

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH; JAIPUR

O.A. Nos. 420/97, 27/2003 & 75/2003

Date of decision. 22.08.03

Ajay Sharma, S/o Shri B.L. Sharma, aged around 40 years, by caste Sharma, Resident of E/139, Amba Bari, Jaipur at present working as Production Assistant, Doordarshan Jhalani Doongari, Jaipur.

Mohan Kaur, S/o late Shri T.L. Kaul, aged around 48 years, by caste Sharma, resident of A-400.A, Malviya Nagar, Jaipur at present working as Production Assistant, Doordarshan, Jhalani Doongari, Jaipur.

Smt. Mamta Chaturvedi, W/o Yogesh Chaturvedi, by caste Brahmin, aged about 46 years, resident of A-439, Vaishali Nagar, Jaipur, at present working as Production Assistant, Doordarshan, Jhalani, Doongari, Jaipur.

Sridhar Joshi, S/o Dr. N.P. Joshi, aged around 40 years, by caste Brahmin, resident of 10/60, Malviya Nagar, Jaipur at present working as Production Assistant, Doordarshan, Jhalani Doongari, Jaipur.

: Applicants in O.A. No. 420/97

Shalendra Kumar Upadhyay, S/o Shri Tara Kant Upadhyay, by caste Brahmin aged about 40 years, resident of 32/72, Park Street Swarn Path, Mansarovar Jaipur.

Manoj Tiwari S/o Shri P.L. Tiwari, by caste Brahmin, r/o 180 Vidhyut Nagar 'A' Ajmer Road, Jaipur.

Vashudev Sharma S/o late Shri R.N. Sharma, by caste Brahmin, r/o 1 B 73, Shiv Shakti Colony, Shastri Nagar, Jaipur.

Rakesh Kathur, S/o Shri P.C. Mathur, by caste Kayasth, r/o 60/63, Pratap Nagar, Sanganer, Jaipur.

Surendra Saxena S/o Shri J.P. Saxena, by caste Kayasth, r/o 68/60, Pratap Nagar, Sanganer, Jaipur.

Ghan Shyam Kundara, s/o late Shri P.L. Kundara, by caste Kundara, r/o F.13, Mahesh Nagar, Tonk Phatak, Jaipur

Tulsi Ram Mahawar, S/o late Shri G.R. Mahawar, by caste Mahawar, r/o 70 Janakpuri II Imli Ka Pathak, Jaipur.

Sanjay Dutt Mathur, S/o Shri P.D. Mathur, by caste Kayastha, r/o K-122, Laxman Path Shyam Nagar, Jaipur.

Pawan Kumar Seth, S/o Shri S.L. Verma, by caste Verma, r/o 137, Avadhपुरी - I, Mahesh Nagar, Jaipur.

Shakul Ur Rahman S/o Shri M.P. Rahi, by caste Muslim, r/o 791, Bandri Ka Nasik Nal Bandu, Jaipur.

Ashok Ambwani, S/o Shri Kishan Ambwani, by caste Ambwani, r/o 10/562, Kaveri Path, Mansarovar, Jaipur.

All the applicants are working as Production Assistant, Doordarshan, Jhalani Doongari, Jaipur.

: Applicants in O.A. No. 27/2003.

Raj Kishore Saxena, S/o Shri K.K. Saxena, by caste Saxena, r/o 7/355.
Malviya Nagar, Jaipur.

Akmal Abbas S/o Shri S.M. Abbas, r/o 82/605, Pratap Nagar, Sanganer,
Jaipur.

Miss. Laxmi Girdhani, D/o late Shri B.D. Girdani, r/o 6/447, S.F.S. Circle,
Mansarovar, Jaipur.

Mrs. Nisha Bhatnagar, W/o Shri Girish Chand Bhatnagar, r/o 2 kha 2 Jawahar
Nagar, JAIPUR.

Sanjeev Sharma S/o Shri R.S. Sharma, r/o Plot No. 2, Gandhi Nagar, Jaipur.

All the applicants are working as Production Assistant, Doordarshan,
Jhalani Doongari, JAIPUR.

Applicants in O.A. No. 75/2003.

VERSUS.

1. Union of India through its Secretary, Information & Broadcasting, A Block, Shastri Bhawan, New Delhi.
2. Director General, Doordarshan Mandi House, New Delhi.
3. Diirector(Administration) Doordarshan, Mandi House, New Delhi.
4. Director, Jaipur Doordarshan Kendra, Doordarshan, Jhalana Doongari, Jaipur.

: Respondents 1 to 4 in all the three
O.As.

K.K. Bohra, Programme Executive,
Smt. Manju Singh, Programme Executive.
Om Prakash, Programme Executive.

Doordarshan Kendra, Jhalana Doongari, JAIPUR.

: Respondents 5 to 7 in O.A. No. 420/97

Mr. Rajendra Soni : Counsel for the applicants in all the three O.As
Ms Shalini Sheron proxy counsel
for Mr. Phanwar Bagri : Counsel for the respondents 1 to 4.

CORAM:

The Hon'ble Mr. Justice G.L.Gupta, Vice Chairman.

The Hon'ble Mr. A.K. Bhandari, Administrative Member.

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O R D E R

Per Mr. Justice G.L.Gupta:

In all the three O.As identical reliefs have been claimed and therefore they have been heard together and are being disposed of by this common order.

2. The facts have been borrowed from O.A No. 420/97. Applicants were Production Assistants, when the O.As were filed. A scheme was formulated by the Government of India for absorption of Staff Artists of All India Radio and Doordarshan into Government service. On the basis of this scheme, the applicants and certain other persons working as Staff Artists and Production Assistants came to be declared as Government servants on 29.07.86. Till 23.10.84, recruitment in the cadre of of Programme Executives (P.Ex for short) in Doordarshan was 75% by direct recruitment and 25% by promotion. The persons eligible were the Transmission Executives with at least five years regular service in the grade. This was in accordance with the All India Radio (Group 'B' posts) Recruitment Rules, 1962. The said rules came to be amended by the All India Radio (Group 'B' posts) Recruitment (Amendment) Rules 1984, amended on 23.10.84 and a new Rule 4 A (1) was added. Vide order Annex. A.1 dated 12.03.97, three private respondents were promoted to the post of P.Ex.

3. In the O.As the main ground is that under the newly added rule 4 A (1) clause (f) is violative of Article 14 and 16 of the Constitution of India. The case for the applicants is that they were appointed to the post of Production Assistants between the period 1979 and 1982, whereas the private respondents joined in 1983-84, yet by virtue of the amended Rule, the private respondents (O.A. No. 420/97) were being considered for promotion. It is averred that according to the length of service the applicants are senior to the private

respondents (O.A. No. 420/97) in the cadre. It is prayed that the order Annex. A.1 be quashed, the clause (f) be declared illegal and the applicants be directed to be given promotion from the date persons junior to them were promoted.

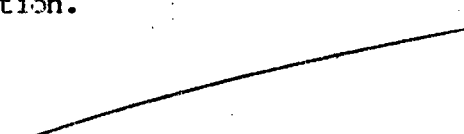
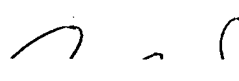
4. Private respondents in O.A. No. 420/97 have not appeared despite service.

5. The official respondents have filed separated replies in all the O.As, refuting the claim of the applicants.

6. Vide order dated 24.01.2003, the O.A. No. 420/97 (Ajay Sharma and others vs. UOI and others) was directed to be placed before the Full Bench as there was divergence of opinion of the two Benches of this Tribunal. Pursuant to that order a Full Bench was constituted under the Chairmanship of Hon'ble Chairman and the matter was heard. Vide order dated 07.07.2003 it was held that Rule 4 A (1) (f) of the amended Rules is violative of Art. 14 of the Constitution of India. Clause (f) of the said rule was quashed and the respondents were directed to re-draft the rule in accordance with law. The Full Bench further ordered that the matter be listed before an appropriate Bench for further orders. It is in these circumstances O.A. No. 420/97 has been placed before us. In other two OAs, identical controversy is involved.

7. We have heard the learned counsel for the parties and perused the pleadings and the documents placed on record.

8. The submission of Mr. Soni, learned counsel for the applicants was that in view of the decision of the Full Bench the order Annex.A.1 is liable to be quashed and the applicants be directed to be considered for promotion from the dates, the private respondents of O.A. No. 420/97 were given promotion.



9. Ms. Shalini Sheron, learned counsel for the respondents contended that keeping in view the fact situation in the cases, no direction should be given by this Court and it should be left to the respondents to re-draft the rules and pass appropriate orders.

10. We have considered the above contentions. It is seen that vide order dated 12.03.97, the private respondents who were working on higher post on adhoc basis were given promotion on regular basis with effect from 19.09.96, and were kept on probation for two years.

During the course of the arguments, it was admitted by the learned counsel for the applicants that the applicants have also been given promotion. It has, however, not come on record from which date the applicants have been given promotion to the post of P.Ex. and from which date the private respondents were given promotion on adhoc basis. What is stated in O.A. No. 420/97 at para 4.(v) is that, Shri Bohra was given promotion on adhoc basis vide order dated 24.02.94. The dates of adhoc promotion of other private respondents have not been given. In

any case, the applicants have not challenged the order dated 24.02.94 or any order giving promotion to the private respondents on adhoc basis. Even in the relief clause it has not been prayed that the applicants should be given promotion from a particular date. Therefore the applicants cannot succeed in getting promotion with effect from 24.02.94.

12. When full facts are not before this Court there cannot be any justification to direct the official respondents to give promotion on the post of P.Ex to the applicants from a particular date. It has to be considered by the official respondents that whether keeping in view the judgement rendered by the Full Bench, the promotion of the private respondents vide order Annex. A.1 was in order or not. If it is found

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that in terms of the decision of the Full Bench, the private respondents of O.A. No. 420/97 or any of them could not be given promotion vide Order Annex. A.1 or that the applicant(s) were entitled to promotion in terms of that order, the official respondents would pass appropriate order.

13. Resultantly, the official respondents are directed to pass appropriate order as directed in preceding para within a period of two months from the date of receipt of a copy of this order.

14. The three O.As stand disposed of accordingly. No order as to costs.

(A.K. Bhandari)

Administrative Member.

(G.L.Gupta)

Vice Chairman.

jsv.