

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH**

ORIGINAL APPLICATION NO.170/01334-01335/2018

DATED THIS THE 13th DAY OF FEBRUARY, 2019

HON'BLE DR.K.B.SURESH, JUDICIAL MEMBER

HON'BLE SHRI C.V.SANKAR, ADMINISTRATIVE MEMBER

1. Rajaram K V, aged 59 years
Working as Video Executive
at Doordarshan Kendra, Bengaluru
and residing at No.91, 3rd Cross
Akashvani Layout
Dasarahalli, Hebbal
Bengaluru-560 024.
2. R.N.S.Reddy, aged about 59 years
working as Video Executive
at Doordarshan Kendra, Bengaluru
and residing at No.2, "T" Block
Ground Floor, Type 4 CPWD Staff Quarters
CPWD Complex, Vijayanagara
Bengaluru-560 040.

....Applicants

(By Advocate Shri N.Obalappa)

Vs.

1. The Union of India
Represented by its Secretary
Ministry of Information and Broadcasting
'A' Wing, Shastry Bhavan
New Delhi-110 001.
2. The Chief Executive Officer
Prasara Bharathi, II Floor
P.T.I.Buildings
Parliament Street
New Delhi-110 001.
3. The Director General
Doordarshan, Doordarshan Bhavan
Copernicus Marg
New Delhi-110 001.
4. The Addl. Dy. Director General (P)
Doordarshan Kendra
J.C.Nagar
Bengaluru-560 006.

5. The Dy. Director General (P)
Doordarshan Kendra
J.C.Nagar
Bengaluru-560 006.

6. Smt. Usha Kini
Programme Executive/ADP
O/o.ADG, SZ
Doordarshan Kendra
J.C.Nagar
Bangalore-560006.

...Respondents

(By Advocates Sri V.N.Holla for R1-5 and Sri N.G.Phadke for R6)

ORDER

(PER HON'BLE SHRI C.V.SANKAR, MEMBER (ADMN))

The applicants have filed the present OA seeking the following relief:

- a) *Call for records leading to the issuance of the Annexure-A9 dtd.9.11.2017, towards the notice of voluntary retirement and the ground of withdrawal of notice of voluntary retirement if any and assigning the additional duties in respect of Smt.Usha Kini the Ad-hoc Asst.Director of Programmes vide Annexure-A15 dtd.9.8.2018.*
- b) *To quash the Annexure-A11, dtd.7.8.2018 as only the Video Executives are the applicants in this OA and the said speaking order depriving the statutory powers admissible to the applicants in discharging the dignified and respectful duties as Video Executives, in view of Annexure-a11, dtd.9.11.2017 and 31.7.2018 etc.*
- c) *Direct the respondents to pass orders declaring the applicants as Head of the Programme as the applicants are already delegated the financial powers at Annexure-A5 & Annexure-A6 to the limited extent at 5th Respondent office, and delegating the functions of Programme Head to Smt.Usha Kini ADP create administrative hurdles and rifts in exercising of powers by Junior and Senior Officers.*

2. The facts of the case based on the submission made by the applicants in the OA and the reply statement is as follows:

The applicants while working as Cameraman Grade-I got promotion as Video

Executives vide order dtd.18.7.2017(Annexure-A1) and posted to the 5th respondent's office wherein during the absence of the Head of Office(Programme), they were assigned the duties of Programme Head vide Annexures-A3 & A4 respectively. But consequent on the transfer of the Dy.Director General Programmes, Smt.Usha Kini, Asst. Director of Programmes has been assigned the duties of Programme Head contrary to the orders passed by the 5th respondent office. 1st applicant was delegated financial powers up to Rs.7500 towards the programme activities of 5th respondent' office vide order dtd.9.7.2018(Annexure-A5) and similar order in respect of 2nd applicant is also given on 24.11.2017(Annexure-A6). The said orders are still being exercised by the applicants and only the programme head functions are delegated to Smt.Usha Kini, Ad-hoc ADP as such it creates clash in exercising the financial powers by the applicants and the ad-hoc ADP at DDK, Bangalore. They submit that Smt.Usha Kini has submitted a notice of Voluntary retirement from service, but 4th respondent considering her difficulties posted her in the above post for monitoring all programme activities of DDKs/PGFs within South Zone(Annexure-A10).

2. The applicants submit that the 3rd respondent vide speaking order dtd.17.4.2017(Annexure-A9) has clearly stated that the Video Executives in the STS grade have already been inducted to the organized service of IB(P)S and hence they are on par with Dy.Director of Programmes, Executive Producers and as such the applicants are posted at 5th respondent office against the posts of Dy.Director of Programmes & Executive Producer posts. The 3rd respondent vide order dtd.7.8.2018(Annexure-A11) issued a speaking order declaring the Head of Office and Head of the Programme in subordinate

Doordarshan Offices and submits that Programme Cadre comprises of TREX, PEX and posts in the IB(P)S whereas the Cameraman Cadre comprises of Cameraman Grade-III, Grade-II, Grade-I and Video Executive which is incorrect. The Video Executive is inducted into IB(P)S fold in the JAG grade along with STS of IB(P)S. Thus, a Cameraman Cadre Officer forms part of Programme Cadre only after induction at the JAG level in IB(P)S. In para-12 of the said order, it is submitted that as per Rule 14 of Delegation of Financial Power Rules, 1978, Departments of the Central Government, Administration and Heads of Departments shall have power to declare any Gazetted Officer subordinate to them as the Head of an Office for the purpose of these rules which is also incorrect. When the senior officer of IB(P)S in the same discipline is available, he should be assigned the delegated financial powers for higher responsibility and accountability rather than a just Gazetted officer of the programme cadre. The finding at para-18 that placing/declaring Video Executives and Cameraman Grade-I as Head of Programme is not feasible is not sustainable as delegating powers of financial, Programme Head & HOO to junior officers when the senior officer is available is incorrect and deprive the dignity of service, create humiliation and cause inefficient work by the senior officers.

3. The applicants further submit that they are posted at DDK, Bangalore vide order dtd.9.10.2017(Annexure-A12) of the 5th respondent. Consequent on transfer of Sri N.Chandrashekar DDG(P) to Kisan Vani Channel of Delhi, Sri Madhava Reddy, DDG(E) is declared as Head of Office and Controlling Officer at DDK, Bengaluru vide 4th respondent order dtd.9.8.2018(Annexure-A14) While so, vide another order dtd.9.8.2018(Annexure-A15), 4th respondent has declared Smt.Usha Kini, ad-hoc Asst.Director of Programme

as Head of the Programme in DDK, Bengaluru in addition to her own duties in office of ADG South Zone at 4th respondent office until further orders. Applicants submit that the post of Programme Executive is in All India Radio whereas equated cadre of posts at Doordarshan is producer. Smt. Usha Kini is on ad-hoc promotion to Asst. Director of Programmes and not inducted into JTS entry grade of IB(P)S on regular basis and she who is in the pre-revised pay scale of Rs.8000-13500 with Grade Pay of Rs.5400 cannot exercise the statutory powers and accord financial sanction in that grade when the applicants being the senior officers of the higher grade of STS in the IB(P)S and 2 levels higher than her are available and functioning in the same station with such powers. And they are expected to report to higher officer and cannot receive commands/instructions and function under the Junior officer ad-hoc ADP who has not yet inducted even to regular JTS Grade. Hence, the order dtd.9.8.2018 declaring Smt.Usha Kini, as ad-hoc ADP is liable to be set aside.

4. The respondents, on the other hand, have submitted in their reply statement that during the period of absence of Head of Office for more than 3 days, an alternative arrangement is being made for smooth functioning of the Kendra. As such the applicants were erroneously assigned the duties of programme sections as stop gap arrangement. The practice has been corrected by Doordarshan Directorate's communication dtd.13.8.2018(Anexure-R1). Hence, the applicants cannot claim it as a matter of right to declare them as Head of Programmes. Smt.Usha Kini, a direct recruit from UPSC was promoted as ADP/IB(P)S/JTS in 2016 and she is the senior most Programme Officer in the Kendra and has been declared as Head of Programmes to manage the day to day programme activities of the Kendra. The Head of Programmes of any particular Kendra is not an appointment to post and there is no ground for any grievance or violation of

any constitutional provision. She has been discharging the duties in programme planning, production etc. since 1991. Whereas the applicants working as Video Executives since 2017 & 2018 respectively were earlier working as Cameraman which is technical in nature. The main duties of Video Executives are to work on the electronic, film and video cameras in the studio and outside locations for different programme activities of the Kendra. The promotional channel for Programme Officers are entirely different from that of Cameraman.

5. They submit that Smt.Usha Kini, Asst. Director(P) was posted to Office of the Additional Director General (SZ), Doordarshan on public interest. Her request for VR was withdrawn by her within the permissible period of time(Annexure-R4). The Video Executive is inducted into IB(P)S fold in the JAG grade along with STS of IB(P)S. Thus a Cameraman Cadre officer forms part of Programme Cadre only after induction at the JAG level in IB(P)S. The work of Cameraman is technical in nature and ancillary to the Programme service the work of which is entirely different and cannot be equated with the same. This is a policy matter. The applicants cannot question the policy matters instead have to abide by this. The applicants cannot insist them to be declared as the Head of Programme as Head of Office is not a post. The speaking order dtd.7.8.2018 is issued on the directions of this Tribunal in OA.60/2018 after due consideration of the facts and materials at that point of time which describes the policy to be adopted by the sub-ordinate offices. The applicants cannot raise any objections on the same. Hence, the OA is liable to be dismissed being devoid of merit.

6. Applicants have filed rejoinder reiterating the submissions already made in the OA and submit that the Director General, AIR, N.Delhi vide order

dtd.14.9.2018(Annexure-A16) issued the regular promotion order of JTS Management and Production for the vacancy years 1993-94 to 1999-2000 wherein the name of Smt.Usha Kini, Adhoc AD(P) is not found in the list. As per the 3rd respondent communication dtd.13.8.2018(Annexure-R1), the Additional Director General, Doordarshan South Zone is directed to declare Smt.Nirmala Yeligar as HOP of DDK, Bangalore whereas Smt.Usha Kini whose ad-hoc promotion of Asst.Director of Programmes has not been extended and who is functioning at the office of ADG, South Zone has been declared as HOP which is another mistake committed by the ADG SZ Bangalore. Smt.Usha Kini who is drawing GP Rs.5400 has occupied the chambers of Dy.Director General (Programmes) on par with Sri Madhava Reddy, DDG(Engg.) whose GP is Rs.10,000 and photocopies of their designation boards are enclosed at Annexure-A18. Whereas the applicants' GP is Rs.6600 in the post of DDP. As per Annexure-A9 order 'Video Executive is inducted in to IB(P)S fold in the JAG grade along with the STS of IB(P)S' and hence a Cameraman Cadre officer forms part of Programme Cadre only after induction at the JAG level in IB(P)S. Since Smt.Usha Kini, Programme Executive/ad-hoc ADP, has not been inducted to JTS or regular promotion of ADP, she cannot be declared as Head of the Programme at Doordarshan Kendra, Bangalore above the level of the applicants, the STS IB(P)S officers and they cannot receive orders from a subordinate and a non IB(P)S officer as it violates the system of organised service rules.

7. Heard the Learned Counsel for both the parties and gone through the records in detail. The issue in this application was already before the Hon'ble CAT, Principal Bench, New Delhi in OA.No.60/2018 & MA.No.56/2018 wherein the Hon'ble CAT, PB, N.Delhi vide its order dtd.5.6.2018 had disposed of the OA at the admission stage without going into the merits of the

case with a direction to the competent authority to decide the representations filed by the Doordarshan Programme Professional Association and also by the individual within three months from the date of receipt of a copy of the order by passing a reasoned and speaking order. The prayer in that OA was to declare Video Executives as Head of the Programme when there is no senior STS level or above officer available in the programme section with similar declarations sought for at the level of Cameraman Gr-I & II. The basic plea in this OA is against declaring an officer from the programme side as the Head of the Programme as well as the Head of the Office in view of certain Video Executives being senior and drawing more pay etc. The speaking order at Annexure-A11(the impugned order) cites Rule 14 of Delegation of Financial Power Rules, 1978 of Govt. of India wherein the departments of the Central Government have the power to declare any Gazetted Officer subordinate to them as the Head of an office for the purpose of these rules. As rightly contended by the respondents, it is the sole prerogative of the department concerned to declare any officer subordinate as the Head of the Office for the smooth running of the administration excepting the provision that no two officers shall be appointed as Head of the Office in the same establishment or office.

8. Further, as detailed in the speaking order at Annexure-A11, the Head of the Office is not a post. It is only about assigning duties and responsibilities for running the day to day affairs of an office without any additional remuneration. It is also clarified that the Head of the Office is not expected to write the APARs of equivalent officers and those carrying higher pay scales. They continued to be recorded by the officers senior to them in the respective cadre or the Regional Heads, as the case may be. The respondents have also contended that as directed by the Hon'ble CAT, Principal Bench, they

already have a regular procedure to be followed for declaration of Head of the Office vide OM No.A-10/76/2014-PPC dtd.13.6.2014. Therefore, the appointment of Smt.Usha Kini as Head of the Office cannot be assailed on any ground.

9. With regard to the issue of Head of the Programme, it is clear that as held by the Delhi High Court in WP(C) No.19717/2004 dtd.28.3.2008, the nature of functions on the programme side and that of Cameramen are entirely different. While the work of the Cameramen and Video Executives is technical in nature, the work of the programme service side is to conceptualize, visualize and produce programmes. However, this does not mean that either the programme service is superior or that the service of the Cameramen and Video Executives is inferior. In fact, without the efficient functioning of the Cameramen and Video Executives, no programme can be successfully produced and telecast. However, it is the sole discretion of the respondents' organisation to confer the authority of the Head of the Programme on the senior most programme officer available for the time being at a particular Kendra irrespective of the seniority or pay of officers from the other wings. The contentions of the applicants that the existing arrangement will create administrative hurdles and rifts in exercising the powers of junior and senior officers including their apprehensions that taking orders from the so called junior officers etc. do not deserve any merit since in the interest of the smooth functioning of an organisation and the needs of the respondents with regard to the broadcasting of quality programmes, the decision taken by them cannot be interfered with merely on the basis of apprehensions and feelings of officers at various levels. In this particular instance, some of the officers might be having more experience in the organisation and may be getting more pay. But the point to be underscored is that the programme side

and the Cameramen side are two distinct categories and as per the rules they merge only at an appropriately senior level and therefore, the right of the respondents to declare officers from the programme side as Head of the Programme cannot be interfered with.

10. The OA is devoid of merits and therefore dismissed. No costs.

(C.V.SANKAR)
MEMBER (A)

(DR.K.B.SURESH)
MEMBER (J)

/ps/

Annexures referred to by the applicants in OA.No.170/01334-01335/2018

- Annexure-A1: 3rd respondent vide order No.34/01/2017/S-1(A) dtd.18.7.2017
Annexure-A2: Office Note No.BNG/DDK/2(3)DG/2017 dtd.11.8.2017, 8.9.2017 and 1.12.2017
Annexure-A3: Orders No.BNG/DDK/2(3)/DDG-2018 dtd.11.7.2018, 13.7.2018, 26.7.2018 & 6.12.2017
Annexure-A4: Orders dtd.16.2.2018, 25.5.2018, 22.6.2018
Annexure-A5: Order No.BNG/DDK/25(7)/17-A dtd.9.7.2018
Annexure-A6: Order No.BNG/DDK/25(7)/18-A dtd.24.11.2017
Annexure-A7: DDK Jalandar vide order No.DDK/JAL/Sg.E/0/2007/7065 dtd.01.08.2007
Annexure-A8: Order No.A 32013/11/2016/BAP dtd.30.6.2016 promotion of Ad-hoc Asst.Director of Programmes
Annexure-A9: Speaking Order No.F.No.2/12/2014-S-I(A) dtd.17th April, 2017 issued by the 3rd respondent
Annexure-A10: Order No.10/2017 issued in File No.BAN.1(2)/2016-S/ADG/5468 dtd.9.11.2017 towards the VRS of Smt.usha Kini, adhoc ADP
Annexure-A11: Order No.C-17011/01/2018-S-III dtd.7.8.2018 speaking order issued by the 3rd respondent on declaring the Head of office/Head programme etc.
Annexure-A12: Order No.33/06/2017 S-I(A) dtd.09.10.2017 posting the applicants to the 5th respondents' office
Annexure-A13: Transfer order No.1001/37/2017-PPC transferring the DDG(P) from DDK Bangalore to Delhi Kisaan Vani division
Annexure-A14: Order No.ADG 1(2)2018 S 6816/ADE(V) dtd.9.8.2018 declaring Shri Madhava Reddy DDG(E) as Head of office
Annexure-A15: Order No.ADG 1(2) 2018 S 6816/ADE (V) dtd.9.8.2018 declaring Smt.Usha Kini, ADP as Head of programme

Annexures with reply statement:

- Annexure-R1: Copy of Directorate's Communication dtd.13.8.2018
Annexure-R2: Copy of CAT, PB order dtd.1.1.1999
Annexure-R3: Extract of relevant pages of Doordarshan Manual
Annexure-R4: Copy of withdrawal of notice of VR by Smt.Usha Kini

Annexures with rejoinder:

- Annexure-A16: Copy of order dtd.14.9.2018
Annexure-A17: Delegation of Financial Powers
Annexure-A18: Delegation of Boards
Annexure-A19: Allocation of duties order dtd.1.10.2018

Additional documents with memo filed by the applicant:

Document-1: Copy of the draft notification of Prasar Bharati Broadcasting
(Programme) Services regulation – 2017

Annexures with MA.23/2019 filed by the respondents:

Annexure-R1: The relevant extract of Prasar Bharati Amendment Act, 1990
