

CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

O.A.210/00703/2016

Date of decision : November 13, 2019.

Coram: Dr.Bhagwan Sahai, Member (Administrative)
R.N. Singh, Member (Judicial).

Smt. Ranjana Ghosh, Age: 65 years,
Transmission Executive (Retd).,
(R./at: Eden Estate, B/703,
Sector-10, Plot No.45,
Kamothe, New Mumbai-20.

.. Applicant.

(By Advocate Ms. Sujata Krishnan).

Versus

1. The Union of India
Through the Secretary,
Ministry of Information
and Broadcasting, Akashwani bhawan,
Parliament Street,
New Delhi-110 011.
2. The Director General
All India Radio,
Akashwani Bhawan,
S-VII Section, Sansad Marg,
New Delhi-110 001.
3. Teh Assistant Station Director
Prasad Bharti, Commercial Broadcast,
All India Radio,
Mumbai-400 020.

.. Respondents.

(By Advocate Shri R. R. Shetty).

O R D E R (O R A L)

Per : R. N. Singh, Member (Judicial)

Present.

1. Ms. Sujata Krishnan, learned counsel for the
applicant.
2. Shri R. R. Shetty, learned counsel for the

respondents.

3. The present OA has been filed by the applicant who retired on attaining the age of superannuation from the post of Transmission Executive (retired) seeking the following reliefs:

"(a) To allow the application.

(b) To quash and set aside the impugned order/letter dated 07.07.2014,

(c) To direct the Respondents to execute the orders/directions given by the Hon'ble Tribunal in its orders in OA No.702/1989, OA No.1335/1995 and 509/2006, by reconsidering the Applicant for her promotion to the post of Production Assistant on notional basis from the date her junior Shri J. V. Nabar is promoted and grant annual increments of pay and pay actual arrears from the date she was promoted to the post of Transmission Executive till she retired on 31.01.2011,

(d) To further direct the Respondents to recalculate her pension and other retirement benefits w.e.f.01.02.2011, and pay different pf retiral benefits/pension arrears to the Applicant,

(e) To grant all other consequential benefits,

(f) To pass any other orders which are considered necessary in the facts and circumstances of the case,

(g) To award the cost of application."

4. Before filing the present application the applicant has approached this Tribunal by way of OA No.256/2014 which was disposed of by this Tribunal vide order dated 30.04.2014 (Annexure A-10). The

operative paras of the order dated 30.04.2014 under reference read as under:

"6. Since the representations of the applicant are still pending, the respondent no.2, i.e., the Director General, All India Radio, New Delhi is directed to consider both the representations of the applicant and pass necessary order in accordance with law within six weeks from the date of receipt of the order. However, we make it clear that we have not gone into the merit of the case.

7. The Original Application accordingly stands disposed of. MA No.289/2014 for condonation of delay stands closed. No order as to costs."

5. In pursuance of the directions of this Tribunal in order dated 30.04.2014 the respondents have passed the order dated 07.07.2014 (Annexure A-1) which is impugned in the present OA. The whole grievance of the applicant is that similarly placed persons have approached this tribunal by way of OA No.509/2006 in which the applicants therein have claimed for retrospective promotion to the post of production Assistant and in compliance of the directions of this Tribunal the applicants in OA No.509/2006 were granted the respective promotion.

6. The learned counsel for the applicant argues that once the applicant is similarly placed to that of the applicant(s) in OA No.509/2006 there is no reason or justification available to the respondents in not acceding to the claim of the applicant and that too

when the Tribunal has disposed of the OA No.256/2014, filed by her with directions to the respondents to pass necessary order in accordance with law.

7. We find that in the impugned order the respondents have not given any reason to reject the claim of the applicant except that the applicant in OA No.509/2006 was granted retrospective promotion in compliance of the directions of this Tribunal.

8. The learned counsel for the respondents argues that the applicant does not meet the essential qualification as stipulated in the relevant recruitment rules. Be that as it may. There is no such reason in the impugned order passed by the respondents. The infirmity in the impugned order cannot be cured by filing affidavit and pleadings. In this regard, we may place reliance on the law laid down by the Hon'ble Apex Court in case of Mohinder Singh Gill & Anr. Vs. The Chief Election Commissioner decided on 02.12.1977.

9. In view of the aforesaid, the OA is partly allowed. The impugned order dated 07.07.2014 (Annexure A-1) is quashed. The respondents are directed to consider the claim of the applicant afresh and pass a reasoned and speaking order as expeditiously as possible and in any case within eight weeks from the date of receipt of certified copy of this order and

communicate the same to the applicant within two weeks thereafter.

10. The OA is disposed of in aforesaid terms. No costs.

(R. N. Singh)
Member (J)

(Dr. Bhagwan Sahai)
Member (A)

V.

JD
05/12/19

