

23

**Central Administrative Tribunal
Principal Bench**

OA No.2324/2004

New Delhi this the 7th day of July, 2006.

Hon'ble Mr. Shanker Raju, Member (J)
Hon'ble Mrs. Chitra Chopra, Member (A)

1. Song and Drama Division Employees
Association & Ors.
2. Shri Narayan Telang S/o Shri Ram Chandra Telang,
R/o F-136, Laxmi Nagar,
New Delhi,.
3. Shri Prasanjit Mitra S/o Shri Laxmi Narayan
R/o F-136, Laxmi Nagar,
New Delhi. -Applicants

(By Advocate Shri Sant Lal)

-Versus-

Union of India through,

1. Secretary,
Ministry of Information & Broadcasting,
Shastri Bhawan,
New Delhi.
2. The Secretary,
Deptt. of Personnel & Training,
North Block,
New Delhi.
3. The Secretary,
Ministry of Finance,
(Deptt. of Expenditure)
North Block,
New Delhi.
4. Director,
Song & Dram Division,
(Ministry of I&B),
Soochna Bhawan, CGO Complex,



Lodhi Road,
New Delhi.

-Respondents

(By Advocate Shri B.K. Berera)

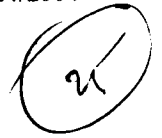
O R D E R (ORAL)

Mr. Shanker Raju, Hon'ble Member (J):

By virtue of this OA Song and Drama Division Employees Association, which is consisted of Instrumentalists, seek quashing of order dated 15.6.2005, whereby junior and senior Instrumentalists have been merged into one cadre and also a direction to respondents to create promotional avenues w.e.f. 1.1.1996.

2. The V Central Pay Commission in its recommendation contained in paragraph 73.85 though recommended promotional avenues in the cadre of Instrumentalists by recommending 4-tier structure, the cadre review committee when constituted in its recommendation as to the Instrumentalists firstly recommended merger of junior and senior Instrumentalists and secondly for want of promotional avenues 4-tier time bound structure for promotion to remove stagnation. The respondents vide their letter dated 15.6.2005 though merged junior and senior Instrumentalists but had not considered the recommendation of the V Central Pay Commission and of cadre review committee.

3. Shri Sant Lal, learned counsel appearing for applicants by relying upon a decision of this Tribunal in OA No.669/2005 in *Uma Ghosh & Ors. Vs. Union of India & Ors.* decided on 10.03.2006,



relating to Staff Artist of Song & Drama Division contended that on a similar consideration, directions have been issued to implement the recommendations of V CPC as to the promotional avenues of its Staff Artists. Learned counsel stated that on all fours the *ratio decidendi* applies in case of Instrumentalists as well.

4. On the other hand Shri B.K. Berera, learned counsel appearing for respondents has vehemently opposed the contentions and stated that as Doordarshan is no longer a Government Department, being part of Prasar Bharti, relief claimed cannot be countenanced. Furthermore, it is stated that the recommendation of the V CPC though implemented w.e.f. 1.1.1996, a cadre review committee made certain recommendations. The claim of applicants is without any basis.

5. We have carefully considered the rival contentions of the parties and perused the material on record.

6. In the case of Staff Artists in Sound & Drama Division in *Uma Ghosh* (supra), the following observations have been made:-

6. The only justification held out by the learned counsel of the respondents to oppose the prayer of the applicants is that the, by the time, cadre review committee which the respondents have now objected to not to have been constituted the committee as per the DoPT instructions was superceded being infructuous in the wake of recommendations of 5th CPC. It is not in dispute that the respondents on 30.9.1997 fully implemented the recommendations of 5th CPC in so far as the recommendations in para 73.86, while doing so, the respondents have introduced and



26

made applicable Assured Career Progression Scheme to the applicants but in so far as their promotional avenues are concerned respondents have not carried out recommendation of both the categories of performing Artists and Stage Assistants and implementation of 4 Tier Structure for avenues of promotion to the category of the applicants.

7. The recommendations contained in Para 73.86 clearly hold an object of recruitment of performing Artists and Stage Artists to the lowest grade, who would gradually rise to higher grade while retaining their specific skills. In fact, performing Artists in Song and Drama Divisions have been bifurcated in four grade structure for their promotional avenues is akin to what the has Committee recommended. It would be an illogical defence that by the time the cadre review committee had met, the 5th CPC recommendations had come into being. What has been recommended by cadre review committee is in tune and is in no manner in conflict with the recommendations of 5th CPC. ACP is only a financial upgradation and would not be made at par with the avenues of promotion. However, recommendations of 5th CPC have been implemented for assured career progression by way of promotion to the staff.

8. In the result, for the foregoing reasons, we are of the considered view that the respondents in spite of having considered and decided to implement the recommendations of 5th CPC have not implemented the same with regard to the promotional avenues of the applicants, who are Staff Artists in Song and Drama Division. Accordingly, respondents are directed to re-consider this aspect of the matter whereby they despite accepting the recommendations of 5th CPC, had not accepted that part which deals with the promotional avenues of the applicants in their category. Thereupon, if the respondents decide to implement the avenues of promotion, the applicants would be entitled to all consequential benefits. The aforesaid order shall be complied with within a period of six months from the date of receipt of a copy of the order. No costs.


he

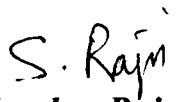
eX

7. If one has regard to the above, in the present case Instrumentalists had been recommended 4-tier structure for promotion as well as recommendation by the cadre review committee was also made to this effect. Though merger of junior and seniors Instrumentalists into one cadre cannot be found fault with, as the same was in accordance with the recommendation of the V CPC and cadre review committee but the second part of recommendation of the cadre review committee regarding the fact that this cadre of Instrumentalists after merger has no promotional avenue and also the recommendation of the V CPC regarding 4-tier structure have not at all been considered.

8. In the result, for the foregoing reasons, OA is disposed of with a direction to the respondents to re-consider this aspect of this matter by considering the recommendation of the V CPC regarding promotional avenues of applicants, which would be in consonance with the cadre review committee's recommendation as well. Thereupon, if respondents decide to implement the avenues of promotion, applicants shall also be entitled to all consequential benefits. The aforesaid directions shall be complied with within a period of six months from the date of receipt of a copy of this order.

No costs.


(Chitra Chopra)
Member (A)


(Shanker Raju)
Member (J)

‘San.’