

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

REVIEW APPLICATION NO.170/00066/2016
IN
OA.NO.170/00240/2015

DATED THIS THE 25TH DAY OF SEPTEMBER, 2018

HON'BLE DR. K.B. SURESH, MEMBER(J)

HON'BLE SHRI C.V. SANKAR, MEMBER(A)

Bharathi Jalawadi
W/o Late Balachandra Jalawadi,
R/a Sangameshwara Nilaya,
Dhanashree, Near ITI College,
Sholapur Road,
Bijapur – 586 101.

... Applicant

(By Advocate Shri.N. Obalappa)

Vs.

1. The Union of India
Represented by its Secretary,
Ministry of Information and Broadcasting,
'A' Wing, Shastry Bhavan,
New Delhi – 110 001.

2. The Chief Executive Officer,
Prasar Bharati, II Floor,
PTI Building, Parliament Street,
New Delhi – 110 001.

3. The Director General,
All India Radio, Akashvani Bhavan,
Parliament Street, New Delhi – 110 001.

4. The Addl. Director General, SR I & II
All India Radio, Rajbhavan Road,
Bangalore – 560 001.

5. The Station Director,
All India Radio,
Raj Bhavan Road,
Bangalore – 560 001.

6. Smt. D. Gangamani,
Lower Division Clerk,
Doordarshan Kendra,
J.C. Nagar,
Bangalore – 560 006.

7. Shri M. Arunkumar,
Lower Division Clerk,
All India Radio,
Bijapur – 586 102.

8. Smt. Vanishree
Lower Division Clerk,
All India Radio,
Mangalore

9. Smt. Devaki Devi,
Lower Division Clerk,
All India Radio,
Chitradurga

10. Smt. Yeshoda Devi,
Lower Division Clerk,
Doordarshan Kendra,
Bangalore – 560 006

...Respondents

(By Shri Vishnu Bhat, Sr. Panel Counsel)

O R D E R (ORAL)

HON'BLE DR K.B. SURESH, MEMBER(J)

Heard. This matter is in a very short compass. Apparently when we disposed of the OA, certain factual discrepancies were present in our knowledge, drastic and ameliorated from the learned counsel for the respondents. It appears that we were told that 27 vacancies existed. Whereas now it has come out that either 30 or 31 vacancies existed in

2005. In 2006 13 vacancies were available. In 2007, 6 vacancies were available. In 2008, 10 vacancies were available. In 2009, 13 vacancies were available. In 2010, 17 vacancies were available. In 2011, 10 vacancies were available. In 2012, 12 vacancies were available. In 2013, 8 vacancies were available. Regarding 2013, some other issues were brought in, because of the regularization of certain ad hoc employees. Actual vacancies to be counted will be 61 and not 8 as stated by the respondents. No doubt in 2014, 10 vacancies were available. In 2015, 6 vacancies were available. In 2016, 12 vacancies were available. In 2017, 13 vacancies were available. In 2018, till now 6 vacancies are available.

2. Prasara Bharati seems to have issued an order No.Ban.1(1)/2018-S/Comp.Apptt./1880 dated 18.9.2018, which we quote below:

SPEAKING ORDER

“1. Whereas, as per the extant rules and the instructions of DOPT&T, only 5% of Direct Recruitment vacancies of Group ‘C’ and Group ‘D’ posts are reserved to be filled up through appointment on compassionate grounds which is an exception to the general rule. As per the observation made by the Hon'ble Apex Court this general rule should not be departed except where compelling circumstances demand, such as death of sole bread earner and likelihood of the family suffering because of the sudden set back. Once it is proved that in spite of death of bread earner, the family survived and substantial period is over, there is no necessity to say ‘goodbye’ to normal rule of appointment and show favour to one at the cost of interests of several others ignoring the mandate of Article 14 of the Constitution.

2. Whereas, keeping in view the policy of compassionate appointment envisaged by Department of Personnel & Training, Government of India, a Standard Operating Procedure (SOP) with grading points has been devised by Prasara Bharati Secretariat and Screening Committee is constituted to evaluate all cases. The Screening Committee assesses and takes into account monthly family pension, movable-immovable property inherited by the applicant, the length of service rendered, post retirement benefits, monthly income, number of minor children, dependents and unmarried daughters and

allots points accordingly. Thereafter, candidates scoring the highest points and as such most deserving amongst the applicants are recommended for appointment subject to availability of vacancies for compassionate appointment in a particular recruitment year.

3. Whereas the Committee met on **23.4.2018** and scrutinized all the total **28** applicants of **Karnataka** Zone and allotted gradings in terms of Standard Operating Procedure. The Committee has gone through the details of all applications in details taking into consideration pension and other benefits received and also the responsibility of looking after the dependents and the urgent needs for relief etc. SOP grading has been worked out on the basis of details given in original applications submitted by the applicants.

4. Whereas, there was 1(One) post (for Group 'C') earmarked for compassionate appointment which pertain to the years 2017 (as per stipulation of 5% total vacancies in a year in view of the DOP&T guidelines) in Karnataka Zone. Accordingly, after due consideration and deliberation, the Committee recommended the most deserving persons who scored highest points i.e., 1(One) case for the post of Group "C" on the basis of educational qualification and grading points awarded as per point system devised in the SOP by Prasar Bharati Secretariat.

5. And, whereas, on the basis of SOP grading, Smt. Bharati Jalwadi, W/o Late Balachandra Jalwadi, Ex-NRCT, AIR, New Delhi, scored only 74 points and out of total 28 applications 1(One) applicant who scored the highest points 77 was recommended. Accordingly 27 cases including your case could not be selected.

6. However, the candidates who could not be selected/recommended by the Zonal Committee may, if interested, submit updated information/requisite documents for reconsideration in the next Screening Committee meeting. The candidates while sending his request for subsequent consideration should submit updated records.

7. In view of above facts and circumstances, your application/representation for compassionate appointment have been disposed off by the competent authority which is accordingly hereby communicated to Sri/Smt. Bharati Jalwadi.

8. This issues with the approval of Competent Authority."

3. Apparently the respondents are under the impression that no special benefit need to be shown to anybody in violation of Article 14. This without any doubt is a correct decision. But the fact remains that in

relation to 2005, now the respondents admit that applicant had been in the 2nd position and had there been two posts available as against 1 ½ post available, she would have been appointed. If the vacancy position is 31, then it will be slightly more than 1 ½ . If it is more than 1 ½, since this being a welfare measure, it should have been taken as 2 and the applicant ought to have been appointed at that point of time, even otherwise also if in 2013, 61 vacancies were available on the regularization, then also a more sensitive stand could have been taken. There was no reason for unnecessary technical reasoning to be brought in, as applicant should have been appointed in 2005 itself based on stipulations that when ever more than 50% of any stipulation is available, it has to be counted as the next available numerical grade, it could have been adjusted in 2006 when 13 vacancies were available and subsequent years also. Therefore, we find there is no reason or logic in the contention raised by the respondents. Applicant will be eligible to be appointed in 2005, as she was No.2 in the list and 1 ½ or more has to be counted as two and not one, especially since this is a welfare measure and it could have been accommodated in subsequent year.

4. At this point of time Shri Vishnu Bhat submits that though they have admitted 31 vacancies, at that point they had only 30 vacancies. Even if it is so, 30 vacancies, it will be 1 ½ . 1 ½ is to be deemed as two and not as one. At this point Shri Vishnu Bhat submits that 30 vacancies may not be correct, as from MTS they have to promote 10%, persons from the erstwhile Group 'D' to Group 'C'. Even if it is so, to which the applicant objects, saying this is a false statement, compassionate appointment is a genre, will have precedence and prominence over the

promotion of MTS to Group 'C', as this genre is concerned with life and livelihood and not career enhancement. Career enhancement doubtless will come after attainment of livelihood. Therefore, this position is made clear. Applicant is eligible to be appointed in 2005 in the 2nd post available. If they want to juggle the post super numerically, that is available. Her appointment will be to the post available in 2005. It is made clear.

5. RA disposed off. Consequences to follow within one month.
No costs.

(C.V. SANKAR)
MEMBER(A)

(DR. K.B. SURESH)
MEMBER(J)

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Annexures referred to by the Applicant in RA.66/2016

Annexure A-1: Copy of the judgment in OA.240/2015 dated 15.9.2015

Annexure A-2: Copy of letter dated 3.12.2015 issued by Prasar Bharati

Annexure A-3: Copy of letter dated 26.10.2015 issued by Prasar Bharati.

Annexures With Reply statement

Annexure R-1: Copy of Office Memorandum dated 16.1.2013 issued by Department of Personnel & Training.

Annexure R-2: Copy of order dated 13.6.2016 issued by AIR Karwar.

Annexure R-3: Copy of details of candidates who have applied for compassionate.

Annexures with MA.464/2017

Annexure A-1: Copy of the judgment in OA.240/2015 dated 15.9.2015.

Annexure A-2: Copy of Reply filed on behalf of the respondents with Annexures.

Annexure A-3: Copy of judgment in RA.66/2016 dated 13.6.2017.

Annexures with Rejoinder

Annexure R-1: Copy of Vacancy Position of Announcers Station-wise in Karnataka Zone as on 31.12.2004.

Annexure R-2: Revised statement of vacant post of Trex, Announcer, LDC as on 31.12.2004.

Annexure A-3: Copy of News Release dated 28.3.2013.

Annexure A-4: Vacant post of Trex, Announcer, LDC, Headclerk/ Assistant/ Hindi Translator, Stenographers as on 31.12.2005.

Annexure A-5: Copy of Minutes of Committee dated 7.7.2005 .

Annexures with Written Arguments filed by the applicant

Annexure R-6: Copy of Application under RTI Act 2005 dated 15.9.2015.

Annexure R-7: Copy of Abstract Statement showing the details of compassionate appointment for the period from 2004 to 2013.

Annexure R-8: ELF contained note for SCM in continuation of the Screening Committee Meeting held on 14.3.2006.

Annexure R-9: OM dated 21.2.2002 issued by Ministry of Finance.

Annexure R-10: Order dated 23.1.2008 issued by Station Engineer, AIR, Hassan.

Annexure with Rejoinder in MA

Annexure A-4: Copy of order No. 17/2005-SI (B) dated 25.2.2005.

Annexures with 2nd Additional reply.

Annexure R-5: Copy of Abstract statement of Trex/ Promoted as PEX vide DG, AIR, order dated 25.2.2005.

Annexure A-6: Copy of order dated --03.2018 issued by Directorate General, AIR, A-I (B) Section.

Annexure A-7: Order dated 24.2.2006 issued by Directorate General, AIR, A-I (B) Section.

Annexures with written verification statement.

Annexure R-8: With abstract statement and orders.

Annexure R-9: RTI reply.

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