

Annexure - 3

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

ORIGINAL APPLICATION NO.213 of 1990

And

MISC. APPLICATION NO.632 of 1989

Date of Order: 26-10-1989.

Mr. K.P.Damodaran.

.. Applicant

VS.

Union of India rep. by Secretary, to  
Government, Ministry of Information  
and Broadcasting and another

.. Respondents

.....

For Applicant

..

Mr. R. Narasimha Reddy,  
Advocate

For Respondent

..

Mr. N. Bhaskar Rao,  
Addl. CGSC

CORAM:

Hon'ble Shri D.Surya Rao, Member (Judl.)

Hon'ble Ms. Usha Savara, Member (Admn.)

JUDGMENT OF THE BENCH DELIVERED BY HON'BLE SHRI D.SURYA RAO,  
MEMBER (JUDL.)

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The applicant herein is an employee of the central Information Service (Grade-IV). He is temporarily working as Field Exhibition Officer, a Grade-III post of the Central Information Service. It is his case that he was originally appointed on 25-9-1978 as an Exhibition Assistant in the D.A.V.P. He was promoted as Field Exhibition Officer on adhoc basis on 31-1-1985. He is continuing as such till to-day. On 28-11-1988 a notification was issued whereby the post of Exhibition Assistant and Field Exhibition Officer in DAVP were merged into C.I.S., in Grade III & Grade-IV respectively. It is contended that on 27-12-1988, the Government passed an order that the temporary/adhoc Field Exhibition Officers would continue only upto 31-3-1989 or till the regular incumbents take

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charge. The applicant had filed O.A.No.32 of 1989 before this Tribunal ~~by the order dated 9-1-1989~~ questioning the order dated 27-12-1988. The Tribunal by an order dated 9-1-1989 directed the Department to consider the applicant's representation for regular absorption as field Exhibition Officer and seniority. On 2-3-1989, an order was passed rejecting the applicant's representation (Annexure-IX to the present application). It is the case of the applicant that there was considerable delay in merging the posts in DAVP into CIS, consequently, the Exhibition Assistants brought into CIS with effect from 28-11-1986 reckoned seniority in the Grade-IV category in CIS only from 28-11-1986 and the entire service rendered prior thereto is being ignored for the purpose of seniority. As a consequence of his seniority being reckoned from 28-11-1986, the applicant is sought to be reverted from the temporary/adhoc post of Field Exhibition Officer (Grade-III post in CIS) to the post of Exhibition Assistant. He contends that ignoring the entire period of service rendered in DAVP in the Category of Exhibition Assistant for the purpose of seniority is illegal, ultravires and violative of principles of natural justice.

2. On behalf of the respondents a counter has been filed stating that the applicant was holding the post of Exhibition Assistant in DAVP in the pay scale of Rs.1400-2300. The said post was encadred into the Central Information Service (Grade-IV) in the higher pay scale of Rs.1400-2600 with effect from 28-11-1986. Since the applicant was occupying the post in the lower scale of ~~pay~~ pay and status prior to 28-11-1986, the services rendered therein cannot be counted for fixing seniority in the higher post of Grade-IV in CIS. It is, therefore, contended that there are no merits in the claim of the applicant for reckoning seniority in Grade-IV from the date of induction as Exhibition Assistant Viz. 25-9-1978.

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3. The applicant has also filed M.A.632/89 in this O.A. for amendment of the prayer whereby he seeks a direction to quash or set aside the order No.119/89-CIS dated 16-5-89 issued by the first Respondent. This is filed after filing of the present Application i.e. O.A. 213/89. In the affidavit filed in support of this M.A., the applicant stated that the Government, by order dated 16-5-89, has fixed seniority of Exhibition Assistants inducted into Grade-IV of C.I.S and placed them below Sri. A.K.Nadeem (Serial No.72) in the Seniority list published on 7-2-1986. He contended that by the said order dated 16-5-89, 32 persons working in D.A.V.P. have been inducted into C.I.S. and placed below Sri. A.K.Nadeem in Group-IV. He further ~~says~~ stated that eight of the 32 persons referred to in the Seniority List dated 16-5-89 were inducted into C.I.S. on regular basis in Grade-III which resulted in discrimination and violation of Articles 14 and 16 of the Constitution. He further stated that one of those persons in the seniority list dated 16-5-89 namely Sri.M.M.Pillai (Serial No.20 of the list) had filed O.A.No.39/89 and O.A.No.415/89 challenging the order of reversion dated 27-12-88 and final seniority list dated 16-5-89. He ~~contended~~ that the Madras Bench of the Tribunal, by its judgment dated 28-6-89 set aside the orders dated 27-12-88 and 16-5-89 and remitted the case back to the Respondent to consider the case of Sri. Pillai on par with seven others who had been considered by the D.P.C. and inducted into Grade-III. For these reasons, the applicant seeks to have order No.119/89-CIS dated:16-5-89 fixing the seniority of the applicant in the category of Grade-IV also set aside in addition to the main prayer for setting aside the order dated 27-12-1988 (No.A-42018/2/88-CIS) hereby the applicant was allowed to continue in Grade-III only upto 31-3-1989.

4. Heard the learned counsel for the applicant Sri.R.Narasimha Reddy and Sri. N.Bhaskara Rao, the learned Additional Standing Counsel for the Central Government, on behalf of

the Respondents.

5. Sri. Bhaskara Rao seeks to oppose the Miscellaneous Application 632/89 on the ground that the applicant should file a separate application for claiming this relief. It is, however, noticed that the Madras Bench of the Tribunal has considered the validity of both the orders namely the order now sought to be questioned in O.A.213/89 viz. order dated 27-12-88 (No.A-42018/2/88-CIS) and the Seniority List/order dated 16-5-89 (Order No.119/89-CIS). The case of the applicant before the Madras Bench viz. Sri. Pillai and the applicant before us, Sri. Damodaran, are identical. Sri. Pillai figures at Serial No.20 in the order dated 16-5-89 whereas the applicant herein figures at Serial No.22. Both Sri. Pillai and the applicant herein are aggrieved by the fact that their services in D.A.V.P. prior to their absorption in C.I.S. were not reckoned for the purpose of seniority. It is the case of both of them that other similarly placed persons namely Sl.Nos. 1 to 7 in the order dated 16-5-89 (No.119/89-CIS who are similarly placed like them, have been inducted into Grade-III on regular basis though as in the case of the applicant herein, their services can be reckoned in Group-IV only from the date of induction into CIS. It is contended by Sri. Narasimha Reddy that the ground mentioned in the order dated 24-5-89 rejecting the applicant's claim for higher seniority in Group-IV namely that he cannot count seniority in DAVP since the post in the DAVP was lower in terms of payscale, etc. as compared to Grade-IV of CIS, would equally apply in the case of the Sl. Nos. 1 to 7 in the list dated 16-5-89. If they would be reckoned for their induction into Grade-III regularly it follows that there should be no bar to the applicant ~~also~~ also being inducted into Grade-III. It is in this context that he seeks to make out a plea of discrimination. The Madras Bench of the Tribunal has, on identical facts, directed that the matter be remitted to the Respondents (Government) to consider the case of the applicant ( Sri. Pillai ) on par with 7 others whose

cases have been considered by the D.P.C. held on 10-4-89 and accordingly set aside both the orders dated 27-12-88 and the order dt. 16-5-89. Applying the Madras Bench's decision, it follows that the applicant also should be given the same relief and he should also be considered on par with Sri. Pillai who figured in the list dated 16-5-89 alongwith him. In the circumstances, the case is remitted back to the Respondents who shall while disposing of the representation of Sri. Pillai, consider the case of the applicant herein also taking into account the various pleas made by the applicant including his claim for seniority in Grade-IV of CIS, and his claim for absorption into Grade-III as in the case of the employees at Serial Nos. 1 to 7 in the order dated 16-5-89 (No. 119/89-CIS).

6. It is represented by Sri. Narasimha Reddy that the applicant has been continuing on adhoc basis as Field Exhibition Officer Grade-III during the pendency of this Application. The respondents are directed to continue him as such till final orders are passed in the matter in terms of the direction of the Madras Bench of the Tribunal and in this case.

7. The O.A.No. 213/89 and the M.A.No. 632/89 are allowed in terms of the directions given above. In the circumstances there will be no order as to costs.

Sd/- x x x  
(D. Surya Rao)

Sd/- x x x x  
(Ms. Usha Savara)  
Court Officer.

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(8)  
(1)

*Annexure - 4*

No.C-17011/4/89-CIS  
Government of India

Ministry of Information and Broadcasting

.....

New Delhi, Dated 24-5-1989.

M E M O

M E M O R A N D U M

Subject:- Fixation of seniority of Exhibition Assistants in Grade IV of Central Information Service, Group 'B' -

....

With reference to his representation dated 20-2-1987 on the subject noted above, Sh.K.P.Damodaran, a Grade IV officer of Central Information Service, Group 'B' is hereby informed that his seniority in Grade IV of Central Information Service has since been fixed with effect from the date of induction in Grade IV of CIS with effect from 28-11-86. Since the post of Exhibition Assistant, which Shri Damodaran was holding substantively, prior to the induction in Grade IV of CIS, was lower in terms of pay scale etc., as compared to Grade IV of CIS, it has not been found possible to count his service as Exhibition Assistant in Grade IV of CIS, from the date of his appointment to the post.

Sd/- x x x x x x x  
(S.D.Kumar)

Under Secretary to Government of India  
Tele:357930.

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Annexure-5

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Subst. Secy  
in-charge P.

No.A-41012/3/88-CIS  
Government of India

Ministry of Information and Broadcasting

.....

New Delhi, Dated 16-5-1989.

Ad Aadesh No.119/89-CIS

Consequent upon their appointment in Grade IV of Central Information Service Group 'B' under Rules 6B of CIS Rules, 1959 (as amended from time to time) vide this Ministry's notification No.A-42012/2/78-CIS dated 28-11-1986 the following Exhibition Assistants are assigned seniority in the said grade ( in the seniority list of 1986) and placed below Shri A.K.Nadeem (Sl.No.72 in Grade IV saniority list of 1986 issued vide file No.A-42018/1086-CIS Dt.7th Feb.1986).

<u>S.No.</u>	<u>Name of Officer.</u>
	S/ Shri
1.	A.T.Hotchandani
2.	S.N.Gupta
3.	D.K.Bar
4.	D.D.Barman
5.	J.L.Ahuja
6.	N.D.Dalwani
7.	H.D.Mutneja
8.	Jasbir Singh
9.	Gautam Kumar
10.	L.Venkatramanappa
11.	Data Ram
12.	Ramesh Lal
13.	Tek Chand
14.	S.C.Bhambani
15.	S.K.Ray
16.	Dayat Bhatnagar
17.	Sanjit Ganguly.
18.	S.K.Chattopadhyay
19.	L.K. Goswami
20.	M.M.Pillai
21.	Bhola Nath
22.	K.R.P.Damodaran.
23.	P.N.Khurana
24.	C.N.S.Panicker
25.	Dinesh Kumar
26.	N.C.Jayal
27.	S.C.Mamba
28.	D.P.Patnaik
29.	Krishan Bhagwan
30.	J.D.Dodia

31.

J.K.Panchal

32.

D.R.Ganvir.

Sd/- xx x x x x  
(S.D.Kumar)

Under Secretary to the govt. of India

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Annexure - 6

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GOVERNMENT OF INDIA  
MINISTRY OF INFORMATION AND BROADCASTING

New Delhi, Dated: 8-4-89

NOTIFICATION

No.A-42012/3/73/CIS (vol.IV): in exercise of the powers conferred by sub-rule (2) of Rules 6 B of the Central Information Service Rules 1959 as amended from time to time the President is pleased to appoint the following officers working at present in the posts mentioned against each to officiate in the Grades of Central Information Service Group 'A' and Group 'B' as mentioned in the corresponding entry in column (4) of the Table with effect from November 28, 1986 untill further Orders:-

S.No.	Name	Designation	Grade of the IIS/ CIS to which appointed
-----			
	S/Shri.		
1.	S.C.Aggarwal	Inspector of Exhibitions, DAVP, New Delhi	Jr. Grade of IIS (Rs.2200-4000)
		-	
		-	
		-	
		-	
62.	K.P.Damodaran	Field Exhibition Officer, Hyderabad.	Grade IV of CIS (Rs. 1400-2600)
		-	
		-	
		-	
		-	
72.	D.R.Ganivri	Exhibition Assistant Bhopal	- do -
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Sd/-

( S.D.KUMAR)

Under Secretary to the Govt.of India

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Annexure-7

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

THURSDAY THE NINETEENTH DAY OF JANUARY  
ONE THOUSAND NINE HUNDRED AND EIGHTY NINE

:: PRESENT ::

THE HON'BLE MR. B.N.JAYA SIMHA : VICE CHAIRMAN  
AND

THE HON'BLE MR. D.SURYA RAO : MEMBER (JUDL.)

ORIGINAL APPLICATION NO.32 of 1989.

Between:

K.O. Damedaran

... Applicant

And

1. Union of India, rep. by its Secretary to Government, Ministry of Information and Broad Casting Govt. of India, Shastri Shavan, New Delhi - 110001.
2. Director D.A.V.P. Ministry of I & B, Government of India 3rd Floor PTI Building, parliament Street, New Delhi-I.

... Respondents.

Application under Section 19 of the Administrative Tribunals Act, 1985 praying that in the circumstances stated therein the Tribunal will be pleased to i) call for the entire records relating to the impugned order dt.27-12-1988 in file No.A-42018/2/88 CIS and quash the same as illegal, arbitrary and violative of Article 14, 16 and 311 of the constitution of India besides being violative of principles of natural justice. ii) Reckoned and fix the seniority of the Applicant in Grade-IV of C.I.S. from 25-9-1978. iii) pass suitable orders by making the applicant permanent in the post of Field Exhibition Officer of interalia place him permanent post in any Grade-III of C.I.S. iv) pass such other orders as this Hon'ble Tribunal may deem just and expedient in the circumstances of the case including the award of costs of this application, in the interest of justice and equity.

This application coming on for orders as to admission upon perusing the application and upon hearing the arguments of Mr. G.Dhananjai Advocate for the applicant and of Mr. E.Madan-Mohanrao, Addl.CGSC on behalf of the respondents.

The Tribunal made the following orders:-

The applicant herein who is an Exhibition Assistant in Grade IV in the Central Information Service and worked on

(13) (3)

adhoc basis in Gr.III since February, 1985, had made two representations dated 20-2-1987 and 2-1-1989 for fixing his seniority in Grade-IV w.e.f. 25-9-1978 and for regular appointment as Gr.III w.e.f. 16-2-1985, the date he was appointed on adhoc basis.

2. The applicant states that he has been making seferal representations for fixing his seniority from the date of assum- in charge as Exhibition assistant and also from the date of assuming charge as Field Exhibition Officer. No action has been taken on these representations. However, by order dated 27-12-198 the applicant has been informed that his adhoc appointment is being continued upto 31-3-1989 or till substitute appointment is made, ehichever is earlier. He contendsthat his seniority is taken into consideration, he is entitled to regular promotion and the question of reverting him does not arise. He has, therefore, filed this application seeking a direction to fix his seniority in Grade-IV and not to revert him from GradeIII.

3. We have herd the ~~xxxxx~~ learned counsel for the applicant Shri. Dhananjaya, and Shri. Madan Mohan for the respondents.

4. It is clear from the application that the representation made by the applicant have not been disposed of. Consequent to the issue of Adesh No. 230/88-CIS dated 27-12-1988, the applicant has made a representation on 2-1-1989, which is still pending. Under Section 20 of the Administrative Tribunals Act, 1985, normally 6 months time has to elapse before an application can be admitted. In this case, however, the applicant is sought to be reverted by the Adesh referred above, and therefore, he has filed this application at this stage.

(14) (51)

5. We have considered the submissions made. This application can be disposed of with a direction to the respondents to consider the representations of the applicant dated 20-2-1987 and 2-1-1989, and till the disposal of those representations, not to revert the applicant in pursuance to the Adesh dated 27-12-1988. With the above directions, the application is disposed of parties to bear their own costs.

Sd/- xxxxxxxxxx

(G.VENKAT RAO)  
DEPUTY REGISTRAR (J).

COURT OFFICER.

//True Copy//

Annexure - 8

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To

The Secretary,  
Ministry of Information  
and Broad Casting.  
Sastry Bhavan.  
New Delhi-1.

Through Proper Channel.

Respected Sir,

Sub:- Fixation of due seniority in CIS-  
requested.

Ref:- Notification No.A-42012/3/73-CIS  
(Vol.IV) Dated 8-4-1988.

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Most humbly, I wish to draw kind attention to the  
Ministry of I & B Adesh No.A-42012/3/73 CIS (vol.IV)  
dated 8-4-1988 regarding induction of the posts of Inspector  
of Exhibitions, Field Exhibition Officers and Exhibition  
Assistants of the Exhibition Division of DAVP into Grade  
II of IIs and Grade III & Grade IV of CIS, respectively.  
Consequent upon this Adesh, my services in CIS have been  
accounted for w.e.f. 28th Nov.1986.

In this connection, I am to submit the following for  
your kind consideration and Immediate restoration of the  
benefit of services rendered by me.

1. I beg to draw your kind attention first to the fact  
that the posts of Regional Exhibition Officers now designed  
as inspector of Exhibitions and Field Exhibition Officers  
were originally in CIS upon the formation of the service  
in 1960.

2. The SIU in its report to the Ministry clearly indicated  
the onerous duties performed by the incumbents vis-a-vis  
the corresponding incumbents in other media units. The  
specific recommendations of the SIU that the persons  
holding such posts should have specialised background  
of exhibition display and interior decoration etc., as  
required in the exhibition medium apart from the normal.

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(36)

activities being performed by the incumbents holding similar posts in other media units, were interpreted otherwise and the posts were excluded from the CIS w.e.f. 1967 after making them gazetted. This was done arbitrarily and without any reference to the incumbents holding these posts. This was resented by the officers holding such posts of FEOs and IEs.

3. The resentment as shown by the then incumbents was properly examined and looked into by the Ministry. After proper examination of the issue, it was duly considered that the posts should be reinducted in CIS. But, on account of the existing ban on the upgradation and creation of new posts at that time the matter was kept in abeyance. This unfortunately was not at all taken up subsequently by the Ministry for the best reasons known to them despite several persuasions in the interim period.

4. Finally, deputation of our colleagues had to meet the then MIB and other officers of the Ministry. The issue was again-reopened in 1979 and the merits of the case were thoroughly examined by the Ministry. As I understand, even the various media heads were asked to submit their specific comments on the nature of jobs performed by each category of incumbents to these posts.

5. The constant prayers from the members of the grieved categories from time to time activated the Ministry in processing the case. The UPSC cleared the case of inclusion in 1980, DEAR in 1981 and Finance in 1983 after <sup>examining</sup> ~~examining~~ the financial implications. Finally the Cabinet cleared the inclusion ~~in 1980~~, in 1984. The incumbents after acresing by UPSC etc. were inducted in November, 1986 thus giving them no benefit of the service which they are rendered earlier. My humble submission is that :

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(31)

(a) It has agreed upon by all the concerned departments viz., The Ministry of I&B, UPSC, DPAR & Finance that my job required a special specialisation as compared to the jobs under taken by the counterpart in other media units apart from the normal work undertaken by them. This entitles me to the fact and my claim that the service rendered by me is accountable.

(b) It was an anomaly on the part of the Government that the pay scale given to me earlier was not in conformity with the service I was required to provide vis-a-vis my counterpart in other media unit. My submission is , therefore, that I should not be made to anomaly was duly noticed and later rectified after proper security and consideration by the highest authority. It is imperative thus that my earlier service should be accounted for.

(c) When we were not in CIS, our experience and nature of work entitled us to the section for ad hoc promotion and deputation on the higher posts of CIS whereas, after induction we have lost all the rights for consideration against such appointments. Thus we placed in disadvantageous position. This I am afraid, is certainly against all the norms and ethics of administration.

(d) Those Officers who joined along with me but in other media units in CIS now enjoy all the benefits of time-bound promotions and other service benefits whereas, I who has performed more onerous and difficult service, am deprived of such benefits because owing to some anomaly in the findings of the Government which were later found out and duly rectified. I am inducted at a later date than joining my service on regular basis.

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(e) It may please be seen that I too, am allowed to enter the service after observing all the formalities of the duly constituted selection board in existence at that time and after proving my capabilities to hold the post before that board. Therefore, I am entitled to the service benefits in respect of the fact that my posts reinduction in CIS i.e., the main stream.

(f) The recent judgements of the CATs as well as of the Supreme Court rendered on the inclusions in the main stream and the resultant fixation of seniorities of the incumbents duly oblige and authority to provide me the benefits of seniority arising from my past service.

I therefore, humbly pray to you Sir, to examine the above in the light of the facts enumerated above and to give me the benefits of my past service.

Thanking you,

Yours faithfully,

Sd/- x x x x x x

Hyderabad,  
Date:- 2-1-1989.

(K.P. Damodaram)  
Field Exhibition Officer  
DAVP, Min of I&B  
Hyderabad.

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