

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

ORDER SHEET

No. Of Adjournment : 7

COURT NO. : 2
10/09/2018
C.P./310/2018
O.A./282/2018

VIJAY R HAROR & OTHERS
-V/S-
N K SINHA

ITEM NO:46

FOR APPLICANTS(S) Adv. : Shri Ashwani Bhardwaj with Shri U.Srivastava

FOR RESPONDENTS(S) Adv.: ShriS.M.Arif with Shri J.P.Tiwari

Notes of The Registry	Order of The Tribunal
	<p>OA- 282/2018 filed by the applicant was disposed of on 08.12.2016 as under:</p> <p>"MA No. 295/2018 filed for joining together is allowed.</p> <p>OA No. 282/2018</p> <p>The applicants are working as Engineering Assistants (EA) at different stations of All India Radio and Prasar Bharti. Some Engineering Assistants filed OA No. 2940/2010 before this Bench seeking relief to appear in LDCE for Assistant Engineer. Further prayer was made for merger of the post of EA and SEA by modifying the recruitment rules within the stipulated period. Prasar Bharti in its 139th Board Meeting approved the draft rules for merging the cadres of EA and SEA. The proposal was recommended on 17.02.2017. Prasar Bharti vide its office memorandum dated 17.02.2017 requested the Ministry of Information and Broadcasting for notifying the modified recruitment rules. This was followed by another reminder dated 24.11.2017. The grievance of the applicants is that till date, the Ministry has not notified the modified recruitment rules. Reference is also made to judgment of this Tribunal dated 30.11.2010 passed in OA No. 2940/ 2010 where the following observations were made:</p> <p>"3. In the above view o the matter, the claim of the applicants without RRs being changed, on a proposed administrative action, cannot be override the RRs as per the decision of the Apex Court in Union of India Vs. K.P.Joseph, 1973(1) SCC 194. We, however, cannot be oblivious of the right of the applicants to be considered on fair and equitable basis for promotion as a fundamental right for which we now direct respondents to finalize the merger and also the RRs in consultation with whatever authorities involved within a period of three months from the date of receipt of a copy of this order and thereafter on the</p>

basis of vacancies available, the claim of the applicants for promotion through departmental competitive examination be considered. In such an event, the law shall take its own course. The OA accordingly stands disposed of. MAs stand dispose of also. No costs."

2.Despite aforesaid directions which were issued in the year 2010, needful has not been done even after seven years of the directions. The prayer made in this OA is for a direction to respondent no. 1 to notify the modified recruitment rules in accordance with the judgment and the decision of Prasar Bharti's Board taken in 139th Board Meeting and the proposal forwarded thereafter. This application is accordingly disposed of with a direction to respondent no. 1 to notify the modified recruitment rules within a period of three months from the date of receipt of certified copy of this order."

2. Alleging non-compliance of the aforesaid order, the applicant filed the present CP.

3. Today, learned counsel for the respondents produced an order dated 20.08.2018 in WP(C) No.8712/2018 filed against the aforesaid order of this Tribunal in the OA, wherein the Hon'ble High Court of Delhi, observed as under:-

"4. We may note that the Tribunal has been rather indulgent to the petitioner as after noticing that directions as above were issued in the earlier OA in the year 2010 ,but compliances had not been made for over seven years, the petitioners were still granted further time of three months to notify the modified Recruitment Rules in accordance with the order dated 30.11.2010 and a decision of the Prasar Bharati Board taken in the 139 Board meeting. The period of three months stood expired on 07.05.2018 but the petitioner did not take any action.

5. We are informed that instead of complying with the impugned order, the petitioner filed a review application (R.A. No.83/2018) which was withdrawn on 28.05.2018. In spite of withdrawing the aforesaid review application, the petitioner did not make compliances. As a result, the respondents were compelled to file a contempt petition before the Tribunal, on which, notice was issued to the petitioners on 23.07.2018, returnable on 10.09.2018.

6. Learned counsel for the respondents states that it is only the notices in the contempt petition that have propelled the petitioner to approach the Court by filing this petition. We have requested learned counsel for the petitioner to explain as to why the modified Recruitment Rules have not been notified so far. Learned counsel submits that the notification could not be issued for the reason that there was no clarity as to whether the respondents could be treated as Government servants or not and the said position became clear only after the amendment to the Prasar Act, that took place sometime in the year 2012.

7. Having regard to the fact that the clarification that the petitioner was

awaiting also took place in the year 2012, on the amendment to the aforesaid enactment, they need to explain the inaction on their part from the year 2012 onwards. An affidavit shall be filed by an officer of the petitioner/ Ministry not below the rank of a Joint Secretary, to explain the above, within four weeks.

8. List on 22.10.2018."

4. Learned counsel for the petitioner submits that no notice was issued by the Hon'ble High Court in the said writ petition and no stay was granted against the orders of the Tribunal. Hence respondents/contemnors should be directed to appear in person before this Tribunal as they have violated the orders of the Tribunal. On the other hand, learned counsel for the respondents submits that the writ petition is directed to be listed on 20.10.2018 and the CP may be listed thereafter as stay application is still pending.

5. In the circumstances and in view of the order passed by the Hon'ble High Court and since the matter is seized of by the Hon'ble High Court, list the CP on 02.11.2018.

(A K BISHNOI)
MEMBER (A)

(V. AJAY KUMAR)
MEMBER (J)

/rb/