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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH : NEW DELHI

O.A. NO. 1248/2001

NEW DELHI THIS <sup>27th</sup>.....DAY OF <sup>JUNE</sup>2003

HON'BLE SHRI JUSTICE V S AGGARWAL, CHAIRMAN  
HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)

1. Shri Krishan,  
S/o Sh. Pokh Raj,  
R/o 431-A/12, Jaikabpura,  
near Railway Road,  
Gurgaon (Haryana)
2. Doordarshan Cameraman Welfare Association,  
229, Akashdarshan Apartment,  
Mayur Vihar Phase I,  
Delhi - 91, through its President.

.....Applicants

(By Ms Indira Jaisingh, Sr. Advocate with Sh. TC  
Aggarwal, Advocates)

VERSUS

1. Union of India through the Secretary,  
Min. of I&B, Shastri Bhawan, New Delhi
2. Secretary,  
Ministry of Finance  
(Deptt. of Expenditure)  
North Block, New Delhi
3. Prasar Bharati Board,  
through the Chairman, Prasar Bharati Board,  
Mandi House,  
New Delhi.

.....Respondents

(By Smt. Promila Safaya, Advocate)

O R D E R

BY HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)

Encadrement of Cameraman Grade-I in the Indian Broadcasting (Programme) Service, Group 'A' with all consequential benefits, is the relief prayed for in this OA.

2. Ms. Indira Jaisingh, Sr. Advocate with Shri T.C. Aggarwal appeared for the applicants and Smt. Promila Safaya, Advocate represented the respondents during the oral submissions.

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3. While Applicant No.1 is a Cameraman, Grade-I since 26.6.1985, Applicant No.2 is the Doordarshan Cameramen Welfare Association. Cameramen, though constituted an essential arm of Doordarshan, they were only working on contract basis and were declared as Government Servants only in 1986. In fact the recommendations of the IV Pay Commission also did not benefit them. In 1985, Government constituted the new Group A Service - Indian Broadcasting (Programme) Service, like other Central Services. Earlier Inter Departmental Review and Rationalisation Committee had gone into various aspects of service conditions of Programme Staff and had suggested a few measures to obviate the difficulties. Therefore when the new service was constituted the case of all those concerned with Programmer should have been taken care of, which did not take place. Cameraman Grade-I constituted the feeder cadre for Video Executive, already encadred in Senior Time Scale (STS) of I.B.(P)Service, but the feeder cadre per se was not encadred. While other branches were included in the service when it was constituted, Cameraman Grade I, was left out, thus discriminating them vis-a-vis Programme staff. After the Constitution of the Service in 1990, the Association moved all concerned for alleviation of their grievances but the same did not fully succeed. 5th CPC, constituted in between was also approached in this regard and in para 73.51 of their report recommended that the demand for the encadrement of Cameraman Grade I in I.B.(P) Service, stated to be under consideration by the Ministry be accepted and they be placed in pay scales at Rs. 2200-4000/- with the pay scale of the feeder cadre of

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Cameraman Grade II being rationalised to Rs.2000-3500/-.. This recommendation from the Pay Commission has been accepted. As they have been placed in the scale of Rs. 2200-4000/- , equivalent to other Junior Time Scale posts, they should be deemed to have been appointed to the Service. However Programme Executives Junior to them have been admitted to JTS of the new Service at the cost and to the prejudice of the applicants. I & B Ministry which dragged its feet for quite sometime, finally on 20.11. 1997, advised Doordarshan to implement the recommendations. As nothing emerged thereafter the applicants moved the Tribunal in OA No. 1096/1999, which was disposed of on 14.2.2000, directing the respondents to issue appropriate orders, on the basis of the above proposals, formulated on the basis of Pay Commission's recommendations. During the hearing of the CP 302/2000, which followed, respondents stated that the new scale of Rs.8000-13500/- has been given to Cameraman Grade I while the aspect of encadrement was left to the Prasar Bharati and the same was accepted by the Tribunal by its order dated 08.01.2001. I.& B. Ministry has informed ~~that~~ on 31.1.2001 that Prasar Bharati has decided to allow progression for Cameraman vertically without disturbing the character of the programming cadre and that the post of Video Executive presently part of the Programme service as and when falls vacant, will form part of the vertical hierarchy of Cameramen Stream. . This decision was illegal, malafide and unreasonable and went against the recommendation of the Vth CPC. It was also discriminatory towards Cameraman who had always constituted an essential arm of programme services and recognised as such. Moreover accepting only part of the

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recommendation was improper. Applicants had in between challenged the decision of the Tribunal dated 8.1.2001, while disposing of CP No. 302/2000, CWP filed against which was dismissed by the Hon'ble High Court on 14.2.2002. Another CWP No. 1937/2002 filed <sup>challenging</sup> the decision of Prasar Bharati was withdrawn with liberty to challenge it before this Tribunal. Hence this O.A.

4. Grounds raised in this OA are as below:-

i) Cameraman Service started in 1959 was always an essential service;

ii) Cameramen in Film Division have lot of promotional avenues denied to those in Doordarshan;

iii) While Integrated Indian Broadcasting (Programme) Service was meant for all the staff of Doordarshan like Cameraman, Producers-II, Programme Executives, Audio Research Officers etc. and as such shutting out the encadrement of the applicants was bad;

iv) Vth CPC recommendation on encadrement has been denied;

v) the decision was non-speaking and arbitrary and against the suggestions of the I & B Ministry also;

vi) Prasar Bharati has no jurisdiction in matter relating to IB(P) Service and the same was only in the I&B Ministry,

vii) applicants have vested rights for encadrement and the same could not have being denied;

viii) with Cameraman Grade-I being granted the scale of Rs. 2200-4000/- logically they should be deemed to have entitled IB(P) Service, in terms of Rule 6 of the Service Rules; and

ix) decision of the expert body like the Pay Commission cannot be overlooked.

OA in the above circumstances be allowed with full benefits to the applicants; urge the applicants.

5. Stroutly contesting the pleas by the applicants, respondents describe the OA to be a misconceived proposition not maintainable in law. With the formation of Prasar Bharati, all the posts under Akashwani and Doordarshan have come under its umbrella with neither

DOPT nor UPSC having any involvement in the recruitment process. Prasar Bharati had considered the recommendations of the Vth CPC and decided not to encadre the Cameraman Grade into IB(P) Service and decided to permit their career progression vertically as:-

- i) the nature of duties and responsibilities of Cameraman programme staff are different; Add
- ii) there was no concept of IB(P) Service in Prasar Bharati;
- iii) programme staff has to conceptualise, visualise programmes, Cameraman was meant only to provide technical assistance;
- iv) it will be improper and impracticable to <sup>combine</sup> ~~merge~~ the technical cadre with programme cadre; 2

It is pointed out that Cameraman Grade-I has been given the scale of Rs. 2200-4000/-. However, conceding the demand for their encadrement in IB(P)S will give rise to demands from other groups and will bring down the quality of programme cadre, which is expected to be multimedia, multi-functioning <sup>nd</sup> and multi-dimensional. Recommendations of the Pay Commission were only recommendatory and it was for the Govt. to accept or reject fully or partly any of recommendations and no authority can be forced to implement any of the recommendations. The applicants should have no apprehension about their promotional avenues as the same are safeguarded by Doordarshan Programme (Technical Cadre) Group 'A' and Group 'B' posts Recruitment Rules, 1987 till new service rules are formulated. While the essential nature of the Cameraman's service is not denied, they are different from Programme Staff and therefore they could not be put together in the Service but <sup>could</sup> be allowed separate progression channel. As it would not be desirable or practicable to club two groups which are different in

duties and responsibilities, Prasar Bharati, the Competent Authority, had taken a decision to keep them separate and permit Cameraman the facility for vertical progression in their own group. This did not involve violation of any of the fundamental rights including equal opportunities clause. Govt. had correctly retained with itself the right to accept or reject any of the recommendations of the Pay Commission and the same cannot be called in question. Recommendations, if any of the Inter Departmental Review and Rationalisation Committee ~~was~~<sub>2</sub> no longer relevant. The post of Video Executive presently ~~in~~<sub>2</sub> Programme Service, will revert back to Cameraman Service and form part and that hierarchy. This would enable the applicants to have further promotional avenues in their own line. Prasar Bharati, to whom the matters regarding encadrement of Cameraman, have been referred to by the I & B Ministry, have taken a decision not to encadre them in IB(P) Service and the same is no longer negotiable. Even otherwise, it is the settled position in law that once Prasar Bharati has come into being DOPT and UPSC have no role to play in matter of recruitment and promotion and cadre administration of the Prasar Bharati Staff. Decision of the Tribunal in OA 1096/99 and CP 302/2000 have upheld the position of respondents. Decision of the Prasar Bharati has been reasonable and no harm at all has been caused to any of the applicants. Merely because they have not been encadred in IB(P) Service along with Programme Staff, who perform different kinds of duties and functions, Cameramen have no reason to complain <sup>have</sup> or any grievance, as their interests have been duly safeguarded. OA therefore deserves to be dismissed, plead. the

respondents.

6. In the rejoinder, the applicant alleges that the reference made to the Prasar Bharati was totally uncalled for and the Govt. should have itself decided on the issue. This failure was clearly a fraud on ~~the~~ power, though not a corrupt act. Pay Commission's Recommendation in para 73.51 of their report was accepted by the Govt. and in terms of DOPT's Notification dated 25.5.1998, Ministries were ordered to revise ~~Recruitment~~ Rules. In fact Doordarshan had initiated steps on 06.02.1998 itself. Inter Departmental Review and Rationalisation Committee had earlier itself considered the pay scale of Cameraman Grade-I and the 5th CPC Commission's recommendations were a direct result thereof. But the respondents had suppressed the above fact. And this was clearly a contempt of the proceedings, as laid down in All India State Bank Officers Federation Vs UOI [(1991) 16 ATC 454]. On the basis of the above records, Tribunal had disposed of OA No. 1096/99, on 14.2.00, directing the respondents to issue appropriate orders on the basis of the above proposal as expeditiously as possible and preferably within three months. Even thereafter the respondents only gave effect to the revision of pay scales but referred the aspect of encadrement to Prasar Bharati. Applicants were therefore forced to move the High Court twice and then come to the Tribunal in the present OA. The present plea of the respondents that the matter has been decided by the Prasar Bharati was unacceptable as :

- i) 5th CPC recommendation had been accepted by the Govt in 1997 itself;

ii) action to induct Cameraman I in the cadre should have been done in 1998 itself;

iii) Prasar Bharati has no locus standi in respect of Civil Servants, who have not opted for the same (as shown in the decision of 26.1.01 in UOI & Others Vs Tripta Devi (CWP No. 10656/2001) by the High Court of Punjab & Haryana;

iv) Administrative Tribunal has jurisdiction in such matters as shown by the Bangalore Bench of the Tribunal in M. Balu & Others Vs UOI Others (OA 810/96 decided on 5.6.02);

v) Charges in IB(P) Service Rules are to be brought about by the Govt and not Prasar Bharati; and

vi) till the absorption in Prasar Bharati is complete, do rules prevailed.

Applicants further point out that the decision of the Prasar Bharati Board, was irregular and improper, overlooking the crucial role of the Cameramen. The post of Video Executive, a promotion post of Cameraman was already an encadred post in IB(P)s. The undue importance being given to the Prasar Bharati Board's decision was improper. The pay of Cameraman I having been rationalised in the scale of Rs. 8000-13500/- there was no justification for not following it up by its encadrement. This has not been done. To add to it the respondents were also considering to ex-cadre Video Executive from IB(P)S which was arbitrary and irregular. Prasar Bharati had no authority to decide on the recommendations of the 5th CPC especially as the same have been already accepted by the Govt. and employees like the applicant have yet to opt to be on Prasar Bharati's rolls.

7. During the oral submission the respective pleas were reiterated by the parties. While the learned Senior counsel appearing for the applicants points out that the

recommendations once accepted by the Govt, cannot be disclaimed by the Prasar Bharati which came into being thereafter, especially in respect of employees who have not been absorbed. The respondents' counsel points out that Prasar Bharati was a fully autonomous body, capable of passing any directions in respect of their staff and that they are not circumscribed by DoPT & UPSC.

8. We have carefully deliberated upon the rival contentions and perused the documents brought on record. The applicants - a Cameraman Grade I and Cameramen Welfare Association - are aggrieved that no steps have been taken by the respondents to encadre them also in the Indian Broadcasting (Programme) Service. Though the Cameramen also performs a critical function as far as broadcasting is concerned, their case has not been considered for encadrement to the IB(P)S, which provides for inclusion of Programme Staff and Programme Management Staff. This was discriminatory. What the applicants seek is that they be also encadred in IB(P)S so that they can also aspire for advancement in career like the programme/programme management staff. They also point that while the post of Video Executive to which Cameramen Grade I, move up to which has been already encadred in IB(P)S is being threatened with ex-cadrement. On the other hand, the respondents point out that Prasar Bharati, which has come into being since then, have, in their competence and wisdom decided against the encadrement of Cameramen and the same cannot be questioned.

9. We observe that Cameramen also have a discernible role in the field of telecasting. The same was duly

recognised by all concerned and Cameramen's issues also had come under the purview of 5th CPC para 73.51 of the Commission's report reads as under.

"As the post of Video Executive is already encadred in the IB(P)S, it will have promotion avenues, within the service. We do not consider it necessary to recommend separate promotion avenues for Video Executive in the Management Cadre of IB(P)S. We however, recommend that the demand for encadrement of Cameraman in Grade I, which is stated to be under the consideration of the Administrative Ministry may be accepted and Cameraman Grade I be placed in the scale of Rs. 2200-4000."

The feeder post of Cameraman Grade II will automatically be rationalised to Rs. 2000-3500/-. Recommendation of the 5th CPC, were accepted by the Government of India, on the basis of its OM dated 30.9.97, followed by OM dated 20.11.97 by the Ministry of Information & Broadcasting. Pay scale of Cameramen also was rationalised in terms of 5th CPC's recommendation but their encadrement in IB(P)S was not decided upon, which led to filing of the earlier OA No. 1096/99, which was disposed on 14.2.2000, by the Tribunal with the following observations.

"Our attention has been invited to the respondent OM dated 20.11.97, whereby on the basis of the 5th CPC Report a proposal has been sent to the Ministry of Information and Broadcasting for encadrement of Cameraman Grade I in the IB(P)S and revision of their pay scale.

Respondents are directed to issue appropriate orders on the basis of the aforesaid proposal, as expeditiously as possible and preferably within three months from the date of receipt of a copy of this order. OA stands disposed of accordingly. No costs."

10. Thereafter Ministry of its letter No. 45011/18/98-8/A dated 14.9.2000, communicated the sanction of the revised scale of pay of Rs. 8000-13500/-

(pre revised Rs. 2375-3500/-) to Cameraman Grade I, in Doordarshan under Prasar Bharati (Broadcasting Corporation of India) w.e.f. 1.1.96 with the direction for following the prescribed procedure/existing rules. However in respect of the encadrement of the post in IB(P)S, which they declared was in implementation of Tribunal's order dated 14.2.2000 the Ministry conveyed the following decision of the Prasar Bharati Board which reads as follows:

"The Board considered the encadrement of cameraman Grade I in IB(P)S / Prasar Bharati Broadcasting (Programme) Regulation connected with the implementation of the order of the Hon'ble Central Administrative Tribunal, Principal Bench, New Delhi in respect of OA No. 1096/99 dated 14.2.2000. During discussions members were of the view that for Cameramen, Progression should be allowed in vertical hierarchy without disturbing the channels of programming Cadre. In view of this the Board decided as follows:

i) Cameraman should be given promotion in the next higher grade i.e. allowing progression in their vertical hierarchy without disturbing the character of the programming cadre;

ii) In future, the post of Video Executives, which are presently part of the Programme service as and when fall vacant will form part of the vertical hierarchy for the Cameraman Stream".

These directions are under challenge in this OA.

11. We thus find that recommendations contained in para 73.51 of the 5th CPC in relating to Cameramen in Doordarshan have been bifurcated and given effect to by the Ministry of I & B and Prasar Bharati, each acting within its competence, more or less during same time. While the Ministry has given effect to the operation of the recommendations regarding scale of pay and directed placement of Cameramen Grade I in the scale of Rs.2200 -

4,000/- (pre-revised), since revised to Rs. 8,000 to 13500/-, Prasar Bharati to whom the aspect of encadrement of Cameraman in IB(P)S was referred to by the Ministry have expressed their reluctance to consider the encadrement. They have also indicated that they would prefer the ex-cadrement of Video Executives promotion post for Cameramen, presently a part of IB(P)S and placing it in the hierarchy of Cameramen's service. The two main grounds canvassed by the respondents in support of their pleas are that:

i) all the posts under the All India Radio and Doordarshan having been placed with the Prasar Bharati, a body corporate, neither the UPSC nor the DoPT has any role whatsoever to play in its personnel matters and

ii) there was nothing common between the services of Cameramen on the one side and the Programme service on the other and clubbing them together in the same cadre would militate against the interest of broadcasting services for which Prasar Bharati has been created.

12. Respondents have stressed the autonomous and independent nature of Prasar Bharati (Broadcasting Corporation of India) which has been duly authorised to administer its staff without any interference from any outside agency. The staff attached to All India Radio and Doordarshan are presently under deemed deputation to Prasar Bharati for all matters of administration, though they retain with them the status of government servant, not having been fully absorbed in the new Corporation.

13. In this context it is pertinent to note that Prasar Bharati, themselves had in their I.D.Note No. A.11019/24/97/5.III/164 dated 6.2.98, to Ministry of IB, expressed an opinion in favour of the encadrement of the

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post of Cameraman in IB(P)S. The view taken by them in the impugned order dated 21.1.2001 is against the earlier decision.

14. We observe that the applicants have contested the decision of the respondents and have averred that the Ministry of I&B should themselves have decided the issue of encadrement instead of leaving it to Prasar Bharati, as according to them, the staff of All India Radio and Doordarshan continued to be Govt. employees as shown in the decision of Hon'ble High Court of Punjab and Haryana in the case of Union of India Vs. Tripta Devi & Others (CWP No. 10856/2001) pronounced on 26.7.2001. The relevant portion of the said judgement is reproduced below:

In our opinion, the scheme of Section 11 clearly postulates issuance of written order of the transfer by the Central Government containing the date with effect from which an office/employee of the Central Government may stand transferred to the services of the Corporation. In other words, an employee of the Central Government cannot be an employee of the Corporation unless the Central Govt. passes an order transferring his/her services to the Corporation and the concerned employee is given an option of not becoming an employee of the Corporation. The petitioners have neither pleaded nor any evidence has been produced before this Court to show that the Central Government had passed order under section 11 of the Act transferring respondent No.1 to the services of the Corporation. Further, in reply to the court query, Shri Sanjay Goyal candidly conceded that no such order has been passed so far.

In view of the above, we have no hesitation to hold that respondent No.1 cannot be treated as an employee appointed in the services of the Corporation by transfer and her service conditions cannot be controlled or regularised by its authorities. As a logical corollary to this conclusion, we

hold that the transfer of respondent No.1 from Doordarshan Kendra, Jalandhar to Doordarshan Maintenance Centre, Dharamshala was without jurisdiction and the Tribunal did not commit any illegality of invalidating the same. The view which we have taken finds support from the decisions of the Supreme Court in Kundan sugar Mills Vs. Ziyaddin AIR 1960 S.C. 650; P.K.P. Bidi Factory Vs. O.L.Thenge, AIR 1970, S.C. 823; State of Mysore State Vs. H Papanna Gowde AIR 1971 S.C. 191; Mysore State Road Transport Corporation Vs. A.Krishna Rao, 1973(1) S.L.R. 1080 and Jawahar Lal Nehru University Vs. A.Jwalkar, AIR 1989 S.C.1157. (Emphasis added)

15. Applicants have also relied upon the decision of the Bangalore Bench of this Tribunal in the case of M. Balu & Ors. Vs. UOI (OA No. 810/1996), given on 5.6.2002 whereunder the Tribunal's jurisdiction in respect of staff placed with the Prasar Bharati was expressed as continuing. After examining in detail the provision of Section 11, of the Prasar Bharti Act, dealing with the transfer of service of existing employees to the corporation (Prasar Bharti), the Tribunal held as below:-

From the above provisions it is clear that the officers of the then Akashvani or Doordarshan could be transferred to the Corporation only after seeking their intention of becoming an employee of the Corporation, and after exercising such option when an officer or employee is transferred by an order of the Central Government, such employee or officer shall, on and from the date of transfer cease to be an employee of the Central Government and becomes an employee of the Corporation. It is stated on both sides that such an option has not been sought from the applicants. If that is so, the applicants continue to be the employees of the Central Government since they are not yet absorbed in the Corporation by seeking necessary option in terms of Section 11. Thus, the applicants being the Central Government employees can maintain this application and the Corporation is expected to defend the litigation, pending on the appointed day, in view of Section 16(d) of the P.B. Act. In view of these statutory provisions in the P.B. Act, we have no

hesitation to hold that this Tribunal has jurisdiction to entertain this application." (Emphasis added).

16. In the above scenario, it would appear that the applicants' services not having been fully transferred to Prasar Bharati, the Ministry could still exercise its functions over them in respect of personnel matters. In fact, the Ministry of I&B had exercised the same while giving effect to Pay Commission recommendations as far as it related to the pay scales, which was a function, administrative and financial in nature. Ministry of I&B had, however, transferred to the Prasar Bharati Corporation, the aspect of encadrement of cameramen, which was more concerned with the professionalisation of the broadcasting services, which has rightly fallen in the domain of the corporation. The same was a correct decision to take. In our considered view, it is for Prasar Bharati to determine <sup>as to</sup> how best to <sup>utilise</sup> its professionals for achieving its aims of generation and distribution of broadcasting services. They are the best judges in that field. Neither Administration nor the Tribunal can stray into the turfs of profession, for which they are totally ill-equipped. Judicial review can tread on this field only when total violations of the guidelines and/or malafide are alleged. This Tribunal had already taken a view in the matter, while dealing with the earlier litigation. OA No. 1096/99, filed by Applicant NO.1, <sup>which</sup> was disposed of by the Tribunal on 14.2.2000, with the following observations:-

"3. Our attention has been invited to the respondent O.M. dated 20.11.97, whereby on the basis of 5th Pay Commission report, a proposal has been sent to the Ministry of Information and

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Broadcasting for encadrement of Cameraman Grade I in the IB(P)S and revision of their pay scale.

4. Respondents are directed to issue appropriate orders on the basis of the aforesaid proposals, as expeditiously as possible and preferably within three months from date of receipt of a copy of this order. OA stands disposed of accordingly."

C.P. No. 302/2000 was thereafter filed by the applicant alleging non-implementation of the Tribunals above order. While considering the C.P., the Tribunal observed on 8.1.2001 with regard to the aspect of encadrement of Cameraman as below:

"4. As regards (ii) above, the Ministry have advised the Doordarshan authorities vide Note dated 20.9.2000 (Annexure-R II) that the inclusion of the post of Camera Man Gr. I in IB(P) cadre may be kept by Prasar Bharati in view while framing regulation for the programming service of Prasar Bharati.

5. On behalf of applicant it has been contended that the 5th Pay Commission recommendation came into effect from 1.1.96, much before the Prasar Bharati came into existence, and hence respondents by not implementing those directions have committed contempt of Court.

6. We are unable to agree with the contentions. After the formation of Prasar Bharati pursuant to the Prasar Bharati Act, 1990, it is for Prasar Bharati to take appropriate action for framing/amendment of the Recruitment Rules for the various posts as per Section 9 of the Act. Hence, after the issue of respondents' Note dated 20.9.2000, it cannot be said that there is any ground to proceed with the CP in regard to (ii) above."

17. The Tribunal had thus upheld the Prasar Bharati's competence to deal with the above issue and upheld the action of the I&B Ministry, devolving such power on the Corporation. The above decision was also upheld by the Hon'ble Delhi High Court by dismissing the CWP filed by

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the applicant. Competence of the Prasar Bharati to deal with service matter has thus been established. Further, CWP No. 1937/01 filed by the applicants has been permitted to be withdrawn with liberty to take recourse to a remedy in an appropriate forum in accordance with law. This order of the Hon'ble High Court nowhere indicates that its earlier decision has been modified. In the above backdrop, we are convinced that Prasar Bharati could have correctly considered the encadrement or otherwise of Cameramen and the Prasar Bharati Board had not acted beyond its jurisdiction while taking the decision, communicated by the impugned order dated 31.1.2001.

13. The second ground raised on behalf of the respondents is that there is considerable difference between the functions of the Broadcasting Service and Programme Management Service on the one hand and the service of the Cameraman on the other. According to them, the functional behaviour of the Cameraman is technical in nature and thus different from Programme Service. Guiding part of the work of the Programme is to conceptualise, visualise and produce Programme while the job of the Cameraman is to provide only the technical assistance in the production of the programme. Besides, functionally it was not a sound proposition to club a technical cadre with the programme cadre which <sup>is</sup> an altogether different <sup>and</sup> specialised field. There cannot be any quarrel with the above decision. Prasar Bharati, as observed above, are the best judge <sup>to decide as to</sup> how to utilise the services of the staff to further its professional needs. Without, in any manner, denigrating <sup>to</sup> the role of the Cameraman in the production of programmes, <sup>it</sup> has to be

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recorded that the same at best, is an ancillary function towards the programme service and it cannot be equated with the production of programmes per se. Tribunal is not an expert body to examine the merits of this aspect and to record a finding that both the services should be merged in a common service. It is pertinent to note that even the Pay Commission, had <sup>recorded</sup> its recommendation for the encadrement of the Cameraman in IB(P)S, only as they had been advised that a proposal to that effect was under examination with Ministry of I&B earlier. The Commission had not recorded any finding on the merits or otherwise of the said issue. Therefore, it will not be proper for the Tribunal to find fault with <sup>the</sup> professional decision taken by the Prasar Bharati Corporation. The applicants' plea that the non-encadrement of the Cameraman Grade I in IB(P)S, would erode their chances of career advancement does not stand the scrutiny of law as the issue concerning their scale of pay has already been taken care of while their promotional avenues in the grade of Video Executive, in their own hierarchy has been protected. In fact the Prasar Bharati had correctly indicated in their averment, what they envisage to be the prospect for the Cameramen's service as below:

i) Cameraman should be given promotion in the next higher grade i.e. allowing progression in their vertical hierarchy without disturbing the character of the programming cadre.

ii) In future, the post of Video Executives, which are presently part of the Programme service as and when fall vacant will form part of the vertical hierarchy for the Cameraman Stream. (Emphasis added)

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19. It is thus clear that the adequate promotional avenues would be available to a Cameraman but in their own hierarchy. The only disappointment, the applicants might have is that they would not be in a position to head the Programme Services later on. This is as it should be. Keeping in mind the very limited role they perform in the broadcasting service, it cannot be argued that they have been discriminated in against or that their future prospects have been denied, as claimed by the applicants.

20. Applicants have finally sought to rely upon Rule 6 of the Indian Broadcasting (Program) Service Rules, 1990 dealing with the initial constitution of the service, according to which all departmental candidates holding posts on regular basis in the scale of pay of Rs. 5900-6700/-, Rs. 3700-5000/, Rs. 3000-4500 and Rs. 2200-4000, starts from date of commencement of the rules be deemed to have been appointed to the corresponding posts and grades in the service. As according to them, they have been placed in the scale of Rs. 2200-4000/- shall, entry into J.T.S. of IB(P)S would be automatic. This plea is being mentioned only <sup>to be</sup> rejected. Definitions of the expression "Departmental Candidates" in Rule 2(c) makes it clear that it relates to

i) officers appointed on regular basis in consultation with the Commission or on the recommendations of the Departmental Promotion Committee, and who hold posts on regular basis or hold, lien in Group 'A' Programme cadre of All India Radio and Doordarshan on the date of commencement of these rules, and

ii) all officers appointed on regular basis to the post of Video Executive in Doordarshan in the pay scale of Rs. 3000-4500;

It cannot be the case of the applicants that their case would be covered by the above, merely because they have also been granted the pay scale of Rs. 2200-4000/- (or its replacement scale). Besides Rule 3(3) ibid makes it abundantly clear that IB(P)S shall comprise four independent cadres of Group "A" posts, i.e., Programme Management Cadre of All India Radio, Programme Management Cadre of Broadcasting, Programme Production Cadre of All India Radio and Programme Production Cadre of Doordarshan Cameraman-I does not belong to any of the above categories. Therefore, the applicants cannot claim that they have a right to automatic encadrement. 21. In the above view of the matter we are convinced that the applicants have made out a case on merits which calls for our interference. OA fails and is accordingly dismissed. No costs.

(Govindan S. Tampi)  
Member (A)

(V.S. Aggarwal)  
Chairman