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Central Administrative Tribunal  
Principal Bench, New Delhi.

O.A. No.724 of 1993

18th day of February, 1994.

Shri N.V. Krishnan, Vice-Chairman (A)

1. Shri P.K. Pattanayak,  
R/o No.336, S/8, R.K. Puram,  
New Delhi.
2. Shri Mohan Singh,  
R/o 285, Sector 12,  
R.K. Puram, New Delhi.
3. Shri O.P. Dutta,  
Asstt. News Editor,  
A.I.R., Parliament Street,  
New Delhi.
4. Shri M.P. Radha Krishnan,  
Asstt. News Editor,  
A.I.R., Parliament Street,  
New Delhi.

Applicants

By Advocate Shri T.C. Aggarwal.

Versus

Union of India through

The Secretary,  
Miny. of Information &  
Broadcasting,  
Shastri Bhavan,  
New Delhi.

Respondents

By Advocate Shri M.L. Verma.

O R D E R

Shri N.V. Krishnan, Vice-Chairman

The applicants are Class III employees in the Ministry of Information & Broadcasting. Their grievance is that while persons junior to them have been given a higher pay-scale in Grade III of the Central Information Service (CIS), they have been denied this benefit.

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2. The facts of the case are that in the Central Information Service, there are eight grades. The lowest grade was Grade IV, which was filled up by direct recruitment only. There were a number of posts in this grade in the various Units of the Ministry which were designated differently, like Information Assistant in the Press Information Bureau, Field Publicity Officer (F.P.O.) in the Directorate of Field Publicity, etc. The Grade IV personnel could be freely interchanged amongst these posts. In addition, there were also some ex-Cadre posts designated as 'Field Publicity Officer (Border)'.

3. The Third Pay Commission recommended that the posts of F.P.O. in the C.I.S. as well as the ex-cadre posts of FPO(Border) should be upgraded and given the higher pay-scale of Rs.650-1200.

4. These recommendations were implemented by the Government in respect of the posts of F.P.O.(Border) w.e.f. 1.1.1993, but the post of F.P.O. in the C.I.S. were given the higher grade, which is equivalent to Grade III of the C.I.S., only from 1.10.1975. In this situation, writ petition No.188/78 - P. Parameshwaran and Others Vs. The Secy. to Govt. of India - was filed in the Supreme Court which, admittedly, was allowed by the order dated 5.12.1986, by which a direction was issued to the respondents to give effect to the revised grades and scales from 1.1.1973 to the petitioners who were Field Publicity Officers, Grade IV, upgraded to Grade III.

5. This decision of the Supreme Court has been followed in a few other cases which have been decided by this Tribunal and the benefit of the upgraded pay-scale has been given to FPOs also from 1.1.1973.

6. The case of the applicants is that ~~the~~ one, Jagannath Rao, a Field Publicity Officer, had filed OA-2760/91 which has been disposed of by the Annex. A-5 judgement along with OA-2753/91 - R.C. Panigrahi Vs. Union of India. That judgement was delivered on 16.4.1992. The Tribunal gave a finding in para.7 of the judgement as follows:-

"In the conspectus of the above facts and in the above view of the matter, the applicants are entitled to upgraded scales from 1.1.73 as long as they worked as FPOs, since the upgraded scale was for FPOs only. It was for the respondents to consider that seniors in Grade IV of CIS willing to serve as FPOs and suitable for the assignments were posted as FPOs to avoid any anomaly of a junior drawing a higher scale leaving out the senior for no fault of his and correctives as necessary are to be applied by the respondents but we cannot deny upgraded scale from 1.1.1973 to the applicants, as long as they functioned as FPOs against 135 posts referred to in the recommendations of Third Pay Commission (accepted by the Government of India)."

In other words, the applicants in the two cases, disposed of by that judgement, which includes Jagannath Rao, were given the benefit of upgraded pay-scale so long as they worked as FPOs after 1.1.1973.

7. The contention of the applicants is that all of them are senior to Jagannath Rao in Grade IV. The relative seniority position has been shown as follows:-

"Sl.No.	Name	Date of entry in service	Date of continuous in service	Grade
xxxx	xxxx	xxxx	xxxx	xxxx
252	Mohan Singh (11.11.45)	29.6.1965	18.12.1971	
254	P.K.Pattanayak	Feb. 1969	11.10.1971	
258	O.P. Dutta (14.7.47)	6.9.1969	6.9.1969	
272	M.P.Radha Krishnan (24.3.48)	30.6.1972	30.6.1972	
277	K.S.Jagannath Rao	24.7.72	3.8.72 "	

8. In the circumstances, they represented to give them similar benefits as in the case of Jagannath Rao, but this has been rejected by the Annex. A-6 letter of the respondents to two of the applicants, M.P. Radha Krishnan and P.K. Pattanayak.

9. In the circumstance, the applicants have prayed for a direction to the respondents to refix their pay in the scale of Rs.650-1200 w.e.f. 1.1.1973 in the upgraded posts of Grade III C.I.S. with arrears and all consequential benefits.

10. The respondents have filed a reply contending that the applicants are not entitled to any relief. They have raised two contentions. Firstly, it is stated that the applicants never worked at any time as Field Publicity Officers either on 1.1.1973 or thereafter before the decision to revise the pay-scales of FPOs

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w.e.f. 1.1.1975 was taken. Therefore, they are not similarly situated as other persons in whose favour judgements have been given by the Supreme Court and the Tribunal. Secondly, it is contended that the applicants were promoted to Grade III of the C.I.S. only from 1976, the earliest being the promotion of the applicant, Shri Mohan Singh, from 31.5.1976.

11. The matter came for final hearing before me. The learned counsel for the applicant pointed out that the contention that the applicants have not worked as FPOs and, therefore, are not entitled to any relief, is without substance for, it is pointed out by him, that the respondents have issued the Annex. A-2 letter dated 9.3.1992 to the Pay & Accounts Officer of the Department, extending the benefit kof the Supreme Court's judgement in the case of P. Parameshwaran to refixation of pay in the scale of Rs.650-1200 from 1.1.1973 on notional bais to 170 C.I.S. officers. It is pointed out by him that these officers include a large number of officers who had never worked as FPOs and, therefore, he contended that working as an FPO was not a precondition to getting the pay-scale.

12. Thereupon, we had directed the applicant to produce the complete seniority list, extracts from which had been given in Annex. A-4 as that would enable us to find out the seniority position of the 170 persons to whom the benefit of upgradation has been given by the Annex. A-2 O.M. We also gave direction to the respondents to explain whether the 170 persons were given the benefit in Annex. A-2 because the strength of

the FPOs Cadre was 170. They were also directed to clarify whether <sup>in</sup> the Annex. A-2 memorandum, the benefit of the upgraded pay has been given to any Grade IV employee of the C.I.S. who had never worked as FPO.

13. While the learned counsel for the applicant presented the documents, the respondents did not produce the information called for on 7.9.1992 even after granting sufficient time. Hence, the case was closed and reserved for orders.

14. It is quite clear that the judgements of the Supreme Court in Parameshwaran's case as well as the judgements of the Tribunal in OA-1001/91 (D.G. Mahapatra Vs. Union of India), OA-2753/9 (R.C. Panigrahi Vs. Union of India), OA-2760/91 (K.S. Jagannath Rao Vs. U.O.I.), are all decisions rendered in the case of persons who had worked as FPOs. They had claimed that they were entitled to the upgraded pay-scale before 1.1.1975, either from 1.1.1973 or from the actual date of appointment ~~if~~ earlier, for the period for which they had worked as FPO. There is no judgement so far in respect of any person like the applicants who had never worked as an FPO. Therefore, these judgements have limited application to the present case.

15. After having heard the parties and perused the records, I find that the following was the sequence of events:-

(i) The Grade IV service consisted of a number of posts, one of which was FPO. The appointees ~~among the posts.~~ to Grade IV were freely transferable. It was not as if only seniormost persons

could be posted with the FPOs.

(ii) There was no grouse amongst these Grade IV employees so long as the entire Grade IV had a common pay-scale.

(iii) The situation changed drastically when, on the recommendations of the Third Pay Commission, Government upgraded the pay-scale of FPOs alone from amongst the Grade IV posts, to the pay-scale of Grade III, i.e., Rs.650-1200. This was made effective from 1.1.1975. The pay-scale of the Grade III posts was revised from Rs.370-800 to Rs.650-1200 w.e.f. 1.1.1973.

(iv) Because of the upgradation of the pay-scale, the claims of the Seniors who were not appointed as FPOs while their juniors were appointed as FPOs and were getting the benefit of the higher pay-scale of Rs.650-1200 from 1.1.1975, had necessarily to be considered.

(v) In the meanwhile, the Supreme Court gave a decision that even in the case of FPOs, the benefit of the upgraded pay-scale of Rs.650-1200 - which really means upgrading posts of FPOs from Grade IV to Grade III, should also be given effect to from 1.1.1973.

(vi) The result was that all FPOs who held a post from 1.1.1973 onwards, irrespective of their seniority in the Cadre of Grade IV, got the benefit of the higher pay-scale from 1.1.1973. That pay-scale had to be given to them from 1.1.1973 for which they had worked as FPOs in pursuance of the judgements of the Supreme Court and the Tribunal referred to above.

(vii) Simultaneously, they had to consider the FPOs in the case of persons senior to the Grade IV, but who were not appointed as FPOs till 1.1.1975 because upto that period, there was no distinction between the pay-scales and postings could be made at random. However, after the change was made, these seniors had also to be given the notional promotion from 1.1.1993, the date of upgradation.

(viii) The crucial point is that this could be done only to the extent of the revised strength of the Grade III posts which were the posts in Grade III which existed before 1.1.1973 for which the revised pay-scale of Rs.650-1200 was made applicable from 1.1.1973 plus 135 posts of FPOs (This is the number indicated in the Third Pay Commission's recommendations) which ultimately had to be upgraded to Grade III on the directions of the Supreme Court. ~~xxix~~

It is only this number of persons who could be given promotion as Grade III. This would include some FPOs, who, by virtue of their seniority, were entitled to be promoted to Grade III from 1.1.1973 plus other senior Grade IV officers who were not posted as FPOs but, who, by virtue of their seniority, had a prior claim to appointment to Grade III posts over their juniors who have actually worked as FPOs.

(ix) It is my view that the Annex. A-2 gives effect to the decision last mentioned above, i.e., it gives the benefit of Grade III from 1.1.1973 to 170 officials of the CIS. It is seen that in the Civil List of the Central Information Service as on 1.4.1974, which has been produced by the applicants, the names of 167 out of the 170 persons mentioned in Annex. A-2 find place. The persons at Sl.Nos.1-3 at Annex. A-2 do not find a place in the seniority list because the learned counsel for the applicant had stated that they have been promoted to Grade III of the C.I.S. even before 1.1.1974. Sl.No.4 in the Annex. A-2 memorandum, i.e., Mahapatra, is shown as Sl.No.23 of the Gradation List of Grade IV. Serial No.170 of Annex. A-2, Bageshwar Jha, is at Sl.No.246 of the Gradation List of Grade IV. Though the respondents did not furnish any information whether any of the persons

given the benefit of the upgraded scale from 1.1.1973 and included in Annex. A-2, have not worked as FPOs, we find that such information is available in the Civil List of Grade IV produced by the applicants. Thus, col.5 of the seniority list, is the date of continuous officiation in Grade IV and col.6 gives particulars of the present post and the date of posting. I find that a number of persons who had been continuously working on posts other than FPOs from dates prior to 1.1.1973, have been given the benefit of the Grade III posts from 1.1.1973 by the Annex. A-2 order. Examples are Sl.No.29 (K. Ram Chander Rao), Sl.No.30 (H.S. Madeti), Sl.No.53 (J.L. Kaul), Sl.No.33 (K.L. Wadhwa), all from Annex. A-2, who were continuously working on posts other than FPOs from dates prior to 1.1.1973, as can be seen from the entry in Col.6 against the names of these persons which are at Sl.Nos.49, 51, 53 and 54, respectively of the Civil List. It is thus clear that persons who had never worked as FPOs, have also been given this benefit. The reason for this has already been indicated in para. (vii) above.

16. It is thus clear that the revised strength of Grade III has been filled in, in the above manner. Promotion to Grade III from 1.1.1973 can be given only to the extent of the revised strength. The applicant has neither shown that there were still posts in Grade III vacant after the issue of the Annex. A-2 orders, or orders to the same effect that might have been issued earlier to which he could be appointed. In fact, this information should have been produced by him to establish that in the Grade III which was enlarged by the inclusion of at least 135 posts of FPO, he could have found the place from 1.1.1973 or from a later date, but before the date of their actual appointment, which is May, 1976 in the case of an applicant, Mohan Singh. From the Civil List, it is seen that the applicants have been placed at 252, 254, 258 and 272 as is admitted by them in para.4(f) of the application. They have no case that anyone junior to them has been regularly appointed to Group III from 1.1.1973 or from any date prior to the date on which they themselves have been appointed.

17. Their claim vis-a-vis the case of Jagannath Rao, cannot be sustained because the latter was given only his due by the Tribunal in OA-2760/91. He had actually worked as FPO for some period after 1.1.1973 and when the post was upgraded to Grade III from 1.1.1975, in the first instance, he was transferred to some other post. In that O.A., the Tribunal only held that this applicant and R.C. Panigrahi in OA-2753/91 were entitled to the higher scales of pay from 1.1.1973 as long as

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they worked as FPOs. That does not give a right to the applicants to claim the same benefit because their claim is to the posts of Grade III posts which have been filled on the basis of seniority. As there was no vacancy, they could not be appointed.

18. In the result, I find no merit in the O.A. It is dismissed. No costs.



18/1/14  
(N.V. Krishnan)  
Vice-Chairman(A)

SLP