

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Review Application No. 180/00067/2017 in
Original Application No. 657 of 2005

Thursday, this the 25th day of January, 2019

CORAM:

Hon'ble Mr. E.K. Bharat Bhushan, Administrative Member
Hon'ble Mr. Ashish Kalia, Judicial Member

1. T.K. Manojan, S/o. T. Karunakaran, aged 55 years, Programme Executive, All India Radio, Kochi, residing at Permanently at Ravindramandiram Njarakal, Perinad PO, Kollam District – 691 601.
2. K.V. Sarathchandran, S/o. K.V. Narayanan, aged 51 years, Transmission Executive, All India Radio, Kannur, residing at C3, AIR quarters, Thrikkakkara PO, Kochi, now residing at Saradam, Ramaram, Neeleswaram PO, Kasargod – 671 314.
3. Udayakumar V., S/o. T.R.V. Nair, aged 53 years, Programme Executive, All India Radio, Thrissur, residing at D3, AIR Staff Quarters, Ramavarmapuram PO, Thrissur – 680 631, now residing at Pranavam, Karunya Nagar, House No. 41, Pulinchodu, R.V. Puram PO, Thrissur – 680 631.
4. C. Krishnakumar, S/o. T.R.V. Nair, aged 51 years, Transmission Executive, All India Radio, Calicut, residing at AIII, Neelambari, HI Lite Royal Crest Apartments, Chulliode Road, Kottooli PO – 673 016.
5. M.V. Sasikumar, S/o. M.B. Menon, aged 49 years, Transmission Executive, All India Radio, Trivandrum, residing at Geethanjali, TC 13/651, Kunnukuzhi, Trivandrum – 37.
6. R. Unnikrishnan, S/o. K. Radhakrishnan Nair, aged 49 years, Transmission Executive, All India Radio, Calicut, residing at Sravanam Rose Gradens, PVS Partk, Kuthiravattrom, Calicut-16.
7. K.V. Sudha, D/o. K.V. Vasu, aged 58 years, Transmission Executive, All India Radio, Thrissur, residing at Njattuvetti House, Ponjanam PO, Kattur PO, Thrissur.
8. K.S. Pardhan, S/o. S. Kuttappan Nair, aged 52 years, Transmission Executive, All India Radio, Trivandrum residing at Attoor Veedu, Pnganadu, Kilimanoor PO, Trivandrum. **Review**

Applicants**(By Advocate : Mr. M.R. Hariraj)****V e r s u s**

1. K.S. Rajasedharan, Production Assistant
Doordarshan Kendra, Trivandrum
residing at RC 9/783, V.J. Lane
Sasthamangalam,
Trivandrum-695 010
2. M.N. Unni, Production Assistant (Retired),
Doordarshan Kendra, Trivandrum,
residing at K 7/17, Drisya JP Lane,
Kudappanakkunnu,
Trivandrum -695 043.
3. D. Rajan, Production Assistant
Doordarshan Kendra, Trivandrum
residing at Udayam, KP5.1002
Kudappanakkunnu PO, VP Thambi Road,
Trivandrum -695 043
4. K. Sreekumar,
Doordarshan Kendra, Trivandrum
residing at Kakkad, T.C. No. 14/231(1)
Silver Hill, Anayara PO
Trivandrum -29.
5. E. Sethumadhavan, Production Assistant
Doordarshan Kendra, Trivandrum
residing at KP V /253-D
MLA road, Kudappanakkunnu
Trivandrum-43.
6. G. Chandran, Production Assistant (Retired)
Doordarshan Kendra, Trivandrum
residing at Soura Kulathoor PO
Trivandrum-695 583
7. G.R. Kannan, Production Assistant
Doordarshan Kendra, Trivandrum
residing at 110, AKG Nagar,
Peroorkkada PO,
Trivandrum-5.
8. R. Rajendran Pillai, Production Assistant
Doordarshan Kendra, Trivandrum

- residing at D8, Doordarshan Quarters,
Trivandrum-43.
9. B.S. Mini, Production Assistant
Doordarshan Kendra, Trivandrum
residing at Nirmalyam,
Pandit Lane, Survey School Road,
Peroorkada, Trivandrum-43.
 10. C.R. Harikumar, Production Assistant
Doordarshan Kendra, Trivandrum
residing at Thirumuttom,
Kudappanakkunnu PO
Trivandrum-43.
 11. P.J. Radhakrishnan, Production Assistant (Retired)
Doordarshan Kendra, Trivandrum
residing at Paradyil, Manappally PO
Thazhava, Karunagapally Kollam.
 12. S. Rajaram, Production Assistant
Doordarshan Kendra, Trivandrum
residing at Souparnika, KP 41
JP Lane, Kudappanakkunnu PO, Trivandrum-43.
 13. Renjith Ravi, Production Assistant
Doordarshan Kendra, Trivandrum
residing at RC 14/1738
Ravi Sree, Vazhuthacaud,
Trivandrum-14.
 14. M.R. Sheeba, Production Assistant
Doordarshan Kendra, Trivandrum
residing at Moothaseril House,
Peringasserry PO
Thodupuzha (via) Idukki.
 15. Director, Doordarshan Kendra, Kudappanakkunnu,
Trivandrum-43.
 16. Director General, Dooradarshan, Prasar Bharathi,
Doordarshan Bhavan, Copernicus Marg,
New Delhi-110 001.
 17. Director General, All India Radio, Prasar Bharathi,
Parliament Street, New Delhi-110 001
 18. Chief Executive Officer, Prasar Bharathi Corporation
Doordarshan Bhavan, New Delhi-110 001

19. Departmental Promotion Committee to the post of Programme Executive, represented by its Chairman, Akashavani Bhavan, Parliament Street, New Delhi-110 001.
 20. Union of India rep. by the Secretary Ministry of Information & Broadcasting, Shastri Bhavan, New Delhi.
- **Respondents**

[By Advocates : Mr. R.S. Sarat (R1, 3, 4, 5, 9, 12, 13 & 14) & Mr. N. Anilkumar, SCGSC (R15-20)]

This application having been heard on 11th January, 2019 the Tribunal on 25.01.2019 delivered the following :

ORDER

Per: Ashish Kalia, Judicial Member -

This review application has been filed by third parties to review the order in OA No. 657 of 2005 which was allowed by this Tribunal vide Annexure RA-2 order dated 13.3.2008.

2. The applicants in the OA (respondents Nos. 1-14 herein) were working as Production Assistants under the control of the 1st Respondent therein (15th respondent herein). They were aggrieved by the non-inclusion of their names in the seniority list prepared for promotion to the post of Programme Executives. The reliefs sought by them are as under:

“1 Call for the records leading to the issue of Annexure A-9 and set aside the same to the extent applicants name are not included in it.

2 Declare that the applicants are entitled to be included in Annexure A-9 eligibility list for purpose of promotion to the post of Programme Executive as per Annexure A-6 recruitment rule and direct the respondents to take action accordingly.

3 Declare that the exclusion of the applicants from the feeder category for promotion to the category of PEX is illegal and arbitrary.

4 Direct the respondents to strictly follow the recruitment rule at Annexure A-6 including the ratio prescribed in the matter of promotion to the posts of PEX

5 Direct the respondents to consider the grievances of the applicants who are Production Assistants and who are facing acute stagnation by creation of appropriate promotional avenues.

6 Any other further relief or order as this Hon'ble Tribunal may deem fit and proper to meet the ends of justice.

7 Award the cost of these proceedings”.

3. This Tribunal after hearing the counsel appearing for the parties and perusing the records allowed the OA on 13.3.2008 holding as under:

“7 For the reasons stated above, we have no hesitation in allowing the OA. The OA is allowed. The respondent No.3 is directed to finalise the seniority list of Production Assistants recruited by Doordarshan after February 1985 and also consider such production assistants for promotion as Programme Executive in accordance with the recruitment rule at A-6 within a period of three months from the date of receipt of copy of this order.”

4. Against the above order of the Tribunal the review applicants filed WP(C) No. 22461 of 2008 which disposed of by the Hon'ble High Court on 21st December, 2016 with the following order:

“15. We do not intend to express anything with regard to the merits of the case, as we have found that the petitioners do not have any 'locus standi' to have approached this Court, directly against the verdict passed by the Tribunal, by way of this writ petition and that the writ petition is not maintainable.

In such circumstances, interference is declined and the writ petition is dismissed, without prejudice to other appropriate remedy, if any, in accordance with law.”

5. Respondents Nos. 1, 3, 4, 5, 9, 12, 13 & 14 have filed their reply statement contending that the review applicants have no locus standi to move

this review application. The applicants are third parties and in no manner affected by the orders passed in the Original Application 657 of 2005. though the Writ Petition was dismissed as not maintainable the High Court has elaborately gone into the issue raised by the petitioners and after referring to the contentions raised by the petitioners, the judgment was passed dismissing the Writ Petition. The reasons for the delay is not properly explained by the review applicants. It is to be noted that Annexure RA-1 order is dated 21.12.2016 whereas the date of receipt of the judgment is mentioned as 17.10.2017. Therefore, without explaining the delay the delay cannot be condoned. Further there is no error apparent on the face of the record. In order to constitute error apparent on the face of record, essentially the error should be self evident and it requires no examination or argument to establish it. Further an attempt is made on the part of the review applicants to impress upon the Tribunal that Staff Artist/PA recruited after 1985 has no *locus standi* to be considered as feeder category for promotion to the post of PE. The said contention is totally ill conceived, illogical and illegal in view of the fact that the said submissions are made without adverting to Annexures R11,12, 13 and 14 which are having statutory effect being amendment made in view of Article 309 of the Constitution that is having the approval of the Ministry and thus being the law of land.

6. Heard Shri M.R. Hariraj, learned counsel for the review applicants, Shri R.S. Sarat, learned counsel appearing for respondents Nos. 1, 3, 4, 5,9, 12, 13 & 14 and Shri N. Anilkumar, SCGSC learned counsel for respondents 15-20. Perused the records as well as argument note of R-1, 3, 4, 5,9, 12, 13 & 14.

7. The Hon'ble Supreme Court in a very recent judgment of the apex court in *Union of India v. Nareshkumar Badrikumar Jayad & Ors.* - Review Petition (C) D. No. 40966 of 2013 in Civil Appeal No. 7448 of 2011 dated 28.11.2018 held as under:

“19. Reverting to the question of whether Union of India has locus to file the review petition, we must immediately advert to Section 114 of the Code of Civil Procedure (“CPC”) which, inter alia, postulates that “any person considering himself aggrieved” would have locus to file a review petition. Order XLVII of CPC restates the position that any person considering himself aggrieved can file a review petition. Be that as it may, the Supreme Court exercises review jurisdiction by virtue of Article 137 of the Constitution which predicates that the Supreme Court shall have the power to review any judgment pronounced or order made by it. Besides, the Supreme Court has framed Rules to govern review petitions. Notably, neither Order XLVII of CPC nor Order XLVII of the Supreme Court Rules limits the remedy of review only to the parties to the judgment under review. Therefore, we have no hesitation in enunciating that even a third party to the proceedings, if he considers himself an aggrieved person, may take recourse to the remedy of review petition. The quintessence is that the person should be aggrieved by the judgment and order passed by this Court in some respect.”

8. Therefore, we have no hesitation in enunciating that even a third party to the proceedings, if he considers himself an aggrieved person, may take recourse to the remedy of review petition. The quintessence is that the person should be aggrieved by the judgment and order passed by this Court in some respect.

9. The grounds stated in the review application are sufficient enough to review the order passed by this Tribunal as the order passed in OA No. 657 of 2005 dated 13.3.2008 is adversely affecting the review applicants. Therefore, it is necessary to hear them as well before a final order is passed in OA No. 657 of 2005. That being so we find that there is error apparent on

the face of the record and accordingly, the order passed by this Tribunal on 13.3.2008 in OA No. 657 of 2005 is recalled. Accordingly, the RA is allowed and OA is restored for hearing on 04.02.2019.

Let the review applicants be arrayed as party respondents in the Original Application No. 657 of 2005.

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K. BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

“SA”

Review Application No. 180/00067/2017 in
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REVIEW APPLICANTS' ANNEXURES

- Annexure RA-1** – True copy of the judgment dated 21.12.2016 in WP(C) No. 22461/2008.
- Annexure RA-2** – True copy of the final order dated 13.3.2008 in OA 657/2005.
- Annexure RA-3** – True copy of the All India Radio (Class-II Posts) Recruitment Rules, 1962.
- Annexure RA-4** – True copy of the All India Radio, (Group B posts) Recruitment Amendment Rules, 1984.
- Annexure RA-5** – True copy of OM No. 11/1/85-8 VII dated 12.8.1985 issued by the 15th respondent.
- Annexure RA-6** – True copy of order No. DDK/TVM/1(2) 85-SA(OC) dated 5.11.1985.
- Annexure RA-7** – True copy of Doordarshan Programme (Technical/Group-C Post) recruitment rules, 1987.
- Annexure RA-8** – True copy of the order No. DDK/TVM 1(2) 88-S dated 23.5.1988.
- Annexure RA-9** – True copy of the All India Radio (Group-B posts) Recruitment (Amendment) Rules, 1992.
- Annexure RA-10** – True copy of the All India Radio (Group-B posts) Recruitment (Amendment) Rules, 1993.
- Annexure RA-11** – True copy of memo No. 2(3)/86-SC dated 9.6.1992.
- Annexure RA-12** – True copy of the memo No. 21(6)/93-A1/DKT dated 2.3.1993 issued by the 15th respondent.
- Annexure RA-13** – True copy of list of Production Assistants as on 1.5.1997 issued by the 15th respondent.
- Annexure RA-14** – True copy of the order No. 1/5/2000-S VIII/462 dated 10.9.2001.
- Annexure RA-15** – True copy of Prasar Bharathi (Broad Casting Corporation of India) (Senior Programme Posts)

Recruitment Regulation, 2002.

- Annexure RA-16** – True copy of order No. DEL/23(2)/SL/2002 S VIII (TREX)/6791 dated 20.3.2003 issued by the 17th respondent.
- Annexure RA-17** – True copy of order No. 1/13/2004 S VII dated 13.7.2005 issued by the 17th respondent.
- Annexure RA-18** – True copy of letter No. 2/10/2005/S1 dated 29.11.2005 issued by 16th respondent.
- Annexure RA-19** – True copy of the final order dated 1.12.2005 in OA 213/2005.
- Annexure RA-20** – True copy of the judgment dated 9.9.2008 in WP No. 22530/2006 of the Honourable High Court of Judicature at Madras.
- Annexure RA-21(a)** – True copy of the communications dated 17.12.2009 from the 20th respondent.
- Annexure RA-21(b)** – True copy of the communications dated 3.3.2010 from the 20th respondent.
- Annexure RA-21(c)** – True copy of the communications dated 8.5.2012 from the 20th respondent.
- Annexure RA-22** – True copy of the note on file No. N-10/11(49)/2015-PBRB dated 12.10.2015.
- Annexure RA-23** – True copy of the final order dated 24.8.2016 in OA 2229/2009 on the files of the Principal Bench of this Honourable Tribunal.

RESPONDENTS' ANNEXURES

- Annexure R1** – True copy of appointment order of the 1st respondent vide order No. DDK/TVM/1(2)85-SSA(OC) dated 5.11.1985.
- Annexure R2** – True copy of order No. DDK/TVM/1(2)85-S dated 23.5.1988.
- Annexure R3** – True copy of said order declaring probation of the 1st respondent bearing No. 21(6)89-A1/DKT dated 21.4.1989.

- Annexure R4** – True copy of office memorandum having No. 21(6)/93-A1/DKT dated 2.3.1993.
- Annexure R5** – True copy of order having No. 21(5)/94-A1/DKT dated 20.5.1994.
- Annexure R6** – True copy of order of appointment of 12th respondent bearing No. 2(6)/96-A1/DKT dated 15.7.1996.
- Annexure R7** – True copy of proceedings of the 15th respondent bearing No. 21(5)/99-A1/DKT dated 16.9.1999.
- Annexure R8** – True copy of seniority list of production Assistants under the 15th respondent as on 1.5.1997.
- Annexure R9** – True copy of the relevant pages of all India eligibility list of staff artist including that of production assistants of AIR and DDE including the 1st respondent, 3rd respondent and 5th respondent in all containing 493 persons bearing No. 1/5/2000-SVII/462 dated 10.9.2001.
- Annexure R10** – True copy of Ministry Information of Broadcastings notification No. 45011/83/82-B(A), dated 23.10.1984.
- Annexure R11** – True copy of government notification published on 16.7.1988 in government gazette bearing No. GSR-581 dated 28.6.1988.
- Annexure R12** – True copy of office memorandum dated 25.11.1988, bearing No. 3(1)/88-SI issued by the 15th respondent.
- Annexure R13** – True copy of All India Radio (Group B post) Recruitment Rules, 1992, issued vide notification No. GSR No. 169 dated 17.3.1992.
- Annexure R14** – True copy of gazette notification dated 31.12.1993 issued by the 20th respondent notifying All India Radio (Group-B post) Recruitment amendments rules, 1993.
- Annexure R15** – True copy of instructions furnished on behalf of the Director General All India Radio before the High Court of Madras WP(C) No. 22539/06 dated 5.12.2016.

- Annexure R16** – True copy of order passed by the principal bench Central Administrative Tribunal, New Delhi in OA 222/09 with OA 242/15 dated 24.8.2016.
- Annexure R17** – True copy of affidavit filed by the 17th respondent before the Hon'ble High Court of Jammu & Kashmir, Sreenagar in SWP No. 1853/2016 dated 5.8.2017.
- Annexure R18** – True copy of order of in-situ promotion dated 11.12.2013 having order No. 12(1)2013-A1/DKT issued by the Deputy Director of General personal Prasad Bharati.
- Annexure R19** – True copy of draft seniority list in the cadre of PA/PEX(in-situ) of Doordarshan bearing No. 15/2/2014S.I dated 24.1.2014.
- Annexure R20** – True copy of minutes of the meeting of Prasar Bharati held on 5.10.2018 vide proceeding No. A10/011(12)2018-PBRB.
- Annexure R21** – True copy of reply statement filed by respondents 15 to 20 in the OA.
- Annexure R22** – True copy of Prasar Bharati (Broadcasting Corporation of India) amendment Act 2011 dated 8.1.2012 issued vide gazette notification No. 6 dated 9.1.2012.
- Annexure MA1** – True copy of the order dated 24.11.2016 in SWP No. 853 of 2013 of the Hon'ble High Court of Jammu & Kashmir.

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