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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : ADDL. BENCH ;
AT. HYDERABAD.

O.A.No. of 1993.

Between:

Smt. Ramani Sanwal,
W/o. Dr. N.B. Sanwal, Aged about
52 years, Occ: Asst. Station Director,
Doordarshan Kendra, Hyderabad,
R/o. H.No.
Tarnaka, Secunderabad.

... Applicant.

A N D

1. The Union of India,
Ministry of Information &
Broadcasting, Rep. by Dy. Secretary
to the Govt. of India, New Delhi.
2. The Director General,
Doordarshan, Mandi House,
Copernicus Marg,
New Delhi.
3. The Director,
Doordarshan Kendra,
Hyderabad
4. Mr. F.M. Khan,
Station Director,
Doordarshan Kendra,
Gulbarga.
5. Mr. T.V. Raghavacharyulu,
Dy. Director of Programmes,
Doordarshan Kendra, Hyderabad
6. Mr. B.K. Mohanti,
Station Director,
Doordarshan Kendra,
Tura.
7. Mr. H.B. Bhamara,
Station Director,
Doordarshan Kendra,
Aizwal.

... Respondants.

DETAILS OF APPLICATION:

1. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION
IS MADE :

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ORDER NO. : No.3/93-B (A)
DATE : 23rd February, 1993.
PASSED BY : The Deputy Secretary to the
Government of India, Ministry
of Information and Broadcasting,
New Delhi - 1st Respondant.

2. JURISDICTION OF THE TRIBUNAL :

The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of the Tribunal. under section 14 of the CAT Rules.

3. LIMITATION :

The applicant further declares that application is within the limitation period prescribed in Section 21 of the Administrative Tribunals Act, 1986.

4. FACTS OF THE CASE :

a) The applicant was appointed as Transmission Executive in the scale of Rs.210-470 at All India Radio with effect from 1-12-67 and her probationary period was completed by 30-11-69.

b) A separate recruitment was made for the post of Producer grade II (Staff artist) for Upagraha Doordarshan Kendra, Hyderabad, and the applicant got selected. It was a contract service till the candidate attains the age of 53 years. However the applicant had a lien over the post of Transmission Executive in AIR, as such even after joining Doordarshan, the applicant was considered and offered the post of Programme Executive by the Departmental Promotion Committee of AIR. The post of Producer Grade II and the post of Programme Executive are of the

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same scale as per the third pay commission, hence the applicant did not respond to it.

c) The applicant was appointed as Producer Grade II in Upagraha Doordarshan Kendra, Hyderabad, with effect from 1-12-73 and had undergone training course at the Television Training Centre, Mandi House, New Delhi and completed the said training by 4-5-1974. The applicant's probationary period as Producer Grade II, Upagraha Doordarshan Kendra, Hyderabad, was terminated with effect from 1-12-73.

d) Terminating the contract service, the Government declared the employees, under contract service (Staff artists etc. of AIR & Doordarshan) as regular Government servants with effect from 6-3-1982 vide letter No.10(9)85-SVII(3) dated 10-11-86 issued by the 2nd respondent.

e) A sanction of the competent authority has been accorded to the crossing of efficiency bar by the applicant amongst others with effect from 1-12-84 vide Order No.6/6/87-S.III dated 8-6-1987, issued by the 2nd respondent. *The applicant was also given appreciation certificate by 3rd respondent*

f) The applicant was appointed as Asst. Station Director, Doordarshan Kendra, Hyderabad vide Orders No.III of 90-B(A) dated 25-1-90 issued by the 1st respondent and the applicants name was mentioned at Sl.No.26 of the said order under the combined list of the erstwhile category of staff artists of All India Radio/Doordarshan. In pursuance of the above said order the 2nd respondent has issued the order No.

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Annexure A1

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12/90-SIII and letter No.A-32013/5/88/SIII(Vol.) III, dt. 31-1-90 wherein the applicant's name is shown at Sl.No.9 amongst the erstwhile categories of staff artists of Doordarshan.

g) The 2nd respondent has circulated a seniority list in the cadre of Asst. Station Directors of All India Radio/Doordarshan as on 31-12-1990 vide Office Memorandum No.3/71/90-SI(A) dated 20th January, 1991. In the seniority list, the name of the applicant is found at Sl.No.93 and that of the 4th, 5th, 6th & 7th respondents was shown at Sl.No.102, 124, 172, 114 respectively in the combined list of Asst. Station Directors of Doordarshan Kendra/All India Radio.

h) The 2nd respondent vide his office Memorandum No.3/40/92 SI(A) dated 4th August, 1992 sought for exercise of choice for joining in all the four cadres of their promotion to Junior time scales i.e. Indian Broadcasting Programme Service IB(P)S. The four cadres are as follows:

- 1) All India Radio Programme Management Cadre.
- 2) All India Radio Programme Production cadre.
- 3) Doordarshan Programme Management cadre.
- 4) Doordarshan Programme Production Cadre.

The applicant had opted for Doordarshan Programme Management Cadre.

i) The applicant was appointed to the junior time scale of Doordarshan Programme Management Cadre in the pay scale of Rs.2200-4000 vide the notification, dated 19-12-91 issued by the 1st respondent. The name of the

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applicant is found at page 9 in para XI at Sl.No.14 and the names of 4th, 5th, 6th & 7th respondents are found at Sl.No.16, 20, 23 and 18 respectively in the same list.

Annexure A 2
Pages 13 to 16

The 2nd respondent vide D.O.No.11019/9/92-SIII dt.27-3-92 sent a draft seniority list in respect of officers in the junior time scale (Rs.2200-4000) of Doordarshan Programme Management Cadre IB(P)S. In this seniority list as on 31-3-92 the name of the applicant is shown at Sl.No.15 and that of the 4th, 5th, 6th and 7th respondent at Sl.No.15, 19, 22 and 17 respectively.

k) The applicant was entrusted with the duties of Dy. Director (Programmes) in addition to her own duties as Asst. Station Director, vide Office Order No.12(17)/TVH/92, dated 26-11-92 issued by the 3rd respondent .

1) Although the applicant along with other erstwhile staff artists of AIR & Doordarshan had been declared as Govt. servants with effect from 6-3-1982, the Departmental Promotion Committee which met periodically after 1982 considered only the case of Programme Executives and not those of Producers for promotion to the post of Asst.Station Director. However, since the applicant was already holding a post equivalent to the post of Asst.Director and her seniority was over the Programme Executive made Asst.Directors was maintained all along in the combined seniority list, there was no cause of action. Only now the seniority has been upset by promoting the respondents who were junior in the combined list to their next higher post. Because of the injustice done to the erstwhile staff artists by the respondents No.1 and 2 the applicant was deprived of promotion as Asst.Station Director while the respondents No.4 to 7 were promoted earlier than applicant who was senior to them. However, after the promotion of the applicant

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in in the seniority list of the ASD's circulated by respondents 1 and 2, continues to maintain the seniority over the respondents 4 to 7.

Annexure A5 m) The 1st respondent vide office order No.3/93-B(A) dated 23-2-1993 promoted junior time scale officers, Group A of All India Broadcasting (Programmes) -Service to the senior time scale, Group-A in the pay scale of Rs.3000-4500 wherein to the utter surprise of the applicant, the names of the juniors i.e., 4th, 5th, 6th and 7th respondents were found promoted to the posts of Station Director, DDK, Gulbarga; Deputy Director of Programmes, DDK, Hyderabad; Station Director, DDK, Tura and Station Director, DDK Aizwal, respectively, ignoring the promotion to the application through the applicant is senior to all the 4th, 5th, 6th and 7th respondents.

n) Before the impugned order i.e. order No.3/93-B(A) dated 23-2-93 was published, the applicant having reliably learnt that the 5th respondent Mr.T.V.Raghavacharyulu was being promoted to the senior time scale, overlooking and denying the promotion to the applicant, she made a representation to the 2nd respondent regarding her promotion as Dy. Director of Programmes. The 3rd respondent forwarded the representation given by the applicant to the 2nd respondent for necessary action through letter No.7(*)FS)90 Adm/TVH/964 dt. 21-1-93. But as on today there is no communication from any of the respondents 1,2 and 3. Meanwhile the 1st respondent has passed the impugned order of promotion to 4th, 5th, 6th and 7th respondents to a higher scale ignoring the promotion to the applicant.

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o) Although there was no official communication from respondents 1 and 2 regarding her representation cited above, on verbal enquiry the applicant was given to understand that the respondents No. 4 to 7 were promoted to Senior Time Scale as they had already completed 4 years service as ASD's while the applicant who became ASD on 31-1-90 has not completed 4 years service as ASD. However, the applicant would like to point out that this condition was not applied in earlier promotions from Junior Time Scale to Senior Time Scale. For example Mr. R.R.K. Shree who had also joined as Producer Grade II along with ~~grade~~ the applicant in 1973, and who was promoted as ASD along with the applicant on 31-1-1990 was subsequently promoted to the Senior Time Scale of Rs. 3000-4500 on 31-1-1992 after completion of only two years service as ASD in IB(P)S. In any case, a senior in the combined list should always be considered as having a superior claim for promotion vis a vis juniors in the same seniority list if the seniority list is to have any meaning.

p) According to Schedule IV attached to the IB(P)S rules, the method of recruitment to the Senior Scale (Deputy Director/Controller) is "by promotion on seniority-cum-fitness basis". The applicant's seniority in relation to respondents 4 to 7 is established vide different seniority lists circulated by respondents 1 and 2 from time to time. Also the service record of the applicant must be good since the applicant has not received any communication contrary to it, and she was asked to look after the responsibilities of DDP (Senior Time Scale-IB(P)S). Therefore, the

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applicant should have been given promotion before respondents 4 to 7.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS:

In view of the impugned order i.e. order of the 1st respondent vide his order No.3/93-B(A) dt. 23-2-93 the 4th, 5th, 6th and 7th respondents have been promoted to the post of senior time scale, Group-A in the pay scale of Rs.3000-4500 ignoring the applicant though she is senior.

The seniority position of the applicant is evident as could be seen as per the periodical seniority list published by the 1st respondent and 2nd respondent which clearly establish the seniority of the applicant over the 4th, 5th, 6th and 7th respondents.

Thus, the applicant has been denied equality before law and equal opportunity in the matters of public employment and in blatant violation of Article 14 and 16 of the Constitution of India and also various notifications and rules of the Indian Broadcasting (Programmes) Service Rules.

6. DETAILS OF REMEDIES EXHAUSTED :

The applicant declares that she has exhausted of all the remedies available to her under the relevant service rules. The applicant made a representation, in anticipation, to the 1st respondent, stating that a junior was being appointed to the post of senior time scale, ignoring the applicant though she is senior to the juniors appointed to the higher grade i.e. senior time scale, group A in the pay scale of Rs.3000-4500.

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9. After the receipt of the impugned order she found that 4th to 7th respondents were juniors to the applicant.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT:

The applicant further declares that she has not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made before any court or any other authority or any other bench of the tribunal nor any such application writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT: In view of the facts mentioned in para 4 above, the applicant prays for the following reliefs:

i) This Hon'ble Tribunal may be pleased to direct the 1st and 2nd respondents to promote the applicant to the post of senior time scale Group A in the pay scale of Rs.3000-4500 with effect from 24-2-1993, on which date the impugned order was communicated to the Office of the 3rd respondent.

ii) To declare the promotion of 4th, 5th, 6th and 7th respondents to the post of senior time scale Group A as illegal, and contrary to service rules, unless the applicant is first promoted to the post of senior time scale in grade Rs.3000-4500.

iii) To declare that the applicant is deemed to have been promoted to the post of senior time scale Group A in the pay scale of Rs.3000-4500 from the date, the impugned order is communicated to the office of 3rd respondent and grant all consequential reliefs so as to protect the applicants' seniority.

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iv) To direct the respondents 1 and 2 to maintain the seniority of the applicant as per the seniority list of officers in Junior Time Scale (2200-4000) of Doordarshan Programme management of IB(P)S as on 31-3-92 published under the letter D.O.No.11019/9/92-SIII dt. 27-3-92.

v) and pass such other order or orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

9. INTERIM ORDER, IF ANY PRAYED FOR :

This Hon'ble Tribunal may be pleased to direct the respondents to promote the applicant to the post of Dy. Director of Programmes, Doordarshan Kendra, Hyderabad and pass such other order or orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

10. The application is not being sent by the post and the same is filed through Counsel.

11. PARTICULARS OF POSTAL ORDER FILED IN RESPECT OF THE APPLICATION FEE:

POSTAL ORDER NO. : 8 05 892156 file 50
DATE : 4 15 507119 50 Rs 5/-
18-3-93. each.

Rs 50/-

LP.O./B.G./D.D./Removed

Raman Singh