

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A.No. 7 of 1998.

15-10-1999.
DATE OF DECISION.....

Shri Manabendra Das & Ors.

(PETITIONER(S))

S/Shri B.K.Sharma, S.Sarma.

ADVOCATE FOR THE
PETITIONER(S)

-VERSUS-

Union of India & Ors.

RESPONDENT(S)

Shri A. Deb Roy, Sr.C.G.S.C.

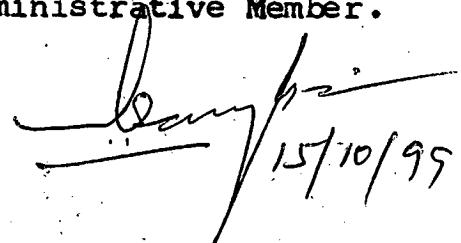
ADVOCATE FOR THE
RESPONDENTS.

THE HON'BLE MR JUSTICE D.N.BARUAH, VICE CHAIRMAN.

THE HON'BLE MR G.L.SANGLYINE, ADMINISTRATIVE MEMBER.

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Administrative Member.


15/10/99

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 7 of 1998.

Date of Order : This the 15th Day of October, 1999.

The Hon'ble Mr Justice D.N.Baruah, Vice-Chairman.

The Hon'ble Mr G.L.Sanglyine, Administrative Member.

1. Shri Manabendra Das,
son of late M.C.Das,
resident of Santipur,
A.T.Road, Guwahati-9.
2. Shri Krishan Jyoti Basumatary,
C/O Shri S.C.Kakati,
Hatigaon Path,
Bamunimaidan, Guwahati-21. . . . Applicants.

By Advocate S/Shri B.K.Sharma, S.Sarma.

- Versus -

1. Union of India
represented by the Secretary to the
Government of India, Ministry of
Information and Broadcasting, New Delhi.
2. The Director General,
Doordarshan, Mandi House,
Copernicus Marg, New Delhi.
3. The Director,
Doordarshan Kendra,
R.G.Baruah Road, Guwahati.
4. The Superintending Engineer,
Doordarshan Kendra,
R.G.Baruah Road, Guwahati. . . . Respondents.

By Shri A.Deb Roy, Sr.C.G.S.C.

O R D E R

G.L.SANGLYINE, ADMN. MEMBER,

An advertisement at Annexure-A was issued in 1992 calling for applications to fill up 13 posts of Production Assistant/Property Assistant (Reserved for SC-1, ST-2, Unreserved-10) in Doordarshan Kendra, Guwahati. Applications were to be received upto 30.9.1992. The applicant No.1 belongs to SC community and the applicant No.2 belongs to ST (Plains) community. They responded to the advertisement and were selected according to the result published on

28.2.1995. They were not however given appointment by the respondents. They alongwith the others submitted Original Application No.30 of 1996 which was disposed of on 5.3.1997 with directions to the respondents. Pursuant to the directions of this Tribunal the respondents issued letter No.DDK/GUW/ OA-30/96/12145 dated 13.10.1997, Annexure-I. The reasons in support of refusal to give appointment to the applicants are as below :

"That in course of completion of pre-formalities of the appointment, the post of Production Asstt. (10 Nos.) alongwith other categories of post were abolished vide Min. of I&B's letter dated 28.2.95 (received at this Kendra on 14.3.95).

That the position of remaining three posts is as under :-

1) 2 posts were filled up by transfer vide Directorate's order dated 10.8.94 & 28.9.94 and accordingly, those incumbents joined on 10.10.94 and 15.11.94 respectively.

2) 1 post was vacant.

That it may be put on record that the Hon'ble CAT, Guwahati Bench vide their order dated 14.6.96 in O.A.No.128/93 filed by Shri D.C. Goswami & others had directed the Deptt. for regularisation of 3 Nos of applicants as Production Assistant/Floor Assistant. Accordingly, the one vacant post of Production Assistant shown at (2) above, was utilised to regularise one of the three applicants towards implementation of orders of Hon'ble Tribunal, Guwahati dated 14.6.1996 in the above mentioned O.A."

The applicants have therefore submitted this present Original Application with the prayer to quash the aforesaid letter dated 13.10.1997 on the ground that it is illegal and to direct the respondents to appoint the applicants to the aforesaid posts of Production Assistant/Property Assistant.

2. We have heard both sides. There were 13 posts of Production Assistant/Property Assistant sanctioned for the Doordarshan Kendra, Guwahati for recruitment to which applications were called for. 10 posts were unreserved and 3 posts were reserved posts. Out of 13 posts 10 posts were

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abolished on 28.2.1995. The posts abolished are all unreserved posts whereas the 3 posts retained were all reserved posts. This is clear from para 13 of the written statement which is as below :

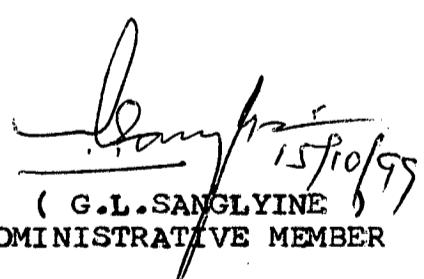
". . . . the remaining 3 posts reserved for SC/ST, 2 posts were filled by transfer by the Directorate order dated 10.08.94 and 28.9.94 and the remaining post was filled by regularising one of the Casual Production Assistant belongs to ST category as per Court's verdict dated 14-6-96 in O.A.No. 128/93."

According to this written statement 2 reserved posts were filled up by existing general employees of the respondents, namely, Shri Nagen Kalita on 10.8.1994 by transfer from Doordarshan Kendra, Dibrugarh to Doordarshan Kendra, Guwahati and by Shri Debabrata Goswami on 28.9.1994 by transfer from Doordarshan Kendra, Dibrugarh to Doordarshan Kendra, Guwahati. Another reserved post belonging to ST category was filled up by another employee who was not a party to the advertisement some time after 14.6.1996. The hollowness of the contention of the respondents that the applicants could not be appointed on the ground that there was no vacancy as on 10.8.1994 and 28.9.1994, the vacancies were filled up by existing employees by transferring them from Dibrugarh to Guwahati is vividly clear. If those two advertised vacancies were filled up by transfer on 10.8.1994 and 28.9.1994 there is no reason why a written test was held on 27.11.1994 and an interview was held on 6.2.1995 to fill up the posts and declared the applicants successful on 28.2.1995. Then there was a third post, namely, the post reserved for ST. This post was lying vacant from 22.8.1995 till after 14.6.1996. There is no reason for this delay and disinclination of the respondents to appoint out of the selected ST candidates of whom applicant No.2 was one of them. The delay is only to deny appointment to the reserved candidates. The 3 posts were advertised to be filled up by

the SC and ST candidates as indicated in the advertisement. Even on abolition of posts 3 posts belonging to the reserved category were not abolished. According to the applicants this retention of the reserved posts is in accordance with the Annexure-G O.M. NO.7(7).E.(Co-ord)/93 dated 6.4.1994. Be that as it may, the fact remains that the 3 reserved posts were not abolished. There cannot be any justification why the 3 reserved posts which were advertised and selection made to fill up the same by the candidates belonging to the reserved categories were filled up by ^{the} existing employees of Doordarshan. In our view by the action of the respondents the applicants have been illegally denied appointment to the posts for which they were selected and therefore the action of the respondents to deny appointment to the applicants is not sustainable in law. We therefore, direct the respondents to appoint the applicants to the respective reserved posts advertised for which they were duly selected. This must be complied with within one month from the date of receipt of this order.

Application is disposed of. No order as to costs.


(D.N.BARUAH)
VICE CHAIRMAN


(G.L.SANGLYINE)
ADMINISTRATIVE MEMBER