

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERSHEET

Order No. _____

of 2/07 in O.A 254/01

of No. _____

Applicant(s) M. Das & am VS Union of India & Ors

Advocate for the Applicant(s) Mr. S. Saima

Ms. B. Devi, Mr. H. K. Das

Advocate for the Respondent(s) Case.

Place of the Registry	Date	Order of the Tribunal
<p>Contempt petition was filed by the Applicant under Section 17 of the Administrative Tribunal Act, 1985 for want of contempt proceeding against the respondents for willful and deliberate violation of the judgement dated 13.6.02 in O.A 254/01. The matter is pending before the Court for further orders.</p>	<p>9.2.2007</p>	<p>Heard Ms.B.Devi, learned counsel for the petitioner. Issue simple notice to the Respondent and a chance is given to him to file reply statement as to whether orders of this Tribunal has been complied or not. If not, contempt notice will be issued to him. Post on 27.3.2007.</p>
<p>Section Officer</p>	<p>/bb/ 27.3.07.</p>	<p>Heard Ms.B.Devi learned counsel for the applicant and Mr.G.Baishya learned r.C.G.S.C. for the Respon- dents. Counsel for the respondents has submitted that he would like to take instructions. Let it be done. Post the matter on 11.5.07.</p>

Vice-Chairman

Vice-Chairman

Lm

Notice & order
sent to D/section
for issuing to
resp. by regd. A/D
post.

30.4.2007

Mr. G. Baishya, learned
submitted that orders of t
been complied with. H
weeks' time to file
it be done.

Post on

21/2/07 D/No-224
Dt=26/2/07

① Service report
awaited.

/bb

26/3/07

25.5.2007

Mr. G. Baishya, learned Sr.C.G.S.C.
has filed the compliance report. Regis
will bring the same on record. Copy the
compliance report has been furnished to
the counsel for the Applicant Mr.H.K)
He wanted to take instruction. Let
done in one week.

Post on 1.6.2007.

① Service report
awaited.

27/4/07

No compliance
report has been
filed.

/bb/

Vice-Chairman

24/5/07

1.6.2007

Mr.H.K.Das, learned counsel
Applicant submitted that the orders
Tribunal has not been fully complied
wanted to argue in the matter.

Accordingly post the case o

No compliance
report filed.

31/5/07

No compliance Report
has been filed.

/bb/

Vice

15/6/07

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18.6.2007

This Contempt petition has been filed by the applicants for non-compliance of the order of this Tribunal in S.P.No.214 of 2001 dated 13.5.2002. The operative portion of the order is reproduced below:-

" For the reasons stated above the impugned order dated 15.5.2000 is not sustainable in law and liable to be set aside and accordingly the same is set aside. The Respondents are directed to give effect to the promotion to the applicants notionally with effect from 18.4.1983 i.e.the date on which their junior (Respondent No.3) was promoted in the light of the direction issued by the Jabalpur Bench in O.A.No.104 of 86 disposed of on 5.3.1987 and the seniority of the applicants would be determined accordingly and their pay would be fixed by granting increments with reference to the national of promotion as Programme Executive."

The Respondents has filed J.P.(C) No.5157 of 2003 before the Hon'ble Gauhati High Court which has been dismissed without interfering with the impugned order is warranted. Now as compliance of this order of this Tribunal the applicant has produced Annexure-1 dated 26.4.2007 and Annexure-II, dated 17.4.2007 stating that as per directions of the Hon'ble Tribunal the promotion of the applicants has been made in the Seniority List circulated on 16.04.2007.

Therefore, I am of the view that substantial compliance of the Tribunal's order has been done and hence the Contempt petition will not stand, therefore, this C.P.has to be dismissed. C.P. is dismissed accordingly.

Liberty is given to the applicant to approach appropriate forum in the original side, if he is further aggrieved.

Vice-Chairman

Im

- 1. Original Appli
- 2. Misc Petition
- 3. Contempt Petition
- 4. Review Application

This has been done

30.7.07

Copy of the order handed over to the respondents for the violation

and a

signed

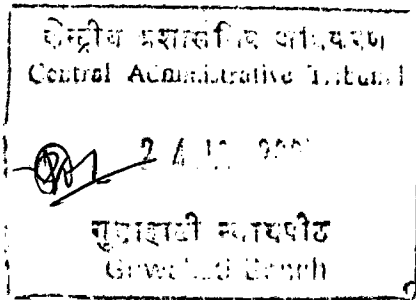
Count 2/107

Copy of the order

to the

order

fr



Filed by:-
The Petitioners
Through
Hriday Kr. Das.
Advocate
2.6.11.07

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH

C.P.No. 2/07

in OA No.254/01

Sri Monoranjan Das and Anr.

-VS-

Union of India & Ors.

IN THE MATTER OF

An application under Sec.17 of the Administrative Tribunal Act 1985 for drawal of appropriate contempt proceeding against the contemnors for their willful and deliberate violation of the judgment and order dated 13.6.02 passed by the Hon'ble Tribunal in OA No.254/01.

-AND-

IN THE MATTER OF

An application under Rule 24 of the Central Administrative Tribunal (Procedure) Rules, 1987 for execution of the judgment and order dated 13.6.02 passed in OA No. 254/01 passed by this Hon'ble Tribunal.

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-AND-

IN THE MATTER OF

1. Sri Nonoranjana Das
Programme Executive,
All India Radio, Guwahati.

2. Sri Dibakar Sen
Programme Executive,
All India Radio, Tura.

....Petitioners

-vs-

1. Sri Brijeswar Singh.
Director General
All India Radio,

*Sri
Advocate*

Akashvani Bhawan, Parliament Street,
New Delhi-110001.

.....Contemner

The humble petition on behalf of the petitioners
above named:

MOST RESPECTFULLY SHEWETH

1. That the petitioners above named were initially
appointed on 10.5.76 as Transmission Executive under the
respondents. The petitioners were due for promotion to the
next higher grade i.e Programme Executive in the year 1983.

Shri

But the respondents to the reason best known to them delayed the matter of promotion and it was in the year 1989 i.e on 27.11.89 the petitioners were promoted to the post of Programme Executive but with prospective effect only. It is pertinent to mention here that since the petitioners were due for promotion in the year 1983 the respondents ought to have promoted them w.e.f 1983.

2. That the petitioners beg to state that they submitted numbers of representation before the authority concerned for their retrospective promotion, but same yielded no result in positive. Situated thus the petitioners earlier approached this Hon'ble Tribunal by filing OA NO. 163/92 and the Hon'ble Tribunal was pleased to dispose of the said OA vide judgment and order dated 7.12.95 directing the respondents to consider the representation filed by the petitioners. But the respondents rejected the representation filed by the petitioners. The petitioners again approached the Hon'ble Tribunal by filing OA NO. 131/97. The Hon'ble Tribunal again directed the respondents to consider the case of the petitioners afresh by passing a reasoned order. The respondents vide its impugned order dated 16.6.00 rejected the case of the petitioners. Challenging the said orders dated 16.6.00 the petitioners once again had to approach the Hon'ble Tribunal by filing the present OA NO.254/01. The Hon'ble Tribunal after hearing the parties to the proceeding was pleased to allow the said OA NO.254/01 vide judgment and order dated 13.6.02 directing the respondents to give effect to the promotion to the petitioners notionally w.e.f 18.4.83.

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A copy of the said judgment and order dated 13.6.02 passed in OA NO.254/01 is annexed herewith and marked as ANNEXURE-1.

3. That the respondents challenging the legality and validity of the judgment and order dated 13.6.02 passed by the Hon'ble Tribunal approached the Hon'ble High Court by filing WP(C) NO. 5157/03. The Hon'ble High Court vide judgment and order dated 27.10.06 was pleased to dismiss the said Writ Petition upholding the judgment and order dated 13.6.02 passed in OA NO.254/01.

A copy of the said judgment and order dated 27.10.06 passed in WP(C) No. 5157/03 is annexed herewith and marked as ANNEXURE-2.

4. That the petitioners immediately after passing of the said judgment and order dated 27.10.06 passed in WP(C) No. 5157/03 apprised the respondents about the same by way of filing a representation and also requested the authority for implementation of the judgment and order dated 13.6.02 passed in OA No. 254/01. But the respondents did nothing in the matter till date.

A copy of the said representation dated is annexed herewith and marked as ANNEXURE-3.

W.B.

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5. That the petitioners kept on pursuing the matter before the contemner but as on date nothing has been communicated to them and they are continuing the process of violation of the judgment and order passed by the Hon'ble Tribunal.

6. That the petitioners beg to state that the present case is an unique example of its nature wherein willful and deliberate violation of the judgment and order is very apparent and as such the Hon'ble Tribunal may be pleased to draw up appropriate contempt proceeding against each of the contemner and thereafter to punish them severely invoking the provisions of the contempt of Court Act 1971 of the Central Administrative Tribunal Act 1985.

7. That this application has been filed bonafide and to secure ends of justice.

In the premises aforesaid it is most respectfully prayed that Your Lordships would graciously be pleased to draw up contempt proceeding against the contemner for his willful and deliberate violation of the judgment and order dated 13.6.02 passed in OA No.254/01 passed by the Hon'ble Tribunal with a further direction to implement the said judgment and/or pass any such order/orders as may be deemed fit and proper.

And for this act of kindness the petitioners as in duty bound shall ever pray.

Chh.

DRAFT CHARGE

Whereas Sri Brijeswar Singh, Director General, All India Radio, Akashvani Bhawan, Parliament Street, New Delhi-110001 has deliberately violated the judgment and order dated 13.6.02 passed in OA No. 254/01 passed by the Hon'ble Tribunal and as such he is liable to be punished under the provisions contained in Contempt of Court's Act for such act of willful and deliberate violation.

A F F I D A V I T

I, Sri Manoranjan Das, aged about 56 years, Programme Executive, All India Radio, Guwahati, Assam, do hereby solemnly affirm and declare as follows :

1. That I am the petitioner No.1 in the instant petition as such, I am acquainted with the facts and circumstances of the case. I have also been authorised to swear this affidavit on behalf of the petitioner No 2.

2. That the statements made in this affidavit and in the accompanying application in paragraphs _____
5,6 are true to my knowledge ; those made in paragraphs 1,2,3,4 being matters of records are true to my information derived therefrom.

And I sign this affidavit on this the ___ th day of

Manoranjan Das

Identified by me :

B. Devi

Advocate

Deponent

Solemnly affirm and state by the deponent who is identified by Miss B. Devi, Advocate.

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ANNEXURE - 1

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 254 of 2001.

Date of decision : This the 13th day of June 2002.

Hon'ble Mr. Justice D.N.Chowdhury, Vice-Chairman.

Hon'ble Mr. K.K. Sharma, Member (A).

1. Sri Monoranjan Das
Programme Executive,
All India Radio
Guwahati.

Sri Dibakar Sen,
Programme Executive,
All India Radio,
Guwahati.

...Applicants

By Advocate Mr. S. Sarma.

-versus-

1. Union of India,
represented by the Secretary to
the Government of India,
Ministry of Information and Broadcasting,
New Delhi-1.

2. The Director General,
All India Radio,
Akashbani Bhawan,
Parliament Street,
New Delhi.

Shri M.D.Samel,
Programme Executive,
All India Radio,
Bolangir, Orissa.

...Respondents

By Advocate Mr. B.C.Pathak, Addl. C.G.S.C.

ORDER (ORAL)

CHOWDHURY J. (V.C.)

This is the third round of litigation. The core issue pertains to the date of promotion of these two applicants to the post of Programme Executive vis-a-vis the

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respondent no.3. The basic facts for the purpose of adjudication are as follows :

The two applicants were the direct recruits as Transmission Executive, and they joined the post on 10.5.1976. The 3rd respondent joined the post of Transmission Executive on 19.8.1976 as an ad hoc promotee. According to the applicants the services of the 3rd respondent was regularised on 19.8.1976. The applicants pleaded that the 3rd respondent was junior to them. The applicants further pleaded that the post of Programme Executive was a Gazetted Group 'B' post and as per the prevalent rules notified for recruitment to the post, 75% of the posts were to be filled up from amongst the Transmission Executive having five years qualifying service in the grade. Earlier at one point of time the cadre was centralised and seniority was determined on centralised basis. All the Transmission Executives who were appointed on the basis of centralised cadre had since been promoted to the grade of Programme Executive of All India Radio. The cadre of Transmission Executive was decentralised into 24 recruiting zones. Till 1982 the selection and appointment to this grade were being done by the Head of the 24 stations of All India Radio. The seniority list was prepared for each zone separately. It was inter alia averred in the application that with a view to grant promotion to the Transmission Executive, after the cadre was decentralised, to the grade of Programme Executive against the 25% departmental promotion quota it was decided to draw up an All India List of Transmission Executives. The concerned authority advised for drawing up an All India eligibility list of Transmission Executives who were appointed/promoted after the revision of the recruitment rules on the basis of length of continuous regular service

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in the grade. It was also recommended that the names would be arranged in order of seniority based on the date of appointment. Accordingly an All India Eligibility List of Transmission Executives as on 31.12.1981 was published by the Director General on 21.6.1982. In the said eligibility list name of 3rd respondent was shown at serial no. 11 and his date of continuous appointment to the grade as well as the date of regular appointment in the grade was shown as 19.8.1986. On the other hand the name of the 1st applicant was shown at serial no. 117 and that of the 2nd applicant at serial no. 125, though the applicants joined the post on 10.5.1976 on direct recruit basis. The applicants contended that the 3rd respondent was admittedly junior to them and erroneously he was shown senior to them. A large number of representations were filed by the Transmission Executives including the applicants assailing the aforesaid list. A revised eligibility list of All India Radio and Doordarshan as on 1.1.1982 was published. In that list the name of the 1st applicant appeared at serial No. 203 and that of the 2nd applicant at serial no. 202. The name of the 3rd respondent did not figure in the said list. Meanwhile, the respondents held a SPC for promotion of Transmission Executives to the post of Programme Executive on the basis of the 1981 eligibility list. In view of the wrong assignment in the seniority list the 3rd respondent was promoted along with others, but the applicants were not considered for promotion without any just cause. The respondent no.3 was promoted to the grade of Programme Executive with effect from 18.4.1983 on the strength of erroneous fixation of seniority. The applicants submitted their representations. Other Transmission Executives had

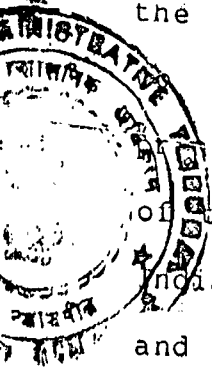
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also submitted representation to that effect. One of the Transmission Executive - V.L.N. Rao filed an application before the Allahabad Bench of the Central Administrative Tribunal challenging the 1981 All India Eligibility List and the promotions made on the basis of the said list. The said application was subsequently transferred to the Jabalpur Bench of the Tribunal. The Jabalpur Bench passed an interim order restraining the respondents in that case from holding any DPC based on the impugned eligibility list. As a result the DPC for promotion to the grade of Programme Executive was not held from 1983 to 1987. The Jabalpur Bench delivered its judgment vide order dated 5.3.1987 in T.A. No. 104 of 1986 in the case of V.L.N. Rao Vs. Director General, AIR, New Delhi. The Tribunal quashed the eligibility list of 1981 and directed the respondents to prepare a revised eligibility list following the principles laid down in that judgment. Thereafter in terms of the said judgment of the Jabalpur Bench a revised All India eligibility list of Transmission Executives of AIR and Doordarshan was prepared as on 1.1.1982 and the same was circulated on 2.8.1988. In the said list the name of the 1st applicant was shown at serial No. 200 and that of the 2nd applicant at serial No. 1999 and the name of the 3rd respondent at serial no. 235. The applicants further stated that a Special DPC was held on 25.8.1987 and 26.8.1987 in pursuance to the judgment of the Jabalpur Bench of the Tribunal and on the recommendation of the Special DPC a total of 117 Transmission Executives were promoted to the grade of Programme Executive by order dated 28.8.1987. It was clearly mentioned in the said order that the promotion of the aforesaid persons were given retrospective effect i.e. the date on which their junior

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started officiating as Programme Executive and the name of the applicants did not figure in the said list since only 117 Transmission Executives were promoted and since the name of the applicants appeared at serial nos. 199 and 200 in the revised eligibility list. Another promotion list was issued sometime in the month of November 1988 promoting about 67 Transmission Executives to the grade of Programme Executive. As per the Notification dated 21.4.1989 their promotion was given effect from 18.4.1983. The applicants contended that there case was not considered for promotion in 1987-88 though they became eligible for promotion in 1981 as per rules. The applicants further contended that by an order dated 27.10.1989 40 Transmission Executives including the applicants were promoted but they were not given retrospective effect. According to the applicants the promotion of the 3rd respondent was erroneous which was quashed by the Jabalpur Bench the applicants ought to have been promoted to the grade of Programme Executive with effect from 1983 after placing them above the 3rd respondent. The applicants submitted number of representations before the authority to give them the benefit of the judgment of the Jabalpur Bench (Supra). Being aggrieved by the action of the respondents the applicants moved this Tribunal by way of filing an O.A. which was registered as O.A. No. 163 of 1992 praying for a direction to promote the applicant with retrospective effect from 18.4.1983, the date when their juniors had been promoted with all consequential benefits including correct fixation of inter se seniority. The said O.A. was disposed of by this Tribunal on 7.12.1995 with a direction to the 2nd respondent of that O.A. to dispose of the representation dated 30.4.1991 on merits within the period

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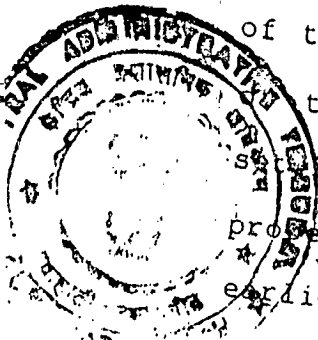


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specified therein. However, the representation of the 1st applicant was rejected and the representation of the 2nd applicant was not disposed of. The applicants again moved this Tribunal by filing of O.a. No. 131 of 1997. By an order dated 23.12.1999 the Tribunal again directed the respondents to consider the case of the applicants afresh and directed them to pass a reasoned order. The respondents vide its impugned order 16.6.2000 rejected their representations. Hence this application assailing the legitimacy of the order dated 16.6.2000.

2. The applicants in this application reiterated their plea as was raised in the earlier application. It was inter alia contended that the issue raised in the application was no longer res integra. The Jabalpur Bench already adjudicated the matter and directed the authority to constitute a Special DPC for consideration of the case of the applicants also along with V.L.N. Rao on the basis of the revised eligibility list. The Tribunal instead of setting aside the order of promotion of ineligible persons protected the promotion already given on the basis of earlier eligibility list and safeguarded their interest by not directing for their reversion. In the instant case respondent authority however in an illegal fashion rejected the claim of the applicants without duly applying their minds to the judgment and order rendered by the Jabalpur Bench of the Tribunal (Supra).

3. The respondents submitted its written statement and reiterated their stand as mentioned in the impugned order dated 16.6.2000. The relevant part of the order dated 16.6.2000 is reproduced below :



The perusal of the file No.4/8/87 S I (B) and 4/245/88 S I (B) (Part II) reveals that first DPC was held on 25.8.87 and 26.8.87 in respect of 131 vacancies (117 firm vacancies and 14 anticipated vacancies). In the DPC held on 25.8.87 and 26.8.87 all the 143 TREXs included in the Eligibility List circulated vide DG; AIR's O.M. no. 4/8/87 SI (B) dated 13.8.87 were considered and 131 TREXs were recommended in the panel for promotion. However, orders could only be issued in respect of 117 official against the clear vacancies vide order No. 79/87 S I (B) dated 28.8.87 (from file No. 4/8/87 S I (B)). As already stated above the Eligibility List circulated vide DG :AIR's O.M. dated 13.8.87 was further challenged in the O.A. No. 671/87 and the Hon'ble CAT, Calcutta Bench in its judgement dated 29.4.88 without quashing the those TREXs who have completed 5 years regular service as on 31.12.1981 should also be incorporated in the Eligibility List. This judgment was examined in file No. 4/245/88 S I (B) (Part II) published on 27/28.8.87 for the cadre of the Transmission Executive in the Directorate and that the eligibility list referred to in the judgement dated 29.4.88 must be the eligibility list circulated vide No. 4/8/87-SI (B) dated 13.8.87. Further it was construed that this judgement is just an improvement on the earlier judgement dated 5.3.87 delivered in O.A. included in the Eligibility List dated 13.8.87. A promotion order vide No. 4/8/8 S I (B) dated 28.8.87 was also issued in respect of 117 Transmission Executives. The Eligibility List circulated vide O.M. dated 13.8.87 was further challenged in O.A. NO. 671/87 filed in the CAT, Calcutta Bench by Shri Debasis Gautam and others. The Hon'ble CAT, Calcutta Bench in its judgement delivered on 29.4.88 in O.A. No. 671/87 inter alia directed that the names of those Transmission Executives who have completed 5 years service in accordance with the Recruitment Rules for Programme Executives in force as on 31.12.81, should also be incorporated in the Eligibility List. It is stated that as per the Recruitment Rules which were in force prior to the grade of Transmission Executives for promotion to the grade of Programme Executive was five years. The Eligibility period for Transmission Executives for promotion to the grade of Programme Executive was raised to 8 years in the recruitment rules notified in 1984. Therefore as per the directions contained in the judgement dated 29.4.88 another Eligibility List was prepared and circulated vide DG; AIR's OM No. 4/8/87 S I (B)/S.VII dated 2.8.88 for inviting objections. In this list the name of Applicants appeared at S. Nos. 200 and 199 and Respondent No.3, Shri M.D. Samal figured at S. No. 235. Subsequently, an Eligibility List



as on 1.1.82 was finalised and circulated vide DG: AIR O.M. No. 4/8/87 S I (B)/S VII dated 16.9.88 read with a corrigendum No.4/8/87 S I (B)/S.VII dated 15.11.88. Corrigendum had to be issued as the name of Respondent No.3 was missing from the said Eligibility List dated 16.9.88. As per the corrigendum dated 15.11.88 the name of Shri M.D.Samal, TREX was incorporated between the names of Shri J.P. Bhatt (S. No. 33) and Shri T.T. Haokip (S. No. 34) of the Eligibility List circulated on 16.9.88. A DPC was also held on 22.11.88 on the basis of the Eligibility List issued vide 4/8/87 S I (B)/S VII dated 16.9.88 which recommended the names of 46 Transmission Executives for promotion apart from 117 Transmission Executives already promoted as per the recommendations of DPC held on 25/26-8-87.

On the other hand, the case of the Applicants is that they were Direct Recruit TREXs appointed on 10.5.1976, on regular basis. In the OA NO. 131/97, it has been stressed that the Applicants' name in the Seniority list as on 31.12.81 circulated vide No. 5/33/79-SI dated 21.6.82 figured at Sr. No. 117 and Sr. No. 125 respectively though they joined AIR on 10.5.76 and the name of Sh. M.D. Samal figured at Sr. No. 11 whose date of regular appointment is 19.8.76. The Applicants have also referred to the draft Eligibility List issued vide O.M. No. T.A.A. No. 104/86 by CAT, Jabalpur Bench and that it only supplements the judgment dated 5.3.87 in T.A.A. No. 104/86 in as much as it extends the benefits contained in the judgment dated 5.3.87 by CAT, Jabalpur Bench in the matter of promotion to those TREXs who have completed 5 years of regular service as on 31.12.81. Therefore, another DPC was held on 22.11.1988 by including the TREXs who had rendered five years continuous service as on 31.12.1981 in the Eligibility List circulated vide O.M. No. 4/8/87 S I (B) dated 13.8.87. The revised eligibility list was issued vide No. 4/8/87-SI (B)/S.VII dated 16.9.88. The DPC, which was held on 22.11.88 had considered the Transmission Executives with five years regular service for promotion to the grade of Programme Executive and did not affect the promotion of 117 Transmission Executives vide order No. 79/87 S I (B) dated 28.8.1987 who had completed 8 years regular service as on 31.12.1981 and who were recommended for promotion by the DPC held on 25-26.8.1987. In the DPC held on 22.11.88 the Transmission Executives who were considered and promoted were the ones who joined AIR before December, 1975. The total number of vacancies existing as well as anticipated were 161 (including 117 against which orders were already issued vide order dated 28.8.87 on the recommendations of DPC held on 25 and 26.8.87). the last Transmission Executives who was considered and empanelled for promotion in the DPC held on 25/26-8-87 and 22.11.88 is Smt. Sheila Modi who figured at S. No. 179 of the



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Eligibility List as on 1.1.1982 circulated vide O.M. 4/8/87 S I (B) VII dated 16.9.88. The name of Shri M.D. Samal, TREX (Respondent no.3) figured between S. No. 33 and 34 of Eligibility List as on 1.1.1982 circulated vide O.M. No. 4/8/87 S I (B)/S VII dated 16.9.88. The names of Applicants 1 & 2 figured at S. No. 203 and S. No. 202 respectively of this list. As such their names could not be considered in absence of adequate number of vacancies."

4. Heard Mr. S.Sarma, learned counsel appearing on behalf of the applicants and Mr. B.C.Pathak, learned Addl.C.G.S.C. for the respondents at some length. On consideration of the respective pleadings this Bench in its judgment dated 7.12.1995 in O.A. No. 163/1992 specifically held that the two applicants were senior to the respondent no.3. The Tribunal observed that the applicants were admittedly senior to the respondent no.3 by reference to the dates of their respective regular appointments to the grade of Transmission Executive. The Tribunal gave a conclusive findings and the said findings attained finality. The Tribunal only directed them to consider the respective representations in the light of the observations made therein. Instead the authority insisted on their plea and passed the impugned order dated 19.6.1996. The Tribunal in O.A. No. 131 of 1997 on 2.12.1999 accordingly directed the authority to reconsider the matter and pass a reasoned order. We have already indicated the impugned order passed by the respondents, rejecting the representation of the applicants. The respondents in its order dated 16.6.2000 mentioned that the respondent no. 3 was senior though on their own showing the applicants were senior to the respondents as per O.M. dated 16.9.1988. As per the said Eligibility List the name of the applicant nos. 1 a & 2 were shown at serial nos. 200 and 199 and the name of the respondent no.3 was shown at



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serial no. 235. The name of the respondent no.3 was not shown in the eligibility list published on 21.6.1982. After the decision rendered by the Jabalpur Bench on 5.3.1987 protecting the promotion made on the basis of earlier list, therefore question of corrigendum dated 15.11.88 placing the respondent no.3 between serial no. 33 and 34 did not arise. At any rate it was contrary to the direction issued by the Jabalpur Bench. As a matter of fact the respondents duly adhered in letter and spirit, the decision of the Jabalpur Bench in its promotion order dated 28.8.87 and 28.11.88 promoting the 117 Transmission Executives. But curiously the similar benefit was not given to these applicants without assigning any reason. The Jabalpur Bench did not direct for reversion of the person who was promoted on the basis of earlier eligibility list but at the same time the directions were issued for holding a Special DPC to consider the case of the officers like the applicants and other similarly placed officers were entitled for promotion as the result of the revised Eligibility List as the DPC had met at that time when they became eligible for consideration on the basis of their records of performance. In the event the DPC cleared them for promotion, they were to give notional promotion retrospectively from the dates their immediate juniors were promoted to the post of Programme Executives already and their seniority in that cadre determined accordingly and their pay fixed by grant of increments with reference to the notional date of promotion as programme executives. As per the direction including the applicants could not be entitled to arrears of pay or emoluments in the higher post of Programme Executive until they actually assume the charge of posts of Programmes. Executive treating the earlier period on the principles of 'No work No Pay'.



5. In our considered opinion therefore the respondents were not justified in not giving the same benefit to the applicants as that of respondent no.3.

6. For the reasons stated above the impugned order dated 16.6.2000 is not sustainable in law and liable to be set aside and accordingly the same is set aside. The respondents are directed to give effect the promotion to the applicants notionally with effect from 18.4.1983 i.e. the date on which their junior (Respondent No.3) was promoted in the light of the direction issued by the Jabalpur Bench in O.A. No.104/86 disposed of on 5.3.1987 and the seniority of the applicants would be determined accordingly and their pay would be fixed by granting increments with reference to the notional of promotion as Programme Executives.

7. The application is allowed accordingly to the extent indicated above. There shall, however, be no order as to costs.

Certified to be true Copy
प्रमाणित प्रतिलिपि

SD/VICE CHAIRMAN.

SD/MEMBER (A)

Handwritten signature and date
20/6/02

Section Officer (J)

आयुक्त, अधिकांश (अधीनस्थ शाखा)
Central Administrative Tribunal

केन्द्रीय प्रशासनिक अदिकरण
Guwahati Bench, Guwahati-7
गुवाहाटी न्यायाधीश, गुवाहाटी-7

trd



प्रतिनिधि के लिए आवेदन की तिथि Date of application for the copy	स्टाम्प और फोटो की अपेक्षित संख्या सूचित करने की तिथि Date fixed for notifying the requisite number of stamps and photos.	अपेक्षित स्टाम्प और फोटो देने की तिथि Date of delivery of the requisite stamps and photos.	तारीख, जहाँ तक कि प्रतिनिधि तैयार थी Date on which the copy was ready for delivery.	तारीख Date of making over the copy to the applicant.
21/10/06	21/10/06	24/10/06	21/10/06	25/10/06

-19-

CIVIL APPELLATE SIDE

ANNEXURE - 2

Appeal from
Civil Rule

W.P.(C) No. 5157 of 2003

The Union of India & others
Appellants
Petitioner

Versus

Sri Manomanjan Das & others
Respondent
Opposite Party

Appellant Mr. S. Bhattacharya
For Addl. C.F.S.C.
Petitioner

Respondent
For
Opposite Party

Noting by Officer or Advticate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	3	

1/3
A

Dr

- AND -

IN THE MATTER OF :-

1. The Union of India

Represented by the Secretary to the
Govt. of India, Ministry of
Information and Broad Casting, New
Delhi-1.

2. The Director General

All India Radio, Akashvani Bhawan,
Parliament Street, New Delhi-1.

..... Petitioner.

- Versus -

1. Shri Hanoranjhan Das

Programme Executive, All India
Radio, Guwahati.

2. Shri Dibakar Sen

Programme Executive, All India
Radio, Tura.

..... Respondents.

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Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
	2	3	4
			<p>W.P (C) No. 5157 of 2003</p> <p>BEFORE THE HON'BLE MR JUSTICE D. BISWAS THE HON'BLE MR JUSTICE U.B. SAHA</p> <p><u>27.10.2006</u></p> <p>Heard Mr. S. Bhattacharjee, learned Addl. C.G.S.C. for the appellants and Mr. M.K. Choudhury, learned Counsel for the respondents.</p> <p>The order dated 13.06.2002 passed by the Central Administrative Tribunal, Gauhati Bench in O.A. No. 254 of 2001 is under challenge in this writ petition.</p> <p>The controversy pertains to the date of promotion and seniority of the applicants, respondents herein, as well as the respondent No.3 in O.A No. 254 of 2001. The dispute between the parties about the seniority and the date of promotion was considered by the Tribunal in O.A. No. 163 of 1992 disposed of on 7.12.1995. In that application, the Tribunal directed the authorities to dispose of the representations submitted by the applicants on merits having regard to the fact that the applicants were senior to the respondent No.3. The observations made by the Tribunal in O.P. No. 163 of 1992 relevant for the purpose at hand is quoted below:</p>

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
	2	3	
			<p>*** In this list the name of Applicants appeared at S. Nos 200 and 199 and Respondent No.3, Shri M.D. samal figured at S.No. 235. subsequently, an Eligibility list as on 1.1.82 was finalized and circulated vide DG; AII' O.M. No. 4/8/87 S 1 (B)/S VII dated 15.9.88 read with a corrigendum No. 4/8/87 S 1 (D)/S.VII dated 15.11.88. Corrigendum had to be issued as the name of Respondent No.3 was missing from the said Eligibility List dated 16.9.88. As per the corrigendum dated 15.11.88 the name of Shri M.D. Samal, TREX was incorporated between the names of Shri J.P. Bhatt (S. No. 33) and Shri T.T. Maokip (S No. 34) of the Eligibility List circulated on 16.9.88. A DPC was also held on 22.11.88 on the basis of the Eligibility List issued vide 4/8/87 S I (B)/S VII dated 16.9.88 which recommended the names of 46 Transmission Executives for promotion apart from 117 Transmission Executives already promoted as per the recommendations of DPC held on 25/26-8-87."</p> <p>The decision referred to above set at rest the controversy relating to seniority as the aforesaid order attained finality in due course. The Tribunal disposed of the application relying upon the aforesaid decision with regard to the seniority etc. In the opinion of the Tribunal, it was a case of discrimination between the applicants and respondent No. 3 in so far as the date of promotion and</p>

pk.


(5)

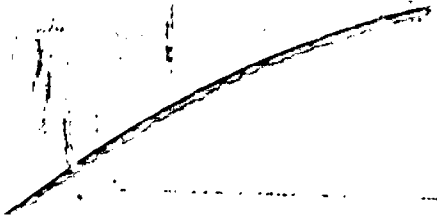
Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
	2	3	
<p>the financial benefit consequential thereupon are concerned.</p>			
<p>The Tribunal having regard to the aforesaid circumstances and the order passed earlier came to the conclusion that the Impugned order dated 16.6.2000 rejecting the claim of the applicants is not sustainable in law and accordingly set aside the same with direction to the authorities concerned to give effect to the promotion of the applicants notionally with effect from 18.4.1983, the day on which their junior i.e. the respondent No. 3 was promoted and to determine the seniority in the light of the decision/directions given in earlier application. Mr. Bhattacharjee, learned standing counsel for the respondent Union of India could not show any error, infirmity or inconsistency in the order passed by the Tribunal. No interference with the Impugned order is warranted. Consequently, the writ petition stands dismissed.</p>			

Sd/- U. B. Saha
Judge

Sd/- D. Biswas
Judge

Sl No. 62470
31-10-00

CERTIFIED TO BE TRUE COPY
 Date: 31/10/00
 Superintendent (Copying Section)
 Gauhati High Court
 Authorized U/S 76, Act 1, 1972



TU

The Director General,
(Directorate General)
(Shri Ishar Singh, UDA(P) for kind
attention, SI(B)/Part Section)m
All India Radio,
Akashvani Bhawan,
Parliament Street,
New Delhi : 110001.

Sub: W.P.(C) No. 515/ of 2003 in ^{at} Guwahati High Court
(The Union Of India and Others Vs Shri Monoranjan
Das & Others)

Sir,

Please find herewith a copy of the judgement dated
27.10.06 passed in the above noted case for favour of yr r pers
sual and compliance.

The judgement of the Hon'able High Court, Guwahati is
elaborate and clear. I would implore your honour to appreciate the
facts and grievances in the true perspective and grant the relief
to which I am entitled. The deprivation from the long due promotion
from ^{at appropriate time has not been prepared} ~~from~~ ~~per~~ ~~adised~~ my service career but it has also a demoralising
effect on day to day discharge of my duties.

I hope and trust your honour would consider the matter
sympathetically and redress my grievance ^{at} of the earliest.

Encl: As Above.

Yours faithfully,

(MONORANJAN DAS)
Programme Executive,
Commercial Broadcasting Service,
All India Radio, Guwahati.





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VAKALATNAMA.

IN THE GAUHATI HIGH COURT.

(The High court of Assam, Nagaland, Maghalaya, Manipur, Tripura, Mizoram and Arunachal Pradesh)

IN THE COURT OF CENTRAL ADMINISTRATIVE TRIBUNAL AT GUWAHATI

C. NO. 2 OF 2007 CO B 254/09

Mignorania

Appellant

Appellant

Plaintiff/Petitioner

VERSUS

G

Sri Rajeswar Singh & Ors.

Respondent

Defendant/Opposite party

Know all men by these presents that the above named:.....

do hereby nominate, constitute and appoint Sri Sarma, B. Devi, H.K. Das.....

Advocate and such of the under mentioned Advocates as shall accept this Vakalatnama to be my / our true and lawful Advocate to appear and act for me/ us in the matter noted above and in connection there with and for that purpose to do all acts whatsoever in that connection including depositing or drawing money. filling in or taking out papers. deeds of composition, etc. for me/ us and my / our behalf and I/We agree to ratify and confirm all acts do done by the said advocates as mine/ ours to all intents and purposes. In case of non-payment of the stipulated fee in full, no Advocate will be bound to appear or act on my / our behalf.

In witnesses whereof I/We hereunto set my / our hand this..... day of.....

Mr. Siddhartha Sarma.

Mr. U.K. Goswami

Mr. U.K. Nair

Miss. B. Devi

Mr. D.K. Sarmah

Mr. H.K. Das.

Sri..... Advocate, leads me / us in this case.

Accepted

Sri

Siddhartha Sarma

Advocate

Advocate

Advocate

Manoranjan Das.

Siddhartha Sarma
(Siddhartha Sarma)