

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

O.A.No.4302/2013

Tuesday, this the 20th day of November 2018

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Pradeep Kumar, Member (A)**

1. Trish Pal s/o Sh. Parkash Chand
DA-59, DDA SFS Flats
Shalimar Bagh, Delhi – 88
2. Ratnakar Singh s/o R B Singh
r/o XY-587 Sarojini Nagar
New Delhi – 110 023
3. Ashok Kumar Goyal s/o late Sh. B B L Goyal
r/o B-303, Gani Nath Nikunj
plot No.1, Sector 5, Dwarka
New Delhi – 110 075
4. R C Gupta s/o late C L Gupta
r/o C-4, Amba Apartment
Plot No.5, Sector 10
Dwarka, New Delhi – 110 075
5. Kanwar Pal s/o late Sh. Brahmanand
r/o C-87, Pocket 6, Kendriya Vihar-II
Sector 82, Noida 201304 UP
6. D NGupta s/o late Sh. R D Gupta
r/o J-14D, MIG Flats, Ashok Vihar
Phase I, Delhi – 110 052
7. Mr. Nasim-ur-Rahman
s/o late Hijzur Rahaman
r/o C-502, Icon Apartment
Sector Chi-03, Greater Noida, UP

8. T S Thyagarajan
s/o late T R Sivasubramanyam
r/o 1, North Tank Street
Thirukkalukandam
District Kanchipuram – 603109
(Tamil Nadu)
9. Shri Naresh Kumar Marken
s/o late H C Markan
r/o B-401, Doordarshan Apartment
Sector 45, Gurgaon
10. Om Prakash Gupta s/o late Roshan Lal Gupta
r/o House No.A-501,
Doordarshan Apartment
Sector 45, Gurgaon
11. Ms. Swarn Lata Sehgal
w/o Shri Ashok Sehgal
r/o House No.108-109
Pocket E-20, Sector 3, Rohini Delhi
12. Kailash Chand s/o Sunder Lal
r/o House No.C-243
Kendriya Vihar, Sector 56
Gurgaon
13. Kishore Kumar Pasayat
s/o late Bipra Charan Pasayat
Village Naupada, Post Nayabazar
Distt. Cuttack (Odisha)

..Applicants

(Mr. A K Behera and Mr. T N Tripathi, Advocate)

Versus

1. Union of India
Through Secretary
Ministry of Information & Broadcasting
Shastri Bhawan, New Delhi
2. Director General All India Radio
Sansad Marg, Akashvani Bhawan
New Delhi
3. Chief Executive Officer
Prasar Bharti Broadcasting Corporation of India
PTI Building, Sansad Marg, New Delhi

4. Union Public Service Commission
Dhaulpur house, Shahjahan Road
New Delhi
5. Union of India through Secretary
Ministry of Personnel, Public Grievances & Pension
Department of Personnel & Training
North Block, New Delhi
6. K Muralidharan s/o Rama Kurup
Aaryunyam Pura 107 Puthookonam Lane
Manikanthapuram 695013
7. Sarad Moghe s/o Sh. Sharad Gajanan Moghe
21 Sun Flower Orchid Complex
Maji Wadegaon Thane (West Maharashtra)
Pin 421302
8. H M Chawla
Nishkam Apartment
Dwarka Sec 1A Plot No.23 Nasirpur Road
New Delhi – 75
9. Sant Prakash
A-94 Ashok Vihar
New Delhi – 110 0052
10. Sh. Divankar Shankar Sabharangak
s/o Sh. Shankar Sabharangak
16 Swapna Sakar Model Town J P Nagar
Andheri West, Mumbai – 400053
11. C P Singh
166 Daya Nand Vihar, Delhi - 92

..Respondents

(Mr. S M Arif, Advocate for respondent Nos. 2 & 3,
Mr. Raghenth Basant and Mr. M F Philip, Advocates for
respondent Nos.6 to 8 – *Nemo* for remaining respondents)

O R D E R (ORAL)

Justice L. Narasimha Reddy:

The applicants were working as Assistant Engineers. It is feeder category to Group 'A' in the Indian Broadcasting Engineering Service, which is governed by the Indian Broadcasting (Engineers) Service Rules, 1981 (for short "Rules").

2. The applicants contend that Rule 7 of the Rules provides for appointment to the Junior Time Scale to the extent of 50% by direct recruitment and 50% by promotion. It is also stated that in the year 1989, the Rules were amended in such a way that it is only such Assistant Engineers, who hold the qualification of graduation, that are eligible to be considered to Junior Time Scale. The applicants submit that the seniority list was prepared on 11.08.1994 without maintaining the ratio between the direct recruits and promotees and when the same was challenged in O.A. No.798/1996 before this Tribunal, it was set aside through order dated 11.02.2000.

3. The grievance of the applicants is that at a later stage, the respondents issued two seniority lists dated 10.04.2002 and 20.12.2007, showing the names of the Assistant Engineers, who were promoted, though they did not hold the stipulated qualifications, against the vacancies of 1999 to 2007.

4. The respondents filed the counter affidavit opposing the O.A. It is stated that the O.A. is hopelessly barred by limitation and the issue has long been settled by the Tribunal through order dated 11.02.2000, which, in turn, was upheld by the Hon'ble High Court of Delhi in W.P. (C) No.5236/2000. It is also stated that almost all the applicants, except applicant No.13 (Kishore Kumar Pasayat), have retired from service and they cannot be permitted to challenge the appointments / promotions, which were made decades ago.

5. We heard Mr. A K Behera with Mr. T N Tripathi, learned counsel for applicants, Mr. S M Arif, learned counsel for respondent Nos. 2 & 3 and Mr. Raghenth Basant with Mr. M F Philip, learned counsel for respondent Nos. 6 to 8. There is no representation on behalf of other respondents.

6. The challenge in the O.A. is to two seniority lists, i.e., 10.04.2002 and 20.12.2007. Though the applicants call both the seniority lists as provisional ones, the fact remains that the seniority list dated 10.04.2002 is nothing but a final seniority list, prepared in compliance with the directions of this Tribunal through order dated 10.02.2000 in O.A. No.798/1996, that too, after considering various objections raised by the affected parties. As a matter of fact, the preamble to the 1st seniority list makes this aspect very clear. Therefore, assumption of the applicants that it is

a provisional seniority list is not correct and they cannot challenge it at this juncture.

7. The second seniority list dated 20.12.2007 is just an updated one, obviously by adding the names of the persons, who were appointed or promoted subsequent to the preparation of the seniority list dated 10.04.2002. In case the seniority of any of the applicants has been adversely affected, that too, by pushing down their seniority as contained in the list dated 10.04.2002, they could have certainly made a representation in this behalf, at that very point of time.

8. What we find in the O.A. is the representation made by one of the applicants, which took exception to appointment of as many as 130 officers on the ground that they have been promoted, though they did not hold the qualification. This cannot be accepted at all.

9. Thus, the grievance, vis-à-vis, the seniority list dated 20.12.2007 was about the validity or otherwise of appointment of some persons shown therein. The only course available to the applicants was to challenge the same by duly impleading the concerned persons before appropriate forum, at the right point of time. The applicants cannot take exception to any of the appointments without taking recourse to that. It is not in dispute that except 13th applicant, all others have retired from service. We do not permit the applicants, who have retired, to rack up the

issue at this stage. At the same time, we permit the 13th applicant to make a representation, to a limited extent of seniority.

10. We, therefore, dispose of the O.A. upholding the seniority list of 10.04.2002 and permitting the 13th applicant to make a representation as regards any detriment suffered by him in the context of his place in the seniority list dated 20.12.2007. We also make it clear that he shall not be entitled to challenge the promotion of those persons whose names are contained in the said seniority list.

There shall be no order as to costs.

(Pradeep Kumar)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

November 20, 2018
/sunil/