her professional capability as enumerated in paras 5(i) to 5(iv) supra. She further submits that if those professional capabilities are juxta-posed with the record of her juniors, her case would not have been omitted in preference to her juniors.

19. It is but natural for a candidate undergoing a selection to state that his/her abilities are not fully examined vis-a-vis others. But such contentions cannot be taken at the face value. The character rolls of each and every candidate are before the Selection Committee. We do not see why the character roll of the applicant as enumerated by her should be ignored when the selection committee met. The proceedings of the committee does not indicate that her attainments in the profession have been ignored. Hence it has to be taken that her attainments in the professional field was noted fully and well considered by the Selection Committee and on that basis in comparison with her colleagues, the Committee came to the conclusion that she is not fit for promotion to the Junior Time Scale and considered her juniors as fit for promotion.



20. In this connection it is to be pointed out that Mr.K.M.Aneesul Haq, Deputy Director General, Doordarshan, Ministry of Information & Broadcasting was one of the Members of the Committee who was present between 21st to 24th March, 1995. He is a very senior officer in Doordarshan. Hence it cannot be said that he had not evaluated the professional attainments of the applicant in that field as enumerated by her. Being a senior officer of Doordarshan, we cannot come to the conclusion that he ignored various professional attainments of the applicant and selected her juniors. Further the committee was headed by Dr.(Ms) P.Selvie Das, Member, UPSC as Chairman. She, being a Member of the UPSC, had sat in the DPC proceedings in a number of cases not only in the Ministry of Information & Broadcasting but also in other Ministries. Hence her knowledge of evaluation cannot be questioned. She has to be treated as an expert in evaluating performance of the candidates appearing before her for selection on the basis of character rolls and other records. In this connection, it is very relevant to recollect once again that the Apex Court had held that "Selection Committee Members being experts in the subject for selection and they are men of high status and also of unquestionable impartiality, the Court/Tribunal should be slow to interfere with their opinion". The above observation of the Apex Court is very relevant in this issue. The Committee Members being experts and are holding high status, we do not think that mere contention of the applicant that her service records were not juxta-posed with that of her juniors to arrive at merit, has to be



taken at the face value to set-aside the proceedings of the Selection Committee. Hence we do not see much of substance in this contention.

21. The applicant has also not enclosed any chart juxta-positioning her better professional attainments with that of her juniors who were empanelled for promotion to the Junior Time Scale in the Indian Broadcasting (Programme) Service thereby bringing out any error of judgement of the Departmental Promotion Committee. Merely quoting the names of two of her juniors who were empanelled to Junior Time Scale in the Indian Broadcasting (Programme) Service is not a justifiable reason to state that the Departmental Promotion Committee had erred in their assessment.

22. The Selection/ proceedings do not indicate that the committee had decided her case only on the basis of the two memos given to her by the Doordarshan Kendra, Hyderabad referred to in paragraph 8 supra. The above two incidents being of minor nature, we do not think that they would have influenced the Committee to come to the conclusion that she is not a fit candidate for promotion to the Junior Time Scale of Indian Broadcasting (Programme) Service. Hence this contention that she has been ignored because of the two memos given to her, is also to be rejected.

23. It was held by the Apex Court in the reported case 1997(1) SLR 153 (Anil Katiyar v. Union of India) that "Court cannot sit in the judgement over the selection made by DPC unless the selection is vitiated by malafide or is arbitrary. However, the Tribunal could not go into the

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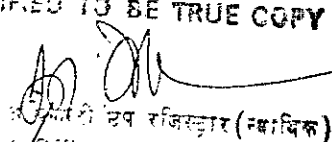
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question as to whether the appellant had been rightly graded in the ACRs."

24. In this case, no malafides had been attributed to any Members of the Departmental Promotion Committee. Hence, the question of asking for review of the selection panel which is alleged to be issued under malafide intention does not arise. The Tribunal cannot also go into the question of ^{correct/appropriate} grading in the ACRs.

25. In view of what is stated above, we are of the opinion that the applicant had not made out a case for setting-aside the selection and review her case for promotion once again.

26. In the result, we find that the application has to be dismissed and accordingly it is dismissed. No order as to costs.

सत्यमेव जयते
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 न्यायाधीशों के सहायक न्यायाधीश (न्यायिक)
 Court Officer/Dy. Registrar
 केन्द्र प्रशासनिक न्यायालय
 Central Administrative Tribunal
 हैदराबाद बेंच
 HYDERABAD BENCH