

Date of order 4-03.2000

OA No.597/96

P.K.Subhash S/o P.S.Kumardas, aged around 35 years r/o 13/185, Malviya Nagar, Jaipur at present working as Assistant Station Director, Doordarshan Kendra, Jaipur.

.. Applicant

Versus

1. Union of India through the Secretary, Ministry of Information and Broadcasting, Govt. of India, Shastri Bhawan, New Delhi.
2. The Director General, Doordarshan, Mandi House, New Delhi.
3. Secretary, Union Public Service Commission, Dholpur House, New Delhi.

.. Respondents

Mr. Rajendra Soni, counsel for the applicant

Mr. V.S.Gurjar, counsel for the respondents

CORAM:

Hon'ble Mr. S.K.Agarwal, Judicial Member

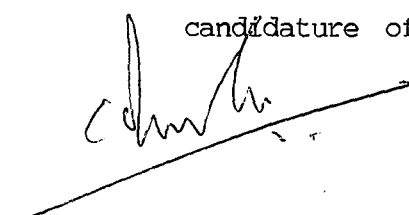
Hon'ble Mr. N.P.Nawani, Administrative Member

ORDER

Per Hon'ble Mr. N.P.Nawani, Administrative Member

The application prays for following reliefs in this Original Application filed under Section 19 of the Administrative Tribunals Act, 1985:

- "i) By issuing an appropriate writ order or direction this Tribunal may kindly call for the entire record relating to this case from the respondents and after perusing the same the respondents be directed to order for considering the candidature of the applicant for promotion on the post of

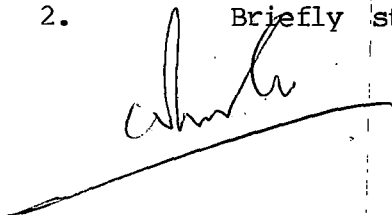


Deputy Director from the post of Assistant Director from the date the persons junior than him has been so considered by declaring that joining later on the post of Assistant Director due to issuance of appointment order on 26.02.1993 than the joining of junior person prior to him is a fictitious circumstance and the applicant the order to be considered eligible for promotion on the post of Deputy Director on 01.10.1996 by relaxing the eligibility clause of completing 4 years of regular service on the post of Assistant Director as provided in Item No.4 of Schedule - IV of the Rules of 1990 with all consequential benefits as it was fictitious circumstance that the appointment order of the applicant on the post of Assistant Director has been issued later than his junior persons.

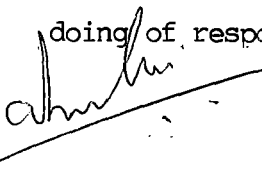
ii) By any other appropriate writ, order or direction Item No.4 of the Schedule - IV of the Rules of 1990 which provided for having 4 years regular service on the post of Assistant Director as a requisite qualification for promotion on the post of Deputy Director, which may be a fictitious circumstance, as in the case of the applicant, who is inspite of being a senior person is being not considered for promotion on the post of Deputy Director where as person junior to him has been considered due to the arbitrary schedule referred hereinabove and such Item No.4 of the Schedule- IV of the Rules of 1990 which provided such an arbitrariness in public employment be declared illegal and arbitrary and quashed and set aside by declaring it violative of Article 14 and 16 of the Constitution of India."

2.

Briefly stated, the case of the applicant is that he was



selected for the post of Assistant Station Director (for short ASD), AIR/Doordarshan by the UPSC and his name finds place at Sl.No.19 in the published select list (copy at Ann.A1). Two persons junior to him in the said select list viz. S/Shri D.N.Basumatani and S.D.Bajad, who were at Sl.No. 22 and 23 respectively, have been given appointment order prior to the applicant and allowed to join on 26.6.1992 and 14.5.1992 respectively whereas the applicant has been given appointment order on 26.2.1993 in pursuance of which the applicant joined as ASD on 24.3.1993 (Ann.A3). In fact, even the delayed appointment order was given to the applicant by the respondents after he had written to them (Ann.A3 to A5). The applicant was thereafter confirmed in the Junior Time Scale (for short, JTS) of Doordarshan on 1.5.1995 in which his name appears at Sl.No.39 whereas the names of his aforementioned juniors appear at 42 and 43 (Ann.A8) and thus they have been declared junior to the applicant. However, problems of the applicant continue because of the delay on the part of respondents in sending to the applicant the order of appointment because of which the applicant was forced to join the post <sup>after</sup> almost 9 months. For such a delay the applicant can neither be punished nor any of his rights taken away. The next promotion in the line is Senior Time Scale (for short, STS), which is on seniority-cum-fitness basis and eligibility condition is "officers in JTS with four years regular service in the grade." The applicant filed representation so that the fictitious circumstances of joining late may not come in the way of his promotion but it appears that on the basis of recommendations of the DPC held in October, 1996, the applicant has been given appointment to STS later than his aforementioned juniors inspite of his representation that completion of four years of service in JTS in his case should be reckoned on 22.8.1996. The applicant also gave a notice for demand of justice that he should be considered eligible for STS on 22.8.1996 and not 1.10.1996 but his grievance has not been set right and for no fault of his (the delay in sending the letter of appointment was the doing of respondents themselves) he has been put to great harm.



3. Notices of the Original Application was given to the respondents who have filed preliminary and detailed replies to which the applicant has filed a rejoinder. These are on record and have been perused by us.

4. In their reply, the respondents have taken preliminary objection that the OA has been filed before the expiry of the period of six months from the date of his representations as required under Section 20 of the Administrative Tribunals Act and, therefore, the OA deserves to be dismissed on this count itself. In the interest of justice, we feel it just and proper to ignore this objection. It has also been stated by the respondents that for STS of Programme Production/Management cadres of AIR and Doordarshan, 4 years of regular service in the grade of JTS is required. It is also provided that where juniors who had completed their qualifying/eligibility service are being considered for promotion, their seniors would also be considered provided they are not short of the requisite qualifying/eligibility service by more than half of or two years whichever is less. The respondents have also explained the reasons for delay in sending the appointment order to the applicant. It has also been stated that no officer junior to the applicant has been considered by the DPC which considered officers against the vacancies for the year 1993-94, 1994-95, 1994-95 and 1995-96 for which the dates of eligibility were 1.10.93, 1.10.94 and 1.10.95 respectively.

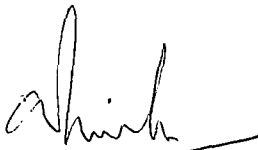
5. We have heard Shri Rajendra Soni, learned counsel for the applicant and Shri V.S.Gurjar, counsel for the respondents. It was strongly argued by Shri Soni that because of fictitious circumstances, the applicant who joined later than the dates of joining of his junior in the select list, the applicant cannot be made to suffer. However, during the course of arguments, he offered that his client will make another attempt to seek

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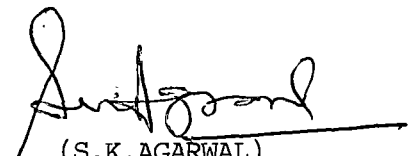
justice from the departmental authorities, to which the learned counsel for the respondents had no objection.

6. The Original Application is, therefore, disposed of with a direction to respondent No.1 that if the applicant makes a representation within 15 days of this order, the same may be considered sympathetically and a detailed speaking reply may be sent to the applicant as expeditiously as possible. A copy of the OA and Annexures thereto be sent to respondent No.1.

Parties to bear their own costs.

  
(N.P. NAWANI)

Adm. Member

  
(S.K. AGARWAL)

Judl. Member