



**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No. 4016/2016

This the 3rd day of February, 2021

(Through Video Conferencing)

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)

1. Sh. Sudhir Gangahar,
S/o Shri Wazir Chand Gangahar
Aged about 55 years
Post Cameraman Grade-I, Group A
BA/87B, Janakpuri, New Delhi-110058
2. Ram Kumar Gaur
S/o Late Shri B.N. Gaur,
Aged about 56 years,
Post Cameraman Grade-I, Group A
471, Type 4, Laxmi Bai Nagar,
New Delhi-110023
3. Indu Sunil Dang
Wife of Sunil Dang
Aged about 53 years
Post Cameraman Grade-I, Group A
20/64, Lodhi Colony, New Delhi-110003.

...Applicants

(By Advocate: Shri Apurb Lal)

VERSUS

1. Ministry of Information & Broadcasting,
Through its Secretary,
Shastri Bhawan, New Delhi-110001
2. Prasar Bharti
Through its Chief Executive Officer
Prasar Bharati Secretariat,
2nd Floor, PTI Building, New Delhi-110001.
3. Director General,
Doordarshan, Mandi House,
New Delhi – 110001.
4. Shri Arun Tukaram More,
Cameraman Gr. 1, Camera Section
Doordarshan Kendra
MIT College Road, Kothrud
Pune, Maharashtra – 411038



5. Shri KK Ganapathy
Cameraman Gr. 1, Camera Section
Doordarshan Kendra,
Swami Sivananda Salai, Chennai – 600 005.
6. Shri Surjit Singh
Cameraman Gr. 1, Camera Section
CPC: Central Production Center,
Sirifort, New Delhi – 110049
7. Shri Amrik Singh
Cameraman Gr. 1, Camera Section
Doordarshan Kendra,
Bhagwan Mahavir Marg, Jalandhar City – 144 001
8. Shri Gyan Singh
Cameraman Gr. 1, Camera Section
DD News, Copernicus Marg,
Mandi House, New Delhi – 110001
9. Shri Pradeep Kumar
Cameraman Gr. 1, Camera Section
Vindravan Road
P.O Gaytri Tapobhumi, Mathura – 281003 (UP)
10. Shri K. Srinivas
Cameraman Gr. 1, Camera Section
Doordarshan Kendra
Ramanthapur, Hyderabad – 500 043
11. Shri Bhagyawan
Cameraman Gr. 1, Camera Section
Doordarshan Kendra
Ramanthapur, Hyderabad – 500 043
12. Shri Chander Prakash
Cameraman Gr. 1, Camera Section
DD News, Copernicus Marg,
Mandi House, New Delhi – 110001
13. Shri Devender Pratap Singh
Cameraman Gr. 1, Camera Section
Doordarshan Kendra
24 Ashok Marg, Lucknow – 226 001
14. Shri S Srinivas
Cameraman Gr. 1, Camera Section
Doordarshan Kendra
Ramanthapur, Hyderabad – 500 043



15. Shri Ramesh Chander
Cameraman Gr. 1, Camera Section
CPC: Central Production Center,
Sirifort, New Delhi – 110049
16. Shri Uday Ram
Cameraman Gr. 1, Camera Section
DD News, Copernicus Marg,
Mandi House, New Delhi – 110001

...Respondents

(By Advocate: Dr. K. S. Chauhan, Shri D.S. Mahendru and
Shri K.M. Singh)

ORDER (Oral)**Justice Mr. Justice L. Narasimha Reddy, Chairman:**

The applicants and respondents 5 to 11 were appointed as Cameraman Grade-II in Prasar Bharati in 1986 & 1986. The respondents 5 to 11 were shown as juniors to the applicants. The next promotion is to the post of Cameraman Grade-I. On account of implementation of reservation in promotion, the respondents 5 to 11 were promoted to that post on 16.11.2004. The applicants, however, were promoted on their turn, in the year 2012. The grievance of the applicants is that the administration did not apply the catch up rule, once they were promoted to the post of Cameraman Grade-I. It is stated that in the seniority list published in the year 2013, they were shown as juniors to respondents 5 to 11, and soon thereafter a representation was made on 30.05.2013. It is stated that without taking the representation into account, once again a seniority list was published on 01.11.2016 repeating the same state of affairs.

2. This OA is filed challenging the action of the respondents with a prayer to quash the seniority list dated 01.11.2016 and to direct the respondents to issue a revised seniority list in view of the judgment in S. Paneer Selvam and ors. Vs. Government of Tamilnadu and Others



(2008) 17 SCC 190. The official respondents filed a counter affidavit opposing the OA.

3. Earlier, the OA was allowed through judgment dated 21.11.2017. However, respondents 5 to 11 who were not parties to the OA at that time, filed a writ petition No.2297/2018 before the Hon'ble High Court of Delhi challenging the order passed by this Tribunal in the OA. The writ petition was allowed on the sole ground that the affected parties were not before the Tribunal when the OA was decided. Accordingly, the matter was remanded. After remand, the respondents 5 to 11 got them impleaded and filed their counter affidavit. Their plea is that in view of the amendment in Article 16 of the Constitution of India, the employees who get promotion on the basis of reservation in promotion, would be entitled for the consequential seniority also and that no exception can be taken to the impugned seniority list.

4. We heard Shri Apurb Lal, learned counsel for the applicants and Dr. K. S. Chauhan for Shri Ajit Kumar Ekka, learned counsel for the respondents.

5. The relevant dates are not in dispute. In the post of Cameraman Grade-II, the applicants are seniors to respondents 5 to 11. However, the latter were promoted in the year 2004 to the post of Cameraman Grade-I on the basis of reservation in promotion. The applicants were



promoted only in the year 2012 to that very post. In the seniority list published in the year 2013 for the post of Cameraman Grade-I, the respondents 5 to 11 were shown as seniors to the applicants. Immediately, a representation was made on 30.05.2013. Another seniority list was published on 01.11.2016 without any amendment. Therefore, the applicants have filed this OA.

6. The only question that arises for consideration is as to whether the applicants are entitled for the benefit of catch up rule. The Hon'ble Supreme Court in Paneer Selvam's case (supra), dealt with this issue extensively. In para 35 of the judgment, their Lordships held as under:-

“35. In the absence of any provision for consequential seniority in the rules, the 'catch up rule' will be applicable and the roster-point reserved category promotees cannot count their seniority in the promoted category from the date of their promotion and the senior general candidates if later reach the promotional level, general candidates will regain their seniority. The Division Bench appears to have proceeded on an erroneous footing that Article 16 (4A) of the Constitution of India automatically gives the consequential seniority in addition to accelerated promotion to the roster-point promotees and the judgment of the Division Bench cannot be sustained.”

7. The respondents, on the other hand, placed reliance upon the judgment of Hon'ble Supreme Court in Sudhakar Baburao Nangnue vs. Noreshwar Raghunathrao Shende & Ors., Civil Appeal Nos.2468-2470 of 2019 @SLP (Civil) Nos.8769-8771 of 2018. In this judgment it does not



appear that the judgment of the Hon'ble Supreme Court in Paneer Selvam (supra) was either treated as not laying the correct provision or distinguished, though reference to it was made.

8. It is no doubt true that Article 16 of the Constitution of India was amended providing for extension of the benefit of 'consequential seniority' wherever the benefit of reservation in promotion is extended. However, it is only an enabling provision. Much would depend upon whether the concerned department or agency has incorporated the principle of 'consequential seniority' in the relevant rules. This could have been either by amending the relevant recruitment rules or by issuing a separate circular, which has the force of law. In the instant case, neither the rule was amended, nor any separate proceedings were issued extending the benefit of consequential seniority. The result is that the ratio of the judgment of the Hon'ble Supreme Court in Paneer Selvam covers the benefits of the case.

9. The OM dated 21.01.2020 only advisory in nature to the concerned departments, and by itself does not have the effect of modifying the relevant rules.

10. We, therefore, allow the OA and direct the respondents to modify the seniority list dated 01.11.2016 assigning the seniority to the Cameraman Grade-I on the basis of their seniority in the post of Cameraman Grade-II.



This shall be done within a period of four weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/lg/pj/rk/akshaya/