Central Administrative Tribunal
Principal Bench, New Delhi.

O.A.Nos. 537/89, 580/89, 620/89, 655/89, 806/89, 1135/89, 1195/89 & 1318/89.

New Delhi this the 18th Day of January, 1995.

Hon'ble Mr. Justice S.K. Dhaon, Vice-Chairman(J)
Hon'ble Mr. B.N. Dhoundiyal, Member(A)

O.A.No.537/89

1. Sh. L.K. Goswami,
S/o late Dr. Girdhari Lal Goswami,
R/o 25/30, East Patel Nagar,
New Delhi-110 008.

2. Sh. Dinesh Kumar,
S/o Shri R.S. Khare,
R/o H-14, Kasturba Apartments,
Saraswati Vihar,
Pitampura,
Delhi-34.

3. Sh. Bhola Nath Sharma,
S/o Shri Sham Lal Sharma,
R/o A-162, Shastri Nagar,
Ghaziabad(UP).

4. Sh. Gautam Kumar,
S/o late Shri Dina Nath,
R/o 104-B, Sector-IV,
DIZ Area, Gole Market,
New Delhi-1.

5. Sh. P.N. Khurana,
S/o Sh. Khem Chand Khurana,
R/o 25/30, East Patel Nagar,
New Delhi-8. Applicants

(through Sh. G.D. Gupta, advocate)

versus

1. Union of India,
through the Secretary,
Ministry of Information &
Broadcasting,
Shastri Bhavan,
New Delhi-1.

2. The Director,
Directorate of Advertising &
Visual Publicity,
3rd Floor, P.T.I.Building,
Sansad Marg,
New Delhi-1.

3. The Director,
Directorate of Field Publicity,
East Block-4, Level-III,
R.K. Puram, New Delhi-66. Respondents

(through Sh. P.H. Ramchandani, Sr.Advocate)

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OA-580/89

1. Sh. Sanjit Ganguly,
S/o late Shri S.C. Ganguly,
R/o AG-1/116-D, Vikaspuri,
New Delhi-18. Applicant

(through Sh. G.D. Gupta, advocate)

versus

1. Union of India,
through the Secretary,
Ministry of Information & Broadcasting,
Shastri Bhavan,
New Delhi-1.

2. The Director,
Directorate of Advertising & Visual
Publicity,
3rd Floor, P.T.I. Building,
Sansad Marg, New Delhi. Respondents

(through Sh. P.H. Ramchandani, Sr.advocate)

OA-620/89

Sh. S.C. Lamba,
S/o late Sh. Saudagar Mal,
R/o 39, Shankar Nagar,
Delhi-51. Applicant

(through Sh. G.D. Gupta, advocate)

versus

1. Union of India,
through the Secretary,
Ministry of Information & Broadcasting,
Shastri Bhavan,New Delhi.

2. The Director,
Directorate of Advertising & Visual
Publicity,
3rd Floor, P.T.I. Building,
Sansad Marg, New Delhi. Respondents

(through Sh. P.H. Ramchandani, Sr. advocate)

OA-655/89

1. Sh. N.C. Dayal,
S/o Sh. C.P. Dayal,
R/o 260, Chand Nagar,
Jammu Tavi.

2. Sh. Tek Chand,
S/o Sh. Jessa Ram,
C/o Sh. Gautam Kumar,
104-B, Sector-4,
Gole Market,New Delhi. Applicants

(through Sh. G.D. Gupta, advocate)

versus

1. Union of India
through the Secretary,
Ministry of Information & Broadcasting,
Shastri Bhavan, New Delhi.

2. The Director,
Directorate of Advertising & Visual Publicity,
3rd Floor, P.T.I. Building,
Sansad Marg, New Delhi. Respondents

(through Sh. P.H. Ramchandani, Sr.Advocate)

OA-806/89

Sh. S.C. Bhambani,
S/o Sh. K.C. Bhambani,
C/o 1/116-D, Vikaspuri,
New Delhi-18. Applicant

(through Sh. G.D. Gupta, advocate)

versus

1. Union of India,
through the Secretary,
Ministry of Information &Broadcasting,
Shastri Bhavan,
New Delhi.

2. The Director,
Directorate of Advertising &
Visual P{ublicity,
3rd Floor, P.T.I. Building,
Sansad Marg, New Delhi. Respondents

(through Sh. P.H. Ramchandani, Sr.Advocate)

OA-1135/89

Sh. H.D. Mutneja,
S/o late Sh. Virbhan,
C/o Sh. G.M. Mutneja,
H-67, Phase-1,
Ashok Vihar,
Delhi-52. Applicant

(through Sh. G.D. Gupta, advocate)

versus

1. Union of India,
through the Secretary,
Ministry of Information & Broadcasting,
Shastri Bhavan, New Delhi.

2. The Director,
Directorate of Advertising &
Visual Publicity,
3rd Floor, P.T.I. Building,
Sansad Marg, New Delhi. Respondents

(through Sh. P.H. Ramchandani, Sr.Advocate)

OA-1195/89

Sh. J.L. Ahuja,
S/o Sh. Gopal Dass,
R/o 1087,Bishan Saroop Colony,
Panipat. Applicant

(through Sh. G.D. Gupta, advocate)

versus

1. Union of India,
through the Secretary,
Ministry of Information & Broadcasting,
Shastri Bhavan, New Delhi.

2. The Director,
Directorate of Advertising &
Visual Publicity,
3rd Floor, P.T.I. Building,
Sansad Marg, New Delhi.

3. The Director,
Directorate of Field Publicity,
East Block-4,Level-III,
R.K. Puram, New Delhi. Respondents

(through Sh. P.H. Ramchandani, Sr.Advocate)

OA-1318/89

Sh. Datta Ram,
S/o Sh. Hardeva Singh,
R/o A-480, Sector-19,
Noida(UP). Applicant

(through Sh. G.D. Gupta, advocate)

versus

1. Union of India,
through the Secretary,
Ministry of Information & Broadcasting,
Shastri Bhavan,New Delhi.

2. The Director,
Directorate of Advertising &
Visual Publicity,
3rd Floor, P.T.I. Building,
Sansad Marg, New Delhi. Respondents

(through Sh. P.H. Ramchandani, Sr.Advocate)

ORDER
delivered by Hon'ble Mr. B.N. Dhoundiyal, Member(A)

All the applicants in these O.As are aggrieved by the orders dated 28.2.1989 and 17.5.1989 issued by Ministry of Information & Broadcasting, Govt. of India reverting them from Grade-III, Group-B

carrying a scale of Rs.2000-3500 to Grade-IV Group-C carrying a scale of Rs.1400-2600 in C.I.S. As the issue raised is the same, these are being disposed of by a common judgement.

The applicants were appointed as Exhibition Assistants on different dates between 1968 to 1979.With the exception of some who were taken on deputation to C.I.S. from the post of Exhibition Assistant, they were promoted as Field Exhibition Officers on ad hoc basis on different dates between 1982 and 1985. Some of them, namely, Sh. L.K. Goswami, Sh. Dinesh Kumar and Sh. P.N. Khurana were selected alongwith outsider candidates for proceeding on deputation to the post of Grade-III in C.I.S. after their promotion as Field Exhibition Officer. Later, in consultation with the U.P.S.C. the posts of Exhibition Assistant, Field Exhibition Officer and Inspector of Exhibition were included in corresponding grades of Central Information Service with effect from 28.11.1986. The post of Inspector of Exhibition was equated to Group-II of C.I.S. that of the Field Exhibition Officer to Group-III of C.I.S. and that of Exhibition Assistant to Group-IV of C.I.S. The lower scales of the Field Exhibition Officers and Exhibition Assistants were upgraded to bring these at par with C.I.S. scales of Grade-III and Grade-IV.

The grievance of the applicants is that their seniority in the Grade-IV had been wrongly fixed with effect from 28.11.1986. Though they continued to work on an ad hoc basis as Field Exhibition Officers in Grade-III, the impugned orders dated 28.2.89 & 17.5.89 reverted them to Grade-IV. They are also aggrieved by the seniority list dated 16.5.1989 and the orders dated 10.4.1989, whereby their juniors have been promoted to higher scales.

We have heard the learned counsel for the parties and perused the record.

The issues raised in these applications have been considered by different benches of this Tribunal. The Ernakulam Bench in its judgement dated 26.2.1990 in O.A.No.386/89, Calcutta Bench in its judgement dated 16.7.1991 in O.A.No. 279/89 and the Bangalore Bench in its judgement dated 18.7.1991 in O.A.No.587/90 have considered this matter and have come to the conclusion that since the pay scale of Field Exhibition Officer was lower at Rs.350-575 than the Group-III officers of C.I.S. Rs.350-800, the post of Field Exhibition Officer cannot be equated with Group-III of the C.I.S.

The learned counsel for the applicants vehemently contended that there was a strong case for reconsideration of the matter and, if necessary, for making a reference to the larger Bench. A perusal of the notings in the departmental file processing the

case of induction of these posts into C.I.S. shows that the question of fixation of seniority was specifically considered and a specific decision was taken that the upgradation of these posts to corresponding scales of C.I.S. was to be effective only from the date of inclusion of these posts in the C.I.S. Only officers who were holding a post on regular basis were considered for appointment in that grade. Rule 6B(2) of C.I.S. Rules, 1959 provides for fixation of seniority of officers included in various grades of C.I.S. as under:-

> "The Government may in consultation with the Commission appoint an officer, the post held by whom is included in the Service, under sub-rule (1), to the appropriate grade of the service, in a temporary capacity or in a substantive capacity, as may be deemed fit and fix his seniority in the grade, again in consultation with the Commission whereupon such a post shall not be reckoned for determining the number of posts to be filled by promotion or by direct recruitment, under rule 6."

In consultation with the U.P.S.C., the following decision were taken:-

> "(i) Incumbents of posts of Exhibition Assistant were holding the post in lower pay-scale than the pay-scale of Grade-IV of the Central Information Service.
>
> (ii) That their seniority in Grade-IV of the Central Information Service may be determined with reference to their date of absorption in the Central Information Service with effect from 28.11.1986 and they will be placed in block below of all the regular members of Grade-IV of the Central Information Service as on 28.11.1986."

We, thereferore, find no reason to differ from the view taken in the aforementioned judgements of various benches of this Tribunal.

An additional argument put forth was that promotions to the post of Field Exhibition Officers were made either against the regular vacancies in the promotion quota of 33.1/3% as per recruitment rules for the post of Field Exhibition Officer promulgated vide Notification dated 7.5.1971 for which the post of Exhibition Assistant was a feeder post or against the 66.2/3% vacancies meant for direct recruits. Vide order dated 10.04.1989 on the basis of the recommendations of the D.P.C., regular promotions were made to the post of Field Exhibition Officer with retrospective effect from 1982 onwards. The posts ear-marked for direct recruitment were not filled up because no direct recruitment candidate was available and the recruitment rules for the post of Field Exhibition Officer ceased to be effective from 28.11.1986. The new rules did not provide for direct recruitment. Taking into account that seven posts were filled up under the promotion quota by the order dated 10.4.1989, it can safely be assumed that there were atleast 14 posts available under the direct recruitment quota. These were filled up by the applicants who were fully qualified for promotion. Since no direct recruitment has taken place from 1980 onwards, the quota rule had broken down and hence the applicants should be treated as regularly appointed Field

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Exhibition Officers. If this is done, their induction into C.I.S. shall be in the corresponding grade-III on a substantive post and not in grade-IV.

To support his case, the learned counsel for the applicants has relied upon a number of cases. In the case of Baleshwar Dass Vs. State of U.P. (AIR 1981(Vol.68), the following observations were made by the Hon'ble Supreme Court:-

> "To approximate to the official diction used in this connection, we may well say that a person is said to hold a post in a substantive capacity when he holds it for an indefinite period especially of long duration in contradistiction to a person who holds it for a definite or temporary period or holds it on probation subject to confirmation. If the appointment is to a post and the capacity in which the appointment is made is of indefinite duration, if the Public Service Commission has been consulted and has approved, if the tests prescribed have been taken and passed, if probation has been prescribed and has been approved, one may well say that the post was held by the incumbent in a substantial capacity."

In the case of Narender Chadha Vs. Union of India (AIR 1986(Vol.73) P.638, the following observations were made by the Hon'ble Supreme Court:-

> "It cannot be said that whenever a person is appointed in a post without following the Rules prescribed for appointment to that post, he should be treated as a person regularly appointed to that post. But in a case where persons have been allowed to function in higher posts for 15 to 20 years with due deliberation it would be certainly unjust to hold that they have no sort of claim to such posts and could be reverted unceremoniously or treated as persons not belonging to the Service at all, particularly where the Government is endowed with the power to relax the Rules to avoid unjust results."

A number of judgements have been given by this Tribunal on the basis of the afore-mentioned observations as in the case of S.C. Kacktwana Vs. Union of India (1987 ATLT P.50) decided by the Principal Bench on 06.03.1987.

In this case, the cadre of Exhibition Assistants and Field Exhibition Officers was being inducted into C.I.S. and a definite date was indicated in the Government order when the pay scales of these posts would be upgraded to be at par those obtaining in C.I.S. The prayer for not holding direct recruitment to the post of Field Exhibition Officer was mainly because of the fact that whereas earlier only 33.1/3% posts were reserved for the promotees under the new dispensation, 100% quota was reserved only for promotes from Grade-IV of the CIS to Grade-III. In the circumtansces of the case, the plea of the applicants that quota had been broken down and their officiating service as Exhibition Officers should be counted as regular for fixation in the C.I.S. is not sustainable. If at all, their chances of promotion have improved by the new dispensation. Moreover they were promoted on ad hoc basis between 1982-1985 as Field Exhibition Officers where as they were fixed in Grade-IV of C.I.S. with effect from 28.11.1986. The period of ad hoc service was not long enough to justify the conclusion that quota had broken down.

In the facts and circumstances of the case, we find no merit in these applications which are hereby dismissed.

No costs.

B.N. Dhoundiyal
(B.N. Dhoundiyal)
Member(A)

(S.K. Dhaon)
Vice-Chairman(J)