

**Central Administrative Tribunal
Principal Bench, New Delhi**

**CP No. 39/2004 in
OA No. 243/2002**

This the 4th day of November, 2015

**Hon'ble Mr. Justice B.P. Katakay, Member (J)
Hon'ble Mr. K.N. Shrivastava, Member (A)**

1. Programme Staff Association of All India Radio and Doordarshan through its President Mr. V.A. Magazine, Director, Transcription and Programme Exchange Service, 4th Floor, Sansad Marg, New Delhi.
2. Dr. J.K. Das, Director, National Channel, All India Radio, Toda Pur New Delhi.
3. Mr. Hrushikesh Pani, Director of Programmes (PER), Akashvani Bhawan, Sansad Marg, New Delhi.
4. Sh. Harish Deep, Dy. Director of Programmes, Directorate General of All India Radio, Akashvani Bhawan, New Delhi.

....Petitioner

(Mr. R. Srinivasan, one of the applicant)

Versus

1. Sh. Pawan Chopra, IAS, Secretary, Ministry of Information and Broadcasting, Shastri Bhawan, Dr. Rajender Prasad Marg, New Delhi.
2. Sh. K.S. Sarma, Chief Executive Officer/Director General Prasar Bharati/Akashvani, IInd Floor, PTI Building, New Delhi.

3. Sh. Jayender Singh, Secretary,
Union Public Service Commission,
Dhokpur House, Shahjahan Road,
New Delhi-11

....Contemnors

(By Advocate : Mr. Sameer Aggarwal for respondent No. 1.
Mr. Rajeev Sharma with Ms. Priyanka Raj and
Ms. Radhalakshmi R. for respondent No. 2
Mr. Naresh Kaushik for respondent No. 3.)

ORDER (ORAL)

By Shri B.P. Katakey, Member (J):

Heard Mr. R. Srinivasan, President of Programme Staff Association of All India Radio and Doordarshan, one of the contempt petitioner and Mr. Sameer Aggarwal, learned counsel for respondent No. 1, Mr. Rajeev Sharma, learned counsel for Respondent No. 2 and Mr. Naresh Kaushik, learned counsel for respondent No. 3.

2. The applicants have filed this Contempt Petition alleging wilful/deliberate violation of the order dated 29.01.2002, passed by this Tribunal in OA No. 243/2002, whereunder the following directions were issued:-

“Having regard to the claims made here, we find that interest of justice would be adequately met by disposing of the present on at this stage itself by issuing a direction to the respondents to hold the relevant DPC meetings as early as possible and preferably within a period of four months from the date of receipt of a copy of this order to consider the cases of the applicants along with other eligible persons for promotion to JTS, STS, JAG & SAG and pass suitable orders in accordance with law.

3. It has been contended by the contempt petitioner that despite the aforesaid directions issued by this Tribunal, directing the respondents in the OA to hold the relevant DPC meetings as early as possible and preferably within a period of four months from the date of receipt of a copy of the order to consider the cases of the applicants along with other eligible persons for promotion to JTS, STS, JAG & SAG and pass suitable orders in accordance with law, no such DPC has been held for promotion to the post of JTS despite expiry of more than 13 years of passing of the said order. The contempt petitioner, therefore, prays for action against the respondents.

4. Mr. Rajeev Sharma, learned counsel for respondent No. 2 on the other hand referring to the pleadings in the affidavit filed, including the additional affidavit filed on 03.11.2015, and also the Prasar Bharati (Broadcasting, Corporation of India) Act, 1990, as amended in the year 2012, has submitted that all posts in the erstwhile Akashvani and Doordarshan other than the posts borne on the strength of the cadres referred to in sub-section (2) has been transferred to the Corporation with effect from the 01.04.2000 and hence the Prasar Bharati would hold the DPC from 01.04.2000 onwards, if so directed. The learned counsel further submitted that having regard with the aforesaid provision in section 11B of the Prasar Bharati (Broadcasting,

Corporation of India) Act, 1990, in short 1990 Act, the DPC for the purpose of consideration for promotion to the post of JTS up to 31.03.2000 is to be conducted by the UPSC. Learned counsel therefore submits that this Tribunal having regard to the aforementioned amendment carried out in the 1990 Act may pass necessary orders for holding the DPC, which could not be held because of the dispute as to whether the UPSC and the Prasar Bharati would convene the DPC.

5. Mr. Naresh Kaushik, learned counsel appearing for respondent No. 3 submits that the UPSC can hold the DPC only in respect of civil posts and since the post of JTS has been transferred the corporation w.e.f. 01.04.2000 by virtue of section 11B of the 1990 Act, the DPC for consideration of the candidates for promotion to JTS w.e.f. 01.04.2000 has to be held by the Prasar Bharati and not by the UPSC. It has also been submitted that the DPC for the purpose of promotion to the post of JTS till 31.03.2000 has to be held by the UPSC.

6. It is evident that despite the aforesaid directions issued by this Tribunal vide order dated 29.01.2002 in OA No. 243/2002 the same have not been implemented so far by the UPSC or by the Prasar Bharati, for the reasons that there is certain confusion relating to the authority to hold the DPC and also some other disputes earlier raised before different forums.

7. Section 11B of the 1990 Act provides as under:-

“11B. Transfer of posts of Akashvani and Doordarshan to Corporation. – (1) All posts in the erstwhile Akashvani and Doordarshan other than the posts borne on the strength of the cadres referred to in sub-section (2) shall be deemed to have been transferred to the Corporation with effect from the 1st day of April, 2000.

(2) All matters relating to the posts borne on the strength of the cadres of the Indian Information Service, the Central secretariat Service or any other cadre outside Akashvani or Doordarshan, in so far as such posts are concerned with the Corporation, shall be determined in such manner and on such terms and conditions as may be prescribed.

8. It appears from the said provision that all posts in the erstwhile Akashvani and Doordarshan, other than the posts borne on the strength of the cadres referred to in sub-section (2), deemed to have been transferred to the Corporation with effect from the 1st day of April, 2000. The post of JTS, by virtue of the said provision, also deemed to have been transferred w.e.f. 01.04.2000, to which there is no dispute.

9. The UPSC admittedly cannot held the DPC in respect of JTS w.e.f. 01.04.2000, in view of the aforesaid provision. The UPSC, however, has to convene the DPC for the post till 31.03.2000. Such DPC in view of the said provision is required to be held by the Prasar Bharati w.e.f. 01.04.2000. It also appears that a coordinate Bench of this Tribunal vide order dated 24.03.2015 passed in OA N. 596/2014 has permitted the Prasar Bharati to hold such DPC. The said order has also been complied with by Prasar Bharati by holding the DPC.

10. Having regard to the aforesaid position, in our considered opinion the following directions are required to be issued so that the fruit of the order dated 29.01.2002 passed in OA No. 243/2002 can be enjoyed by the applicants :-

- i) The UPSC shall conduct the DPC for the purpose of consideration of the persons for promotion to the post of JTS till 31.03.2000.
- ii) The Prasar Bharati shall conduct such DPC for the purpose of promotion to the post of JTS w.e.f. 01.04.2000.
- iii) The aforesaid DPC by the UPSC as well as by the Prasar Bharati shall be held within three months from today. Consequential orders would be passed including all consequential benefits to the persons deserve to be promoted. The entire exercise including passing of consequential order shall be carried out within four months from today.

11. Ordered accordingly.

12. The CP stands accordingly closed and disposed of. No cost.

Issue **dasti**.

(K.N. Shrivastava)
Member (A)

(Justice B.P. Katakey)
Member (J)

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