

CENTRAL ADMINISTRATIVE TRIBUNAL  
MADRAS BENCH

Dated the Thursday 28<sup>th</sup> day of March Two Thousand And Nineteen

PRESENT:

THE HON'BLE MR. R. RAMANUJAM, MEMBER (A)

THE HON'BLE MR. P. MADHAVAN, MEMBER(J)

O.A.310/1551/2016

V. Appakutty,  
Chief Engineer (Retd.),AIR & Doordarshan,  
No. 1180, 19<sup>th</sup> Street, G. Block,  
Annanagar,  
Chennai- 600 040.

....Applicant

(By Advocate: Party in person)  
Versus

1. Union of India Rep. by  
The Secretary,  
Ministry of Information & Broadcasting,  
Shastri Bhavan,  
New Delhi- 110 001;
2. Prasar Bharati, Rep. by  
The Chief Executive Officer  
Prasar Bharati,  
PTI Building, Parliament Street,  
New Delhi- 110 001;
3. Director General,  
All India Radio,  
Akashvani Bhavan,  
Parliament Street,  
New Delhi- 110 001. ...Respondents

(By Advocate:Mr. M. Kishore Kumar)

**ORAL ORDER**

(Pronounced by Hon'ble Mr. R. Ramanujam, Member (A))

Heard. The applicant has filed this OA seeking the following reliefs:-

“to direct the 1<sup>st</sup> respondent to issue appropriate order for promoting the applicant from JAG cadre to SAG cadre of IBES with effect from 19.08.2004 along with consequential benefits to the applicant.”

2. It is submitted that the applicant was working as Director Engineering in the year 2003-2004 and he was entitled to be promoted to the post of Chief Engineer on one of the vacancies that would have arisen in the year 2004-2005. The respondents were obliged under the rules and directions issued by this Tribunal to conduct DPC on a yearly basis and consider the persons in the select list recommended by the DPC for appointment as and when vacancies arose. However, the applicant's claim for promotion was not considered in time and a consolidated proposal was made for consideration by the DPC for the years 2003-2004, 2004-2005 and 2005-2006. The DPC in its meeting held on 12.09.2005 recommended the name of the applicant for the 2004-2005 vacancy.

3. The applicant further submits that while he was not promoted on regular basis in time, he was permitted to hold current charge the post of Chief Engineer with effect from 19.08.2004 and he continued on the same post after his regular promotion. As it was no fault of the applicant that a delay occurred in holding the DPC, he was entitled to be promoted with effect from 19.08.2004 itself on a regular basis, having been found fit for promotion by the DPC in the year 2004-2005. The applicant made several

representations in this regard, none of which were considered and accordingly he has filed this O.A

4. Respondents contest the claim of the applicant, stating that the delay that occurred in conducting the DPC was not attributable to the respondents either as a consolidated proposal was sent for consideration of the DPC for the years 2003-2004, 2004-2005, 2005-2006 for reasons beyond their control. The cause of action, if any, for the applicant had arisen in 2004-2005 whereas he filed this O.A. only on 28.09.2016 after a delay of 11 years. No MA has been filed by the applicant seeking condonation of delay. The applicant could not blame the respondents for administrative delay on their part when he himself had not cared to agitate his claim, if any before the competent forum for such a long time.

5. We have considered the submissions. It is not in dispute that the applicant was found fit for promotion by the DPC for the vacancy year 2004-2005. He was placed at Sl. No. 4 of the list of persons recommended for promotion during the year. Accordingly, it stands to reason that he would have been recommended similarly if the DPC had been held in time ahead of the date of the vacancies in 2004-2005, so that the select list could have been operated as and when the vacancies arose during the year.

6. It is also not in dispute that the applicant held current charge of the post of Chief Engineer from 19.08.2004 against a clear vacancy. However, the applicant cannot be granted the relief sought straightaway in the absence of evidence that the vacancy that arose on 19.08.2004 would have legitimately belonged to him. Three persons had been recommended above the applicant for the year 2004-2005 and no information is available on the

dates of the vacancies and, as such, it is not possible to state that the vacancy occupied by the applicant on current charge basis would have gone to him unless it was the fourth vacancy of the year. Sometimes, vacancies may arise ahead of or later than the dates anticipated due to unforeseen events such as death, resignation, pre-mature or voluntary retirement, transfer on or return from deputation of the officers already on the higher post etc.

7. As the date of promotion has implications for pay fixation and consequent determination of pension and would, therefore, constitute a continuous cause of action, we are inclined to condone the delay in agitating the claim. We are accordingly of the view that this OA could be disposed of with liberty to the applicant to collect all the requisite information through RTI or otherwise to establish his claim that the vacancy of Chief Engineer that arose on 19.08.2004 would have gone to him in the normal course. He may make a representation to the competent authority within a period of three months from the date of receipt of copy of this order. The applicant is also at liberty to support his claim with orders passed, if any by the Tribunal, High Court, Supreme Court in similar matters along with copies thereof.

8. On receipt of such representation, the respondents shall consider the matter in accordance with law and pass a reasoned and speaking order regarding the applicant's claim. Matter of delay in staking the claim shall not be held against the applicant and the same shall be decided on merits.

(P. MADHAVAN)  
MEMBER (J)

(R. RAMANUJAM)  
MEMBER (A)

28.03.2019