



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

CP 131/2007 in OA 124/2003
MA 2207/2009, MA 417/2009 & MA418/2009
With
CP217/2005 in OA 399/2001
MA 965/2009, MA 966/2009

New Delhi this the 23rd day of November, 2009

**Hon'ble Mr. Justice M. Ramachandran, Vice Chairman (J)
Hon'ble Mr. S.P. Singh, Member (A)**

CP 131/2007

Programme Staff Welfare Association of
AIR and Doordarshan & Ors. ... Petitioners.

(By Advocate Shri Pramod Mehta)

Versus

Union of India through:

1. Shri S.K. Arora,
Secretary,
Ministry of Information & Broadcasting,
Shastri Bhawan,
New Delhi.
2. Shri B.S. Lalli,
CEO, Prasar Bharti,
PTI Building, Sansad Marg,
New Delhi-110001.
3. Shri Brijeshwar Singh,
Director General,
All India Radio,
Sansad Marg,
New Delhi-110001. ... Respondents.

(By Advocates Ms. Nidhi Bisaria proxy for Shri V.K. Rao and Shri S.K. Dubey)

CP 217/2005

Association of UPSC Recruited Programme
Officers of All India Radio and Doordarshan
(Aupo) through

1. Dr. Mohd. Sajjad Rizvi, Convenor,
B-36, Pandara Road,
New Delhi.
2. Jose Jude Mathew,
s/o Antony Moraes,
R/o 512, Minto Road Hostel,
Minto Road, New Delhi-110002.





3. Amlan Jyoti Majumdar,
S/o late Kalyan Majumdar,
R/o 683, Sector-IV,
Pushpa Vihar, New Delhi-17. ... Petitioners.

(By Advocate Shri S. Rajappa)

Versus

1. Secretary,
Ministry of Information & Broadcasting,
Shastri Bhawan,
New Delhi-110001.

2. Shri Brijeshwar Singh,
Director General, All India Radio,
New Delhi-110001.

3. Sh. Naveen Kumar,
Director General, Doordarshan,
New Delhi-110001. ... Respondents.

(By Advocates Ms. Nidhi Bisaria proxy for Shri V.K. Rao and Shri S.K. Dubey)

ORDER

M. Ramachandran, Vice Chairman (J)

Two Original applications had been disposed of by a common order by the Principal Bench, on 26.03.2004, namely, OA 399/2001 and OA 2343/2001. OA 399/2001 had been filed by an association of UPSC Recruited Programme Officers of All India Radio and Doordarshan along with some of the Members of the Association. The connected OA had been filed by an individual. The Bench felt that in view of the common question involved, they could be disposed of by a joint order. Overruling the stand of the Department that the Programme Executives (of the All India Radio and Doordarshan) do not form part of the feeder grade for promotion to the JTS, Production Cadre, and for that reason they might not be entitled to promotion to the cadre of Programme Executives and heavily relying on the statutory rules, the Tribunal had held that statute mandates the respondents to give opportunity to the Programme Executives to opt either for management cadre or production cadre and, therefore, the DPC was expected to allocate appropriate cadre to the staff members.

The option could not have been turned down, the Tribunal observed as had been attempted to be done. Proceeding of 25.08.2000, which, in fact, overlooked the applicants' claim, was found to be based on erroneous premises. The Tribunal further directed that a review DPC was to be carried out after giving an option to the officers belonging to the Programme Executive Cadre and DPC was also to consider the options submitted and was thereafter to allocate the cadre. The Court had directed that this may be carried out within a period of three months.

2. The connected CP 131/2007 arises from OA 124/2003, where similar directions had been issued. The Bench had observed that the cases of the applicants (Programme Staff Welfare Association of AIR and Doordarshan) have been covered by the earlier judgment passed in OA 2343/2001. Therefore, similar directions have been issued. On the complaint that the time bound directions were being disobeyed, the present applications had come to be filed. As agreed by the parties, the cases were taken up together.

3. There were heated arguments at every stage, the applicants contending that conscious violation was always seen at the instance of interested private respondents, who could have continued to enjoy the status quo that had been ordered, suppressing the eligible staff in spite of the judgment obtained by them. On behalf of the respondents, it was submitted that every effort had been taken to complete follow up proceedings as they were obliged to carry out but at every point of time spokes were being introduced by bringing in imaginary objections and even by filing of original applications which had made the task difficult. Proper options were not submitted, and the delay became inevitable.

4. The orders have become final, and it is nobody's case that follow up steps are not to be taken. The applicants submit that it was the duty of respondents to arrange for review DPC to the extent in a foolproof manner, and a quietus could be given only by such an exercise, without opportunities to precipitate issues leading to continuing

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litigation. They allege that the factual details presented to UPSC were erroneous, and one-sided, and it was a conscious effort to smuggle in ineligibles. They were seen, therefore, anxious that basic materials supplied to UPSC were accurate, and the rule positions were duly adhered to. But the seniority list presented was wrought of mistakes.

5. In the course of the proceedings, Annexure 'D' had been produced by the applicants being the seniority/eligibility list forwarded to the UPSC for them to take follow up steps for convening the DPC meeting. It had been strongly suggested that ineligibles had been included in the list. What was highlighted was that when the rules prescribe that for further promotions to the category of JTOs, minimum confirmed service was essential, persons who had entered into services on contract basis and temporary basis had been smuggled in and it would have resulted in unending litigation.

6. Although not usual in contempt proceedings, on the face of such objections, we had occasion to pass an order on 07.08.2009 where under the Director General Doordarshan and the Director General of AIR had been directed to file separate affidavits indicating whether or not the list presented before the UPSC for consideration by the review DPC consisted the names of only persons who were eligible as per rules. In the reply affidavits filed, respondents had reiterated that the lists supplied were accurate excepting about 34 candidates whose particulars were yet to be collected. They had also admitted about certain clerical mistakes. Further, Ms. Bisaria submits that as of now, particulars of 13 employees are remaining to be collected, and it was being supplied in a few days. The list that has been forwarded to the UPSC is otherwise accurate and in consonance with the rules position.

7. Of course, on behalf of the applicants, it had been strongly urged that the process of regularization which had been conferred on some of the persons, included in the list, would not have been strictly in conformity with the rules and, therefore, the

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list is inaccurate. But it is conceded that such conferment of regularization has not been so far subjected to challenge or there has been no court orders whereby such proceedings have been found as erroneous. We find that what was involved was a laborious process for a variety of reasons. Perhaps only because of the pressure applied by the applicants, their employer Doordarshan and the AIR have woken up and have thought seriously of taking steps for implementing the time bound directions passed by this Tribunal.

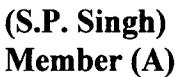
8. We, of course, are not happy with the delay but we cannot also find any contumacious conduct on the part of respondents or an effort to overreach the directions passed by this Tribunal. The relevant particulars of officers concerned, have now reached the UPSC, for facilitating review DPC proceedings. As an expert body, the UPSC will be in a position to evaluate the credentials of the candidates for inclusion in the list and for ultimately subjecting records for consideration by the DPC.

9. The standing counsel for Union of India has adopted the contentions of the official respondents. The counsel for the respondents submits that within a period of about three months, the review DPC is likely to complete its job. Of course, after the exercise, if any, individual dispute might be there, it may be possible for the affected persons to take up the matter as legally permissible. The relevance of their association might be at that context stand relegated to the background.

10. Miscellaneous applications had been filed from time to time seeking extension of time for implementation of the orders. They will stand allowed, and this also is one of the reasons for us to observe that contempt as such is not involved, but the applications could be considered as one for execution of the orders.



11. Recording the submission of the standing counsel for the Union of India, Doordarshan and AIR, we close these applications with liberty reserved as aforementioned.



(S.P. Singh)
Member (A)



(M. Ramachandran)
Vice Chairman (J)

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