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

O.A.No.1340/2004

M.A.No.784/2005

M.A.No.1305/2005

Hon'ble Mr.Justice B. Panigrahi, Chairman

Hon'ble Mr.D.R. Tiwari, Member (A)

New Delhi, this the 25<sup>th</sup> day of November, 2005


1. Kamlesh Kumar Maurya,  
S/o Shri K.P. Maurya,  
R/o H-3/44(GF), Vikas Puri,  
New Delhi-18
2. Sanjay Kumar Srivastava,  
S/o late Shri K.N.L. Srivastava,  
R/o 606, Tagore Road Hostel, Minto Road,  
New Delhi
3. Jitendra Arora,  
S/o Shri G.C. Arora,  
R/o 10D, Pocket K, Sheikh Sarai, Phase-II,  
New Delhi.
4. Lok Man Singh,  
S/o Shri Rishi Ram,  
R/o D-121, South Anarkali, Street No.1,  
New Delhi-51
5. Gaurishanker Kasarwani,  
S/o Shri K.M. Kasarwani,  
R/o Flat No.SRA 29 D,  
Shipra Riviera Apartment,  
Indirapuram, Ghaziabad (U.P.)
6. AIR & Doordarshan Engineers' Association,  
Through its General Secretary  
Shri Deepak Mehrotra,  
S/o Shri H.S. Mehrotra,  
Director Engineering,  
Director General AIR,  
New Delhi-11

...Applicants

(By Advocate: Shri Gopal Dutt with Shri Sanjeev Sharma)

Versus

Union of India through:

1. The Secretary to the Government of India,  
Ministry of Information & Broadcasting,  
Shastri Bhavan, New Delhi-1
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2. Director General,  
All India Radio,  
Akashvani Bhawan, Parliament Street,  
New Delhi.
3. Union of India,  
Through the Secretary to the Government of India,  
Ministry of Personnel, Public Grievances & Pensions,  
Department of Personnel & Training, North Block,  
New Delhi-1
4. Prasar Bharati,  
Through it's Chief Executive Officer,  
Copernicus Marg, Mandi House,  
New Delhi-1

....Respondents

(By Advocate: Shri M.M. Sudan with Shri B.S. Jain)

Order

Justice B. Panigrahi, Chairman

In this case, the applicants have sought a direction against respondent no.1 to modify promotion order by convening a review DPC from the post of Junior Time Scale (JTS) to Senior Time Scale (STS) of the Indian Broadcasting (Engineering) Service (IB(E)S) in consonance with the DoP&T O.M. No.2201/9/98 Estt.(D) dated 8.9.98, 13.10.98, 1.2.99, 6.10.99 and 14.12.2000.

They further seek a direction that respondents No.1 and 2 be directed to pass appropriate orders for granting promotions to them from the dates their juniors were promoted to the STS.

2. The applicants being aggrieved by an order of promotion dated 20.2.2004 bearing No.4/2004-BA(E), have filed this case. They are further aggrieved by the inaction of the respondents in not convening regular DPCs since 1998 on yearly basis as per Government of India, DoP&T O.M. No.22011/9/98-Estt(D) dated 8.9.98. They also challenge the inaction of the respondents in complying with the directions issued in O.A.No.178/2001 decided on 11.12.2001 in the case of Doordarshan Engineers' Association & ors. vs. Union of India & ors. In the said case, the following directions had been given:

"In the above view of the matter the OA succeeds and is accordingly allowed. Respondents are directed to initiate procedure initiating the

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DPCs for filling up of the vacant posts in IB(E)S, with the association of UPSC, wherever necessary on yearly basis and consider the cases of the Applicants if they are eligible for such consideration and if found fit, promote them in accordance with rules and instructions laid down by DoPTs OM No.2201/9/98 Estt (D) dated 8.9.1998 & 13.10.1998 and the IB(E)S rules 1981. This exercise shall be finalized as early as possible and in any rate within four months from the date of receipt of this order. No costs."

3. Applicants 1 to 5 are functioning as Deputy Director (Engineering), who were promoted vide impugned orders dated 20.2.2004 and 10.3.2004 passed by the respondents no.1 and 4. Applicant no.6 is an Association of All India Radio and Doordarshan Engineers whose main objective is to espouse the cause of its members.
4. Applicants were directly recruited as Assistant Director (Engineering) on the basis of selection through an open competition conducted by the UPSC. Prior to the review DPC and promotion order dated 20.2.2004, respondents no.1 and 2 conducted regular DPC for promotion from JTS to STS over five years ago in the year 1998. The conditions of service of the applicants vis-à-vis other Engineers working under respondents 2 and 4 are governed by the Indian Broadcasting (Engineers) Service Rules, 1981. In the year 1993, respondent no.2 issued a draft seniority list of JTS of IB(E)S vide order dated 11.8.94. Certain objections had been raised and several representations had been received from various quarters for rectification of anomalies in the said seniority list. It is further indicated that for promotion from JTS to STS, one should have rendered four years regular service in the grade. Since the seniority list was not properly maintained and on the basis of the faulty seniority list the DPC conducted its proceedings, therefore, some direct recruits filed a case before this Tribunal being O.A. No.798/96 where the DPC proceedings were held to be irregular since the earlier seniority list was not properly maintained. Accordingly a direction was issued by this Tribunal quashing and setting aside the seniority list of the officers of the Junior Scale of IB(E)S as on 1.12.93 circulated vide OM dated 11.8.94. The official respondents were directed to draw up a fresh

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seniority list as on 1.12.93 of the Junior Scale officers of the IB(E)S in accordance with the law, rules and instructions issued by the DoP&T. The aforesaid list was directed to be finalized after giving opportunities to all concerned within a period of six months from the date of communication of the order. Thereafter the respondents issued the impugned order dated 20.2.2004 by preparing the select panel for the years 1995-96, 1996-97 and 1997-98. In the same order, the respondents prepared a panel of 250 officers in the scale of pay of Rs.10000-15200/- from the dates they assumed charge of their respective posts at the places they were posted by Prasar Bharti until further orders. The main thrust of the applicants' case is that although they were direct recruits and senior to the other persons who had been given promotion to the Senior Time Scale but they had not been given such benefit from the dates when their juniors were so given. Therefore, they have filed this case for appropriate orders/directions to hold a review DPC whereby the applicants should be given promotion from the dates their juniors were promoted.

5. Respondents have stated that the seniority list which was prepared as on 1.12.93 and circulated on 11.8.94 was quashed in part vide judgment dated 10.2.2000 in O.A. No.798/96. Therefore, it necessitated the respondents to prepare a provisional seniority list, which was circulated on 10.4.2002. 183 officers quoted in the application were already promoted whose names figure in Order No.503/6/2003-BA(E) dated 20.2.2004. The applicants and other officers who were working in ad-hoc STS, were promoted only with effect from 20.2.2004 on the basis of the vacancies available to them. Their promotion was made effective from the dates when they assumed charge as such on regular basis. This order was issued in accordance with the DoP&T instructions contained in O.M. No.22011/8/87-Estt.(D) dated 9.4.96. Those cases were considered in the review DPC from the select panels of the years 1995-96, 1996-97 and 1997-98 as a consequence of the recommendations of the review DPC held on 18.12.2003. This order contained the names of those officers who were for the

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first time recommended for promotion by the DPC against the vacancies for the years 1998-99 to 2003-2004. None of the officers junior to the applicants were promoted earlier to STS on regular basis. The review DPC held on 18.12.2003 recommended the year-wise panel in accordance with the DoP&T instructions. Since no juniors to the applicants have been given promotion, the claim put forward by them seems to be speculative in nature and deserves to be rejected in limine.

6. The applicants are direct recruits who were recruited as Assistant Directors through a competitive examination held by the UPSC. The ratio is 1:1 in so far as promotion is concerned. Shri Gopal Dutt, the learned counsel appearing on behalf of the applicants invited our attention to the fact that in the case of K.K. Maurya (applicant no.1), he has been shown senior in the seniority list being at serial number 1061. But in so far as Shri S.S.A.N.S. Rao is concerned, though he had been shown junior to the applicant, was promoted earlier to applicant no.1 in the STS. Shri Sudan, the learned counsel appearing on behalf of respondents, while repelling the aforesaid contention, submitted that the applicants' case were to be considered only against direct recruitment quota whereas Shri Rao was a departmental promotee and, therefore, he was to be considered against the departmental vacancy of the year 1991 and thus was promoted earlier to applicant no.1. Thus the applicant no.1 should have no grievance regarding the promotion of Shri Rao.

7. During the course of arguments, we asked Shri Gopal Dutt, the learned counsel appearing on behalf of the applicants to show some instances where the applicants could have claimed parity with those alleged to have been promoted earlier despite being juniors. The applicants belong to different categories having been recruited from the open market in the recruitment held by the UPSC whereas the other departmental candidates were considered to the post of STS from the dates when their vacancies arose. Thus we did not notice any illegality,

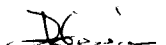
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irregularity or impropriety in showing the applicants to be juniors to those departmental promotees.

8. We rely upon the judgment passed by the Hyderabad Bench reported in AISLJ 2005 (3) (CAT) 314 in the case of Sanjeev Kumar Gupta and ors. vs. Union of India and ors. The facts stated in the aforesaid case are almost identical to the facts in the present case. In the said case, the applicants therein belonged to IFS whereas the applicants in the present case belong to IB(E)S. In principle, both the cases are similar and identical. In the cited case, it was held as follows:

“13. The respondents, in their counter, have stated that in pursuance to the directions issued by this Tribunal in various OAs, select lists from 1976 onwards were reviewed by a review Selection Committee which met on 8.1.1998, 9.1.1998, 4.2.1998 and 5.2.1998. The select lists prepared by the review Selection Committee for the years 1976 to 1991-92, were finally approved by the UPSC on 23.3.1998. The review select lists thus prepared implied rescinding of the original select lists for the relevant years and replacing them with the review select lists and then effecting the corresponding changes in the dates of appointments of the SFS Officers to IFS for all the respective years in which the original select lists were operated. After the reviewed select lists had been operated, the appointees to IFS were assigned the year of allotment in terms of IFS (Seniority) Rules, 1968.”

9. On deep appreciation of the facts and circumstances and also the averments stated in the application and in the reply, we find that the promotion lists issued by the respondents on 20.2.2004 and 10.3.2004 hardly require any interference and they have been issued in accordance with the directions of this Tribunal. The application being without merit fails and is dismissed.

  
( D.R. Tiwari )  
Member (A)

  
( B. Panigrahi )  
Chairman

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