

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 13th August, 2008

ORIGINATION APPLICATION NO. 302/2008

CORAM:

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER
HON'BLE MR. B.L. KHATRI, ADMINISTRATIVE MEMBER

Ganpat Lal Balai son of Shri Ramchandra aged about 43 years resident of Paladi Meena, Opposite Rajesh Coach Builders, Near Temple of bada Ram Dev, Agra Road, Jaipur. Office of the Director Doordarshan Kendra, Jhalana Doongri, Jaipur as UDC.

....APPLICANT

(By Advocate: Mr. Raghunandan Sharma)

VERSUS

1. Union of India through Secretary, Ministry of Broadcasting, Shastri Bhawan, New Delhi.
2. Station Director, All India Radio, M.I. Road, Jaipur.
3. Director General, All India Radio, Akashvani Bhawan, Sansad Marg, New Delhi.
4. The Chief Executive Officer, Parsar Bharti, PTI Building, Parliament Street, New Delhi.
5. Shri D.C. Paliwal, UDC working at All India Radio, Udiapur.
6. Shri D.C. Mandia, UDC, working at All India Radio, M.I. Road, Jaipur.
7. Shri Ashu Ram, UDC, working at All India Radio, Bikaner.

....RESPONDENTS

(By Advocate: -----)

ORDER (ORAL)

The applicant has filed this OA thereby praying for the following relief:-

- "(i) That by an appropriate order or direction the respondents be directed to place at appropriate place in the seniority list and consequential benefits from the date of his junior promoted.
- (ii) Any other appropriate order or direction which the Hon'ble Tribunal may consider just and proper in the facts and circumstances of the case, may also kindly be passed."

2. Briefly stated, facts of the case are that the applicant was appointed as LDC on 04.06.1990, pursuant to his selection by Staff Selection Commission. The grievance of the applicant in this case is that some persons have been promoted to LDC from Group 'D' vide order dated 28.10.1988 (Annexure A/1), order dated 19.01.1989 (Annexure A/2) and 11.02.1989 (Annexure A/4). According to the applicant, they should be placed junior to the applicant. According to the applicant as per provisions contained in recruitment and promotion rules, Only 10% quota was meant for Group 'D' employees whereas 90% posts have to be filled from direct recruitment. According to the applicant, the department should have maintained 9:1 ratio while preparing the seniority list. According to the applicant, the applicant has been shown junior to them in seniority lists ~~were~~ prepared on 01.01.1995 and 01.01.1996. The grievance of the applicant is that the said seniority list has not been prepared in accordance with the rules. It is further stated that persons who have been promoted from Group 'D' categories have been shown senior to the applicant. It is further case of the applicant that those persons were again promoted to the post of UDC. It is further averred that

applicant came to know about all this when he sought information under Right to Information Act vide letter dated 19.07.2007. As such, he has filed this OA immediately and there is no delay in filing this OA.

3. Learned counsel for the applicant further submits that the seniority list dated 01.01.1995 and 01.01.1996 were provisional which have not became final, as such he has not challenged these seniority lists.

4. We have heard the learned counsel for the applicant. We are of the view that the present OA cannot be entertained for more than one reason. Firstly, the applicant was appointed in the LDC cadre in 1990 whereas persons mentioned in Annexures A/1, A/2 and A/3 have been promoted in the year 1988 and 1989 much earlier to the induction of the applicant in LDC cadre. From the material placed on record, it is evident that Department has ^{and} circulated seniority lists in the years 1995~~1995~~1996 but the applicant has not filed any representation against the tentative seniority lists. The Department has also made promotion to the post of UDC, based on these seniority lists which have become final as admittedly no representation was filed by the applicant. Further the applicant has not challenged the validity of the promotion order in this OA whereby so called junior persons have been promoted to the post of UDC. Thus we cannot go into the validity of that order. The applicant has also not impleaded the affected party as respondents in this OA. It is settled position by the Apex Court that no relief can be granted in absence of necessary party and any order in the absence of necessary party is nullity. Thus OA deserves to be dismissed on these

grounds alone i.e. non impleading the necessary parties and (ii) not challenging the validity of order whereby so called junior persons were promoted as UDC. That apart the fact remains that the applicant has agitated the matter at this belated stage. As such ~~we are~~ on this score also ^{we are} of the view that the present OA cannot be entertained. Further the applicant in Para No. 3 of the OA has stated that the present OA is filed within limitation period prescribed under Section 21 of the Administrative Tribunal's Act, 1985. In terms of provisions of Section 21 of the Tribunal's Act, the OA has to be filed within a period of one year when cause of action has arisen. In this case, the cause of action has arisen in the year ^{and} 1995 ~~1996~~ when seniority list ~~was~~ circulated. The Apex Court in the case

Ramesh Chand Sharma vs. Udhamp Singh Kamal & Others

reported in 2004 SCC (L&S) 53 has categorically stated that where a person has not filed any application for condonation of delay, OA cannot be admitted and entertained. Thus in view of law laid down by the Apex Court, OA cannot be entertained.

5. Thus viewing the matter from any angle, we are of the view that the applicant has made no case for grant of relief and OA is accordingly dismissed in limine at admission stage.

B.L. KHATRI
(B.L. KHATRI)
MEMBER (A)

M.L. CHAUHAN
(M.L. CHAUHAN)
MEMBER (J)

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