

IN THE HON'BLE HIGH COURT OF JUDICATURE AT
ALLAHABAD, LUCKNOW BENCH, LUCKNOW

WRIT PETITION NO.251 OF 2003 (SB)

1. Union of India through the Secretary,
Ministry of Information & Broadcasting,
New Delhi.
2. Director General, All India Radio,
Akashwani Bhavan, New Delhi.
3. Director General, Doordarshan,
Copernicus Marg, Mandi House,
New Delhi.
4. Director, Doordarshan Kendra,
Lucknow. ...Petitioners

Versus

1. Romesh Chander Nadir, aged about 53 yrs.
S/o Shri Vidhlal Nadir, Assistant Engineer
Doordarshan Kendra, 24 Ashok Marg,
Lucknow.
2. Hemant Kumar, aged about 42 yrs.
S/o Shri D.R. Malhotra,
R/o 47 Model House, Parmeshwari Das Lane,
Lucknow, Assistant Engineer,
Doordarshan Kendra, 24 Ashok Marg,
Lucknow. ..Respondents/
Opp.Parties

Writ Petition No. 251 (S/B) of 2003

Union of India & Ors. ..Petitioners

Versus

Romesh Chander Nadir & Anr. ..Respondents/
Opp.Parties

Hon'ble M. Katju, J
Hon'ble K.S. Rakhra, J

This writ petition has been filed
against the impugned order of the Central
Administrative Tribunal dt. 28.10.2002 Annexure

No.1 to the writ petition.

Heard the learned counsel for the parties.

The dispute was regarding promotion from the post of Assistant Engineer to the post of the Assistant Station Engineer in the Indian Broadcasting Services. Relevant rules in this connection, are the Indian Broadcasting (Engineers) Services Rules, 1981 (hereinafter referred to as the Rules). These rules provide that 50% of the appointments on the post of Assistant Station Engineer will be made by direct recruitment and 50% of the appointments by promotion. There was an amendment in the Rules and it was provided that only degree holders will be eligible for promotion as Assistant Station Engineer.

A Petition was filed before the Central Administrative Tribunal which by the impugned order, quashed the amended Clause (b) of Rule 7(2) of the Rules and directed the authorities to re-consider the case of the claimants for promotion to IBS Cadre on the basis of Unamended Service Rules, 1981.

Fixing of qualification is not the function of the judiciary. A judge should maintain self-restraint in such matters. It is for the

concerned authorities to fix the qualification for a post. Whether the post of the Assistant Station Engineer should have the qualification of Degree or Diploma, is not for the Tribunal or any Court to decide.

The learned counsel for the respondents urged that there was no nexus with the object sought to be achieved. There is no question of nexus at all. It is a question of fixation of the qualification. This Court or the Tribunal is not the Competent Authority. For the reasons given above, this writ petition is allowed. The impugned judgement of the CAT is quashed.

Sd/-
M.Katju, J
Sd/-
K.S.Rakhra, J

October 24, 2003.

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