

Central Administrative Tribunal  
Principal Bench

O.A. No. 1367 of 1998

New Delhi, dated this the <sup>in</sup> 14 FEBRUARY 2001

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)  
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Shri Y.K. Mehta,  
Video Executive,  
Doordarshan Kendra,  
New Delhi-110001.

.. Applicant

(In Person)

Versus

1. Union of India through  
the Secretary,  
Ministry of Information & Broadcasting,  
Shastri Bhawan,  
New Delhi-110001.
2. The Executive Member,  
Prasar Bharati Corporation,  
Mandi House, New Delhi.
3. The Director General,  
Doordarshan,  
Mandi House, New Delhi-110001.
4. The Director General,  
All India Radio, Akashvani Bhawan,  
New Delhi-110001.
5. The Chairman,  
Union Public Service Commission,  
New Delhi-110001.
6. Dr. M.B. Pahari,  
Dy. Director General of Doordarshan,  
Doordarshan Kendra,  
New Delhi-110001.
7. Shri S.K. Mathur,  
Chief Producer,
8. Shri Ram Bilas,  
Dy. Director (Admn.)
9. Shri M.S. Oberoi,  
Chief Producer
10. Shri Kulbhushan,  
Director, STI, DDK, Lucknow.
11. Shri Abinash Chander,  
Chief Producer
12. Shri M.M. Saigal,  
Chief Producer

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S.R. ADIGE, VC (A)

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(Rs.3700-5000) of P.P. Cadre of Doordarshan. Applicant seeks a direction to respondents to promote him w.e.f. the dates his juniors were so promoted by the aforesaid order dated 29.1.97.

3. Applicant who commenced service as a Cameraman Grade II in Doordarshan, and was later promoted as Cameraman Grade I and still later as Video Executive, had filed O.A. No. 197 /89 complaining that <sup>several</sup> ~~several~~ non-qualified persons had been appointed/ promoted as Camermen Grade II as they did not possess diploma/degree in Cinematography. The Tribunal disposed of that O.A. after hearing, by order dated 1.1.92 (Annexure 4) holding inter alia that as applicant fulfilled all the prescribed qualifications, he had to be placed senior to those respondents whose appointment was not in conformity with the relevant Recruitment Rules. Specifically it was directed that applicant ~~seniority~~ <sup>seniority</sup> should be refixed above Shri Man Mohan Singh (Respondent No. 8).

4. SLP No. 7525/92 against that order dated 1.1.92 was dismissed by the Supreme Court on 29.7.92 (Annexure 5), and R.A. No. 852/92 for review of its order was also dismissed on 25.11.92 (Annexure 6).

5. It is not denied that applicant's seniority was according refixed.

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6. Meanwhile the I.B. (Programme) Service Rules, 1990 (Annexure R-1) came into force, promulgated under Article 309 of the Constitution, in the light of which applicant was inducted into the service in the corresponding Sr. Time Scale. As per those Service Rules, officers in S.T.S with five years regular service in the grade are eligible for promotion to J.A.G. No educational qualifications are prescribed for promotion except prescribed length of service, and promotion is by selection.

7. Admittedly applicant was considered for promotion by the DPC whose constitution is provided in Schedule VI of the Rules, and is headed by a UPSC Member.

8. We note that while applicant on the basis of his ACRs was rated by the DPC along with others as 'Good' along with some others, some of those who had become junior to him consequent to the re-fixation of his seniority as per Tribunal's order dated 1.1.92, <sup>but</sup> who secured better gradings in their ACRs for the aforesaid period stole a march over him, and hence superseded him in JAG resulting in his non-inclusion in the impugned order dated 29.1.97.

9. We have heard applicant Shri Mehta who argued his case in person and Shri Ramchandani for respondents.

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10. During the course of hearing, applicant invited attention to ~~this~~ written submissions in which, apart from lauding his own professional talents, he has contended that the appointments selections and promotions of those who did not possess the prescribed qualifications, was irregular and fraudulent. He has also contended that official respondents were always inimically disposed towards him and <sup>had</sup> recorded malafide remarks in his ACRs.

11. If, as applicant contends, the remarks in his ACR for the relevant period were malafidely depressed, he has specifically to seek expunction of those remarks in his ACRs in the relief para of his O.A., but that is not the relief that applicant has sought in the O.A. We have been through applicant's ACRs for the relevant period, and on the basis of the entries therein, the DPC cannot be faulted for rating applicant overall as 'good'. We have already noted that the DPC was headed by a UPSC member, and its other members were also very senior and experienced officials. Applicant has himself quoted the Hon'ble Supreme Court's judgment in S.B.I. Vs. M. Moinuddin C.A. No. 1387/87 Page 401 of SCSLJ 1956-88 Vol. I wherein it has been held that whenever promotion to a higher post is to be made on the basis of merit, no officer can claim promotion as a matter of right on the basis of seniority alone. The assessment should ordinarily be left to be done by the expert individual, or Committee, and the Court

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is not by its very nature competent to appreciate the abilities, qualities or attributes necessary for the rank. (32)

12. The aforesaid ruling is squarely applicable to the facts and circumstances of the present case. It is not denied that applicant was considered for promotion along with his juniors. He was assessed on the basis of his ACRs for the relevant period as 'good' while his juniors who secured better grading in their ACRs, stole a march over him. As per Recruitment Rules framed under Article 309 of the Constitution, it is not denied that the person who superseded applicant also possessed the required essential qualification of five years regular service in STS for consideration for promotion to JAG. If the CAT, Bombay Bench in its order dated 1.1.92 had quashed the appointments of those who were ultimately made junior to applicant it would have been a different matter, but it did not quash those appointments and merely directed that applicant should be placed senior to them, which was done. Under the circumstances, they continued in service, and were absorbed in STS, and if, as per RRs, upon being eligible for promotion to JAG, were so considered, and received better grading than applicant, that does not give applicant any legitimate ground to ask us to intervene in the matter. ~

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13. In this connection it needs to be mentioned that Shri V.N. Nayak & Others who were working as Camermen Grade I and II in Doordarshan, Delhi had filed O.A. No. 509/93 seeking fixation of seniority over those persons who did not possess the qualification of diploma or degree in Cinematography. That O.A. was dismissed by order dated 18.5.99. We are informed that the aforesaid order has been challenged in the Delhi High Court, but nothing has been shown to us to establish that its ratio has been stayed, quashed or set aside. In that order, it has been conclusively held that the qualification of diploma/degree in Cinematography was not the only essential qualification required for <sup>the</sup> posts to which these persons were appointed between 1973-91, and as they had been appointed on the basis of their experience as Cameramen, their appointment could not be said to be irregular. That order dated 18.5.99 had specifically noticed the CAT, Bombay Bench order dated 1.1.92 (Supra).

14. In the result on the basis of the pleadings as they stand, and in the light of the relief claimed by applicant, the O.A. warrants no interference. If applicant is aggrieved by any specific remarks in his ACRs for the relevant period, on the basis of which he was rated overall only as 'good' as a result of which he could not be promoted to JAG, when his juniors were so promoted, it is open to him to impugn the same separately and specifically

in accordance with law, after exhausting the departmental remedies available to him, if so advised. (34)

15. The O.A. is disposed of in terms of Para 14 above. No costs.

*A. V. Veda Valli*

(DR. A. VEDAVALLI)  
Member (J)

*S. R. Adige*

(S.R. ADIGE)  
Vice Chairman (A)

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