

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

O.A. No.4703/2018
M.A. No.104/2019 and
M.A. No.5378/2018

Reserved on : 07.02.2019

Pronounced on : 13.02.2019

**HON'BLE MR. V. AJAY KUMAR, MEMBER (J)
HON'BLE MS. ARADHANA JOHRI, MEMBER (A)**

1. Ashwani Dagar, Engineering Assistant, AIR,
Aged 49 years,
S/o Late Shri Veer Singh
R/o A-51, Sector 56,
Noida, UP-201301
2. Naveen Kumar, Engineering Assistant, AIR
Aged 48 years,
S/o Late Shri Bansi Lal
R/o G-1/225-A, Street 2,
Dal Mill Road, Uttam Nagar
New Delhi-110059
3. Prakash Chandra, Engineering Assistant, AIR
Aged 49 years
S/o Late Shri M.N. Thapliyal
R/o:15-D, Pocket-SG
Dilshad Garden, Delhi- 110095
4. V.B.Sharma, Sr. Engineering Assistant, AIR
Aged 51 years,
S/o Late Shri S.R.Sharma
R/o: 611, Gaur Galaxy
Sector 5, Vaishali, Ghaziabad
U.P.-201010
5. Purushothaman T.V, Sr. Engineering Assistant,
AIR
Aged 54 years,
S/o Late Shri Vishwanathan
R/o A-503, SPS-II Apartments
Radheyshyam Park
Sahibabad, Ghaziabad, U.P. 201005
6. Shyamlal Dasgupta, AE Doordarshan
Directorate,

Akashwani Bhavan, Parliament Street,
New Delhi-110 001.

4. The Director General,
Doordarshan, Doordarshan Bhawan,
Mandi House, New Delhi-110 001.
5. The Additional Director General (E),
North Zone, All India Radio & Doordarshan,
Shahjahan Road, New Delhi.
6. Joginder Singh Dhankar,
S/o Sh Risal Singh
Engineering Assistant,
HPT Doordarshan, Pitampura, New Delhi.
7. Rajesh Kumar
S/o Sh Nathu Singh,
Engineering Assistant,
Doordarshan Kendra, New Delhi.
8. Narendra Kumar Kataria,
S/o Sh D.S. Kataria,
Engineering Assistant,
Doordarshan Kendra, New Delhi.
9. Prashant Kumar Maheshwari,
S/o Sh. Ramesh Chandra Gupta,
Engineering Assistant,
ADG (E) Office, AIR & Doordarshan,
North Zone, Jamnagar House,
New Delhi.
10. Rakesh Kumar,
S/o Sh. Ramji Dass,
Engineering Assistant,
Central Production Centre,
Doordarshan, Khelgaon, New Delhi. ..Respondents

(By Advocate: Shri P.K. Singh for Shri Rajeev Kumar for R-1
Shri S.M. Arif for R-2 to 5
Ms. Meenu Mainee for R-6 to 10)

ORDER**By Shri V. Ajay Kumar, Member (J)**

Heard Shri M.K. Bhardwaj, the learned counsel for the applicants and Shri P.K. Singh for Shri Rajeev Kumar, the learned counsel for respondent No.1 and Shri S.M. Arif, the learned counsel for respondents No.2 to 5 and Ms. Meenu Mainee, the learned counsel for respondents No.6 to 10 and perused the pleadings on record.

2. This Tribunal on 28.12.2018, while issuing notices in the M.A. No.5378/2018 and OA, passed the following order:-

“ Hence, the order dated 26.11.2018 as well as subsequent letters issued for promotion from Engineering Assistants and Senior Engineering Assistants are stayed. The respondents are restrained from issuing orders of promotion from the post of Engineering Assistants to Senior Engineering Assistants till the next listed date.

Issue notice in OA and interim relief, returnable on 11.01.2019.

Dasti”.

3. On 11.01.2019, MA No.103/2019 filed for impleading certain private respondents was allowed and in terms of the same, the applicants’ counsel filed an amended memo of parties on 28.01.2019.

4. As per the said amended memo of parties, applicants No.1 to 3 are Engineering Assistants, applicants No.4 and 5 are Sr. Engineering Assistants, applicant No.6 is an Assistant Engineer,

applicants No.7 & 8 are Sr. Technicians and applicant No.9 is a Technician. Private respondents No.6 to 10 are working as Engineering Assistants.

5. Shri P.K. Singh and Shri S.M. Arif, appearing for the official respondents No.1 and 2 to 5 filed a counter in the main OA as well as a separate counter in MA No.5738/2018 filed for seeking leave to file a joint application by all the applicants in the OA.

6. Shri M.K. Bhardwaj, the learned counsel appearing for the applicants while drawing our attention to Annexure A-13 order dated 08.01.2018 in OA No.282/2018 of this Tribunal, submits that the official respondents have already taken decision to merge the posts of Engineering Assistants and Sr. Engineering Assistants and the Prasar Bharti in its 139th Board Meeting has approved the draft rules for merging the cadres of Engineering Assistants and Sr. Engineering Assistants and the proposal was recommended on 17.02.2017 and the Prasar Bharti, vide its Office Memorandum dated 17.02.2017 requested the Ministry of Information and Broadcasting for notifying the modified Recruitment Rules which was followed by number of reminders and when the Ministry has not acted thereupon, some of the Engineering Assistants in All India Radio filed the said OA and that this Tribunal, vide the said judgment directed the Ministry to notify the modified Recruitment Rules within a period of three months. The learned counsel further

submits that the respondent-Union of India challenged the said order in W.P. (C) No.8712/2018 before the Hon'ble High Court of Delhi and the same is pending

7. The learned counsel further submits that when the official respondents in spite of the proposal of merger, issued the Annexure A-1 letter dated 26.11.2018 and proceeding to hold the DPC for promotion from Engineering Assistants to Sr. Engineering Assistants, the applicants filed the instant OA questioning the said proceedings and this Tribunal, rightly stayed the said proceedings by its interim order dated 28.12.2018. He also submits that if the stay is vacated, the rights of the applicants will be adversely affected. Further, since the respondents themselves proposed for merger, the impugned action of conducting DPCs for promotion from Engineering Assistants to Sr. Engineering Assistants, the posts which were about to be merged, once the Ministry notified the amended rules, will be adversely affected.

8. On the other hand, Shri P.K. Singh and Shri S.M. Arif, the learned counsel appearing for the official respondents No.1 to 5 and Ms. Meenu Mainee, the learned counsel appearing for the private respondents No.6 to 10 submitted that the MA No.5378/2018 filed for seeking leave to file a single and joint OA by all the applicants

itself is not maintainable and consequently the OA itself is liable to be dismissed. When the impugned proceedings is pertaining to the posts of Engineering Assistants and Sr. Engineering Assistants, the applicant No.6, who is an Assistant Engineer and applicants No.7 and 8 who are the Sr. Technicians and applicant No.9, a Technician cannot maintain the OA at all. The contention of the applicants that the posts of Technicians and Sr. Technicians are having the same Grade Pay as that of Engineering Assistants as well as Sr. Engineering Assistants and that the post of Assistant Engineer is a promotional post from the post of Sr. Engineering Assistant, and hence the single OA is maintainable, cannot be accepted.

9. It is further submitted on behalf of the respondents that unless and until the amended Recruitment Rules are notified and the merger came into effect, they are under obligation to proceed as per the existing rules and since their action is in accordance with the rules in force, the stay is liable to be vacated. They further submit that pendency of W.P. (C) 8712/2018, cannot come in the way of deciding the maintainability of MA No.5378/2019 and of the instant OA.

10. We find force in the submission made by the learned counsel for the respondents insofar as the maintainability of the MA No.5378/2018 filed in the instant OA seeking leave to file a single OA. Admittedly, under the impugned proceedings, the official

respondents have taken steps to conduct DPC for promotion from Engineering Assistants to Senior Engineering Assistants. The applicants No.4 and 5 who were already promoted as Senior Engineering Assistants by virtue of the same rules and same procedure which they are challenging now and the 6th applicant, who is presently working as Assistant Engineer, i.e., a promotional post of the Senior Engineering Assistant and the applicants No.7 and 8 who are working as Sr. Technicians and applicant No.9 who is working as Technician cannot have the same cause of action or affect with the impugned Annexure A-I order dated 26.11.2018. Even if they have any effect, the nature of the said effect is definitely different from other applicants who are presently working as Engineering Assistants. Even the applicants No.1 to 3 who are working as Engineering Assistants, would also be considered for promotion to the post of Sr. Engineering Assistants, by virtue of the impugned order, if they satisfy the rules, in vogue. As per the Scheme of the Administrative Tribunals Act, 1985, and the rules made therein, the persons who are identically placed or identically affected by the impugned orders can only maintain a joint and single OA. In view of our above finding, we hold that the MA No.5378/2018 in OA No.4703/2018 filed for seeking leave to file a single and joint OA is not maintainable and accordingly, the same is dismissed.

11. As a sequel to the dismissal of the MA seeking leave to file a single OA, the instant OA filed by persons holding different posts with different nature of cause of actions also dismissed and accordingly the interim order dated 28.12.2018 is also vacated.

12. In view of the dismissal of the OA on the ground of non-maintainability, we do not propose to express any view on the merits of the OA. However, this order shall not preclude the applicants from filing separate OAs, in accordance with law, if they wish to challenge the impugned order.

13. Pending MAs, if any, also stand disposed of. No costs.

(ARADHANA JOHRI)
Member (A)

(V. AJAY KUMAR)
Member (J)

RKS