

**Central Administrative Tribunal
Principal Bench**

OA No.4016/2016

New Delhi, this the 21st day of November, 2017

**Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. K. N. Shrivastava, Member (A)**

1. Sh. Sudhir Gangahar
S/o Shri Wazir Chandra Gangahar
Aged about 55 years,
Post Cameraman Grade-I,
Group ' A'
BA/87B, Janakpuri,
New Delhi 110 058.
2. Ram Kumar Gaur
S/o Late B. N. Gaur
Aged about 56 years,
Post Cameraman Grade-I,
Group ' A'
471, Type 4, Laxmi Bai Nagar,
New Delhi 110 023.
3. Indu Sunil Dang
Wife of Sunil Dang
Aged about 53 years,
Post Cameraman Grade-I,
Group ' A'
20/64, Lodhi Colony,
New Delhi 110 003.

... Applicants.

(By Advocate, Shri Apurv Lal)

Vs

1. Ministry of Information & Broadcasting
Through its Secretary
Shastri Bhawan,
New Delhi 110 001.
2. Prasar Bharti
Through its Chief Executive Officer
Prasar Bharati Secretariat

2nd Floor, PTI Building,
New Delhi 110 001.

3. Director General
Doordarshan, Mandi House,
New Delhi 110 001.

.... Respondents.

(By Advocate, Ms. Vertika Sharma and Mr. K. M. Singh)

: O R D E R (ORAL) :

Justice Permod Kohli, Chairman :

The applicants in the present OA were recruited/appointed as Cameraman Grade-II. Applicant Nos.1 & 2 were appointed on 05.01.1985 and 05.07.1985 respectively, whereas applicant No.3 was appointed on 16.02.1986. They are employees of respondent Nos.2 & 3.

2. A seniority list of Cameraman Grade-II was prepared on 09.10.1990 on the basis of their date of regular appointment. Vide order dated 16.11.2004, persons junior to the applicants belonging to SC/ST categories were promoted to the next promotional post of Cameraman Grade-I on account of accelerated promotion being reserved category candidates. Some more juniors from the same categories were promoted to the post of Cameraman Grade-I vide order dated 07.11.2007. The applicants were later promoted to the post of Cameraman Grade-I in the pay scale of Rs.8000-13500 (pre-revised) on 29.06.2012 at various Doordarshan Kendras in India. On their promotion, they made representations dated 30.05.2013, 19.02.2014 and 03.01.2015 for revising their seniority over and above

the reserved category promotees as Cameraman Grade-I. Receiving no response, they made further representations dated 01.02.2016 and 31.05.2016 claiming revision of their seniority on the promotional post of Cameraman Grade-I. The applicants were informed vide communication dated 02.09.2016 that the action on their representations is under process. The respondents, however, issued Office Memorandum dated 01.11.2016 notifying the final seniority list of Cameraman Grade-I of Doordarshan as on 01.01.2016. In the said seniority list, the applicants have again been shown juniors to the reserved category promotees who were juniors to them in the feeding channel but promoted as Cameraman Grade-I on account of accelerated promotion earlier than them. It is under these circumstances, the present OA has been filed seeking following reliefs:-

- “ i. Quash the seniority list dated 1.11.2016.
- ii. Direct the respondents to issue the revised seniority list in view of the judgment dated 27.08.2015 passed by Hon'ble Supreme Court in the matter of S. Paneerselvam & Others vs. Government of Tamil Nadu & Others.
- iii. Pass such other and further orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present case.”

3. Respondent No.1 has filed a short reply stating therein that respondent Nos.2 & 3 are cadre controlling authorities of the applicants and thus the respondent No.1 has no role to play in fixation of seniority.

4. The applicants reply upon the judgment of Apex court in *S. Panneer Selvam & Ors. Vs. Government of Tamil Nadu & Ors.* [(2015) 10 SCC 292]. The issues considered in the aforesaid case were noticed by the Apex Court in para 2 of the said judgment, which reads as under:-

“ 2. Common issues involved in this bunch of appeals are:- (i) In the absence of policy decision taken by the State/rules framed pursuant to the enabling provision of Article 16 (4A) of the Constitution of India whether a reserved category candidate promoted on the basis of reservation earlier than his senior general category candidate in the feeder category can claim consequential seniority in the promotional post; (ii) In the absence of policy decision taken by the State with regard to Tamil Nadu Highways Engineering Service Rules, whether Division Bench was right in holding that Article 16 (4A) of the Constitution of India by itself would give consequential seniority in addition to accelerated promotion to the roster-point promotees.”

Considering the entire gamut of seniority of general category candidates and the reserved category SC/ST candidates who were promoted on account of accelerated promotion earlier than the general category candidates and their relative seniority on promotional post after noticing various judgment of the Apex Court including *M. Nagraj & Ors. Vs. Union of India* (2006) 8 SCC 212, the Apex Court held as under:-

“ 35. In the absence of any provision for consequential seniority in the rules, the ‘catch up rule’ will be applicable and the roster-point reserved category promotees cannot count their seniority in the promoted category from the date of their promotion and the senior general candidates if later reach the promotional level, general candidates will regain their seniority. The Division

Bench appears to have proceeded on an erroneous footing that Article 16 (4A) of the Constitution of India automatically gives the consequential seniority in addition to accelerated promotion to the roster-point promotees and the judgment of the Division Bench cannot be sustained."

5. The factual matter as noticed hereinabove is not in dispute. Admittedly, the respondents have not issued any rules granting the consequential seniority on promotion in accordance with directions contained in *M.Nagraj's case (supra)*. Thus, in terms of the judgment of Apex Court in *S. Panneer Selvam (supra)*, the general category candidates on their promotion to the higher post would regain their seniority over and above the SC/ST category candidates promoted earlier on account of accelerated promotion by application of *catch up rule*. The controversy in the present case is squarely covered by the judgment of Apex Court in *S. Panneer Selvam (supra)*.

6. In this view of the matter, this OA is allowed. The impugned seniority list dated 01.11.2016 is hereby quashed and set aside. Respondent Nos.2 & 3 are directed to re-determine the seniority of the applicants qua the SC/ST category promotees who were shown senior to the applicants in the final seniority list of Cameraman Grade-I but were juniors to the applicants in the feeding channel of Cameraman Grade-II and were promoted on account of accelerated promotion. While re-determining seniority, respondent Nos.2 & 3 shall hear the candidates whose seniority is likely to be affected. Let the entire

exercise be completed within a period of four months from the date of receipt of certified copy of this order.

7. All ancillary applications stand disposed of.

(K. N. Shrivastava)
Member (A)

(Justice Permod Kohli)
Chairman

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