

**Central Administrative Tribunal
Principal Bench
New Delhi**

**OA No.1473/2009
MA No.3495/2018**

Order Reserved on : 28.08.2018
Pronounced on : 26.09.2018

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

Harikesh Bahadur Singh Gautam
462, Block 13, Lodhi Colony,
New Delhi. ... Applicant

(By Mr. Sanjai Kumar Pathak, Mr. Shashi Pathak, Mr. Arvind
Kumar Tripathi, Mr. Akhilendra Singh, Advocates)

Versus

1. Union of India
Through Secretary
Ministry of Information and Broadcasting
Shastri Bhawan,
Parliament Street,
New Delhi.
2. The Prasar Bharti
Through its CEO,
PTI Building,
Parliament Street,
New Delhi.
3. DD News
Through its Director General
Central Production Centre (CPC)
Khel Gaon, New Delhi.
4. Broadcasting Engineering Consultants India
Limited, through its CMD
14-B, Ring Road, Indraprastha Estate,
New Delhi 110 002.

5. Mamta Chopra
Anchor cum Correspondent
Central Production Centre,
DD News, Khel Gaon,
New Delhi-49.
6. Jaya Sinha
Anchor cum Correspondent
Central Production Centre,
DD News, Khel Gaon,
New Delhi-49.
7. Tejinder Singh
Anchor cum Correspondent
Central Production Centre,
DD News, Khel Gaon,
New Delhi-49.
8. Chandra Shekhar Joshi
Anchor cum Correspondent
Central Production Centre,
DD News, Khel Gaon,
New Delhi-49.
9. Sakat Bhatt
Anchor cum Correspondent
Central Production Centre,
DD News, Khel Gaon,
New Delhi-49.
10. Priyanka Agarwal Chaudhary
Anchor cum Correspondent
Central Production Centre,
DD News, Khel Gaon,
New Delhi-49.
11. Aryendra Pratap Singh
Anchor cum Correspondent
Central Production Centre,
DD News, Khel Gaon,
New Delhi-49.

12. Om Prakash Das
Anchor cum Correspondent
Central Production Centre,
DD News, Khel Gaon,
New Delhi-49.
13. Nikhil Kumar Singh
Anchor cum Correspondent
Central Production Centre,
DD News, Khel Gaon,
New Delhi-49.
14. Rahul Gupta
Anchor cum Correspondent
Central Production Centre,
DD News, Khel Gaon,
New Delhi-49.
15. Anika Kalra Kalha
Anchor cum Correspondent
Central Production Centre,
DD News, Khel Gaon,
New Delhi-49.
16. Ashutosh Pandey
Anchor cum Correspondent
Central Production Centre,
DD News, Khel Gaon,
New Delhi-49.
17. Hindol Basu
Anchor cum Correspondent
Central Production Centre,
DD News, Khel Gaon,
New Delhi-49.
18. Swati Bakshi
Anchor cum Correspondent
Central Production Centre,
DD News, Khel Gaon,
New Delhi-49.

19. Preet Kaur
Anchor cum Correspondent
Central Production Centre,
DD News, Khel Gaon,
New Delhi-49.
20. Ramaa Tyaagi
Anchor cum Correspondent
Central Production Centre,
DD News, Khel Gaon,
New Delhi-49.
21. Rajani Sen
Anchor cum Correspondent
Central Production Centre,
DD News, Khel Gaon,
New Delhi-49.
22. Piyushi Sharman
Anchor cum Correspondent
Central Production Centre,
DD News, Khel Gaon,
New Delhi-49.
23. Nadeem Akhtar Ansari
Anchor cum Correspondent
Central Production Centre,
DD News, Khel Gaon,
New Delhi-49.
24. Suhail Akram Rathore
Anchor cum Correspondent
Central Production Centre,
DD News, Khel Gaon,
New Delhi-49.
25. Asim Kumar
Anchor cum Correspondent
Central Production Centre,
DD News, Khel Gaon,
New Delhi-49.

26. Ashwini Kumar
Anchor cum Correspondent
Central Production Centre,
DD News, Khel Gaon,
New Delhi-49.

27. Yashvi Tirath
Anchor cum Correspondent
Central Production Centre,
DD News, Khel Gaon,
New Delhi-49.

28. Manoj Tibrewal Aakash
Anchor cum Correspondent
Central Production Centre,
DD News, Khel Gaon,
New Delhi-49.

29. Aamir Rizvi
Anchor cum Correspondent
Central Production Centre,
DD News, Khel Gaon,
New Delhi-49. ... Respondents

(By Ms. Radhalakshi for Mr. Rajeev Sharma, and Mr. Rajat Krishna, Advocates)

O R D E R

Justice L. Narasimha Reddy, Chairman :

MA No.3495/2018

OA No.1473/2009 was dismissed for default on 31.07.2018. This MA is filed with a prayer to set aside the order dated 31.07.2018 and restore the OA to file. It is contended that the applicant is ready to argue the OA on merits, if we considered the feasibility of setting aside the order dated

31.07.2018. Learned counsel for the applicant agreed to argue the OA on merits today itself. We, therefore, set aside the order dated 31.07.2018 and restore the OA to file.

OA No.1473/2009

The Doordarshan issued an advertisement for the purpose of selection of Senior Anchor-cum-Correspondent Grade I, Anchor-cum-Correspondent Grade II, and Junior Anchor-cum-Correspondent Grade III, on 03.09.2008. The selection was on the basis of written test, *viva voce*, and some professional evaluation. The applicant submitted his application for the first two categories of posts. The list of selected candidates was published on 17.01.1990. Name of the applicant did not figure therein. Challenging the entire process, the applicant filed this OA. It is pleaded that the respondents had changed the method of selection half way through, and that several irregularities had taken place in the selection process. One Mr. Atul Keshav Pateriya had also filed OA No.1674/2009.

2. Both the OAs were heard together and were allowed through order dated 13.09.2010. Eleven candidates, who were selected in various categories, felt aggrieved by the

order of the Tribunal. They filed WP(C) No.1481/2011 before the Delhi High Court. Similarly, the Prasar Bharati filed WP(C) No.6859/2010. Through a common judgment dated 15.01.2013 rendered in all the writ petitions, the High Court has set aside the order passed by the Tribunal dated 13.09.2010. It was mentioned that the posts advertised were contractual in nature, and the question as to whether the Tribunal has jurisdiction in matters of that nature, was not dealt with, and that the other aspects such as whether the contractual appointments can be for a limited period, or whether such period can be extended, need to be addressed. The matter was accordingly remanded to the Tribunal.

3. Extensive arguments were advanced on behalf of the applicant as well as the respondents. Written arguments were also submitted.

4. One of the grounds on which the order passed by this Tribunal on earlier occasion was set aside, was that the question of jurisdiction, was not examined. The basis was whether the contractual appointments which are for a limited period and carry fixed emoluments, can be treated as 'civil' in nature.

5. Whatever be the circumstances under which the Delhi High Court expressed its doubt about the jurisdiction of this Tribunal to entertain matters of this nature, the law laid down by the Hon'ble Supreme Court thereafter has clinched the issue, and none of the parties have doubted the jurisdiction of this Tribunal to entertain the OA. Even to a specific question as to whether any of them are interested to raise this, all of them agreed that as the law stands now, the Tribunal does have the jurisdiction.

6. Coming to the merits of the matter, the case of the applicant is that the selection process consisted of four stages, namely, written examination, which carried 100, 75 and 50 marks for Grades I, II and III respectively; audition test for 100 marks; reporting skills for 100 marks; and interview for 100 marks, applicable to all the Grades. It is stated that though some candidates appeared for Grade I alone, their candidature was considered for Grade II, on finding that they could not make to Grade I, and similarly, candidates who opted for Grade II, were considered for Grade III. According to the applicant, the procedure for selection was changed by

condensing the four stages, to three stages, and allocating marks. Certain other contentions were also urged.

7. The respondents in their counter affidavits have denied the allegations. It is stated that the applicant was not qualified at all at any stage, and that he has no *locus standi* to challenge the selection.

8. Since the case was remanded, we have examined the same carefully with reference to the arguments advanced by the parties, and the record. Firstly, we find that the allegation of the applicant that the procedure for selection was changed half way through is not correct. He appears to have proceeded on the assumption that the audition test and reporting skill are a single event. However, from the very beginning, they were treated as separate, and marks were also allotted accordingly. Another allegation was that some candidates were permitted to take part in the selection process though they did not submit applications on time. Such facility seems to have been extended to two internal candidates who represented Doordarshan in some tournament.

9. The applicant participated in the written tests for Grade I and II, and he is not able to point out any illegality or

irregularity therein. The only aspect which needs to be referred is as to whether any irregularity has taken place in the evaluation process, and whether any candidate who is less meritorious than the applicant has been selected.

10. The applicant was considered for Grades I and II. In Grade I, he secured 29.50% in the written test; 42.50% in audition; 50.00% in reporting skill; and 15% in interview. After the condensation by applying certain formula, his final percentage with two-third weightage in the first three tests, and one-third weightage for the interview, came to 32.11. The candidates who were recommended for selection have secured the final percentage of 50.17, 50.61, 57.72, 59.50, 60.89, 62.67, and 67.33. Therefore, the applicant cannot complain of any arbitrariness or illegality. Three candidates who were considered in Grade I were also recommended for being considered for Grade II on the option exercised by them. The applicant cannot have any qualms about that.

11. As regards Grade II, the applicant secured 26.66 marks in the written examination, and that was below the minimum stipulated. Therefore, he was not considered for other tests for that Grade. Accordingly, he was not

recommended for appointment. Those who have been recommended for appointment in that Grade secured final percentage of 55.74, 57.48, 58.85, 59.48, 63.78 and 65.89. We are not concerned with the selection to Grade III.

12. Prasar Bharati is an instrumentality of the State, and it is under an obligation to ensure that there is no room for arbitrariness in the selections made by it, and the same are conducted fairly and in a reasonable manner. Though the applicant made several allegations as regards the selection process, he has not been able to substantiate any of them. The selection process was such that hardly there exists any scope for arbitrariness. Highly skilled and professional personalities were involved, and at every stage, objectivity of a very high order was ensured. The premier broadcast agency of the nation cannot afford to induct persons who do not possess skills and ability. In the competitive world in the field of electronic media, the effort is bound to be to select persons of very high quality. When selections to similar posts in private channels are made, hardly one would think of challenging the same, if he is not selected. It is certainly permissible for the applicant to approach the Tribunal when he is not selected by the

Doordarshan. The scrutiny, however, cannot be to the extent of crippling the activities of the Doordarshan or demoralizing it. Already the selected candidates were subjected to a full-fledged round of litigation.

13. Notwithstanding all the aspects mentioned above, we made a thorough scrutiny as to whether any illegality has crept into the selection process. Non-selection of the applicant was only on account of his performance, and not for any other reason.

14. We do not find any merit in the OA. The same is accordingly dismissed. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/as/