

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

CP No.559/2014

In

OA No.2773/2014

MA No.1547/2016

MA No.1651/2016

MA No. 3916/2015

this the 23rd day of May, 2016

**Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Dr. Birendra Kumar Sinha, Member (A)**

1. Nisar Ahmed Khan, Aged – 59 years
S/o Late Sri M.A.Khan
Working as Senior Administrative Grade Officer
In the offices of Director General, All India Radio
New Delhi.
R/o Plot No.1045, 1st Floor, Niti Khand
Indira Puram, Ghaziabad (UP)

2. Om Kumar Sharma, aged 53 years
S/o Shri Sunder Lal Sharma
Working as Junior Administrative Grade Officer
In the Offices of Director General, All India Radio
New Delhi.
R/o E 5/E 1, Block Radio Colony
Kingsway Delhi - 09 Applicants

(By Advocate: Ms. Sonika for Shri Yogesh Sharma)

Versus

1. Shri Bimal Julka
Secretary
Ministry of Information and Broadcasting
Govt. of India, Shastri Bhawan, New Delhi -1.

2. Shri Ashim Khurana
Secretary
Union Public Service Commission
Dholpur House, Shahjahan Road
New Delhi-1 Respondents.

(By Advocate:Shri D.S.Mahendru for R-2
 Ms. Joymati Mize for Shri Naresh Kaushik)

ORDER (ORAL)

By Hon'ble Mr. V. Ajay Kumar, Member (J)

These contempt proceedings have been initiated against the noncompliance of the order of this Tribunal dated 13.08.2014 passed in OA No.2773/2014, whereby the following directions were issued:-

"2. During the course of hearing today, learned counsel for the applicants submitted that this case is squarely covered by the earlier Order of this Tribunal dated 10.12.2013 in OA No.3943/2012 (**Rohtas Kumar Verma vs. Ministry of Information and Broadcasting and others**). The said Order being a short one is reproduced below:-

Following relief has been sought in this O.A.:-

Direct the respondents to hold DPC for the promotion to the post of Junior Administrative Grade as early as possible preferably within a period of two months keeping in view that there is already delay of more than two years in not holding of DPC for the ends of justice.

2. Facts of the case are that the applicant was recruited to the Indian Broadcasting Service through Union Public Service Commission in 1988. He joined as Assistant Station Engineer in May 1989. He was promoted in the Senior Time Scale in September 1993 and to Non-Functional Junior Administrative Grade in 2003. The grievance of the applicant is that he is eligible for promotion to JAG since 2010, but the respondents are not holding DPC thereby depriving him from the benefit of promotion.

2.1 The applicant has claimed that the respondents have failed to appreciate that they are under legal obligation to hold the DPC meeting within reasonable time so that employees are not deprived from enjoying the fruits of service. Honble Supreme Court has also held that timely completion of administrative action by authorities would ensure fair play and serve greater ends of justice. In this regard the applicant has relied on the decision of Hon'ble Supreme Court in the case of Kazla Mohammed Muzzammil Vs. State of Karnataka, 2010(8) SCC 155. The applicant has also claimed that the inaction of the respondents is in violation of Articles, 14, 16 and 21 of the Constitution of India.

3. UPSC have filed reply stating that they have not received any proposal from the Administrative Ministry and that they will have no difficulty in holding the DPC meeting as soon as such a proposal is received. The Administrative Ministry have also filed their reply in which they have not disputed the facts of the case. They have, however, contended that the delay in holding the DPC is not deliberate but due to administrative reasons. Accordingly to them, respondent No.1 (Ministry of I&B) has received a proposal to convene the DPC for the post of Junior Administrative Grade of Indian Broadcasting (Engineering) service for the years 2010-11 and 2011-12. However, this could not be forwarded to UPSC for holding the DPC meeting because Association of All India Radio and Doordarshan SC/ST Employees had earlier made a representation alleging that some discrepancies had occurred while filling up the vacancies reserved for SC/ST from 1991 onwards. The then Honble Minister for Information & Broadcasting had decided on 11.07.2012 to put on hold all the DPCs in the Indian Broadcasting (Engineering) Cadre till review DPCs for considering promotion from Junior Time Scale to Senior Time Scale during the said period are held and the errors rectified.

4. We have considered submissions of both sides and have perused the material on record. In our opinion, it is the duty of respondent Ministry to hold DPCs of all grades on time according to the schedule prescribed by the DoP&T. Even if Honble Minister of I & B had ordered to conduct a review of promotions made from 1991 onwards, it cannot be a reason for indefinitely postponing DPCs of all grades. As stated by the respondents, this order of the Hon'ble Minister was passed on 11.07.2012. One and a half years have since gone by. This was sufficient time for rectifying any errors that might have occurred in the past. The DPCs cannot be postponed indefinitely. The applicant cannot be made to suffer on account of inaction or inefficiency of the respondents.

5. Under the circumstances, we allow this O.A. and direct the respondents to convene a meeting of the DPC of Junior Administrative Grade of Indian Broadcasting (Engineering) service within a period of two months from the date of receipt of a certified copy of this order. No costs.

3. In view of the above submission of the learned counsel for the applicants, the respondents shall consider the case of the applicant in the light of the aforesaid judgment and take an appropriate decision within two months from the date of receipt of a copy of this order. The applicants shall also be informed about the same within the aforesaid period.

4. Accordingly, this OA is disposed of at the admission stage itself. No costs."

2. MA No.1547/2016 has been filed by the respondents on 28.04.2016 for extension of three weeks' time for compliance.

3. It is noticed that admittedly, no DPC was convened within the time stipulated by this Tribunal. On 05.05.2016, a Coordinate Bench of this Tribunal passed the following order:-

"Shri D.S.Mahendru, learned counsel for Respondent No.1 submits that in the identical circumstances, a CP was closed in another case by another bench, and he wants to place the events of the same on record. He may do so.

2. At his request, list on 12.05.2016."

4. Accordingly, the learned counsel for Respondent No.1 filed an MA No.1651/2016 on 11.05.2016 where under it was mentioned as under :-

"2. At the outset this respondent tenders unconditional apology for acts of any bona fide commission or omission which may have taken place unknowingly."

3. That the last hearing in the instance case held on 05.05.2016. This Hon'ble Tribunal has been apprised of the following :-

- (i) Hon'ble Tribunal vide its order dated 13.08.2014 in the instant OA No.2773/2014 filed by Shri Nisar Ahmed Khan & Ors had disposed of the OA at the admission stage itself with the direction to respondents to consider the case of applicants in the light of this Tribunal's judgment dated 10.12.2013 in OA No.3943/2012 (Rohtash Kumar Verma Vs. Ministry of I&B) within 2 months from the date of receipt of copy of this order.
- (ii) That as per direction of this Hon'ble Tribunal in the case of Shri R.K.Verma dated 10.12.2013 in OA No.3943/2012, the respondents were directed to hold DPC for promotion in next higher grade i.e. JAG.
- (iii) That in order to implement the direction of this Tribunal dated 10.12.2013 in OA No.3943/2012 filed by Shri R.K.Verma, this Hon'ble Tribunal vide order dated 26.04.2016 directed the respondents to file a specific affidavit viz. (i) date of holding the DPCs, (ii) date by which the approval of competent authority is obtained for the recommendations of the DPC; and (iii) date by which orders of promotion is issued. A copy of the Tribunal order dated 26.04.2014 in CP No.113/2014 in OA No.3943/2012 filed by Shri R.K.Verma is annexed and marked as Annexure CP-R/1.

(iv) That in deference to Tribunal order dated 26.04.2016 in Sh. R.K.Verma's case, Respondent No.1 filed a time frame by which the orders of Hon'ble Tribunal will be fully complied as under :-

(i)	Date by which DPC would be convened for STS to JAG by Prasar Bharati.	30 th May, 2016
(ii)	Date by which recommendation of DPC would be made available to the Ministry of I&B for soliciting approval of Hon'ble Minister of Information & Broadcasting.	31 st May, 2016
(iii)	Date by which approval of Hon'ble Minister of I&B will become available.	10 th June, 2016
(iv)	Date by which the order for promotion of the applicant in JAG would be issued to comply with the Tribunal order.	17 th June, 2016

A copy of the reply affidavit filed on 29.04.2016 is annexed and marked as Annexure-CP-R/2.

4. That it was apprised to this Hon'ble Tribunal that on the basis of above time frame submitted, the Tribunal was graciously pleased to close the CP in R.K.Verma's case on 02.05.2016, and as the instant OA filed by N.A.Khan is squarely covered by shri R.K.Verma's case, the Hon'ble Tribunal may take cognizance of the closure of CP in the instant case.

5. Accordingly, Hon'ble Tribunal vide its order dated 05.05.2016 directed to file the time frame by which its order dated 13.08.2014 int he instant OA would be fully complied with on the lines of Shri R.K.Verma's case.

6. That the answering respondents details the time schedule as under, to fully comply with the order dated 13.08.2014 in OA No.2773 filed by Shri N.A.Khan & ors.:-

(i)	Date by which DPC would be convened for STS to JAG by Prasar Bharati.	30 th May, 2016
(ii)	Date by which recommendation of DPC would be made available to the Ministry of I&B for soliciting approval of Hon'ble Minister of Information & Broadcasting.	31 st May, 2016

(iii)	Date by which approval of Hon'ble Minister of I&B will become available.	10 th June, 2016
(iv)	Date by which the order for promotion of the applicant in JAG would be issued to comply with the Tribunal order.	17 th June, 2016

5. The learned counsel states that the above undertaking would be applicable to the present case also.

6. We take on record this undertaking of the respondents. These proceedings are accordingly dropped with direction to the respondents to adhere to the schedule indicated in MA No.1651/2016, with liberty to the applicants to seek revival of the CP in the event there is any violation of this Schedule, in accordance with law. No costs.

7. MA No.1651/2016 and MA No.1547/2016 also stand disposed of.

8. MA No.3916/2015 filed for exemption of personal presence has already been allowed vide orders dated 24.11.2015, hence no further orders are necessary to pass.

(Dr. Birendra Kumar Sinha)
Member (A)

(V. Ajay Kumar)
Member (J)

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