

OA.No.170/01719/2018/CAT/Bangalore Bench
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/01719/2018

DATED THIS THE 10th DAY OF JANUARY, 2019

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

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

1. Doordarshan Program Professionals' Association (DPPA)
 Represented by its General Secretary
 Sri.P.J.Francis, S/o Late P.V.Joseph
 Aged 56 years, working as
 Cameraman Grade-I
 Doordarshan Kendra
 P.B.Marg, Worli
 Mumbai-400 030.

2. I.S.Ramakrishna
 S/o Late L.S.Shankar Jois
 Aged 57 years, working as
 Cameraman Grade-I
 Doordarshan Kendra
 J.C.Nagar
 Bengaluru-560 006.
 Residing at No.4, 3rd Cross
 'A' Sector, Amruthanagara
 Sahakaranagara Post
 Bengaluru-560 092.

....Applicants

(By Advocate Shri A.R.Holla)

Vs.

1. Union of India
 By Secretary
 Ministry of Information and Broadcasting
 Shastry Bhavan
 Dr.R.P.Road
 New Delhi-110 001.
2. The Chief Executive Officer
 Prasara Bharathi
 Broadcasting Corporation of India
 P.T.I.Buildings
 Parliament Street
 New Delhi-110 001.
3. The Director General (Doordarshan)
 Prasar Bharati Broadcasting Corporation of India
 Doordarshan Bhavan

Copernicus Marg
New Delhi-110 001.

4. The Deputy Director General
Doordarshan Kendra
J.C.Nagar
Bengaluru-560 006.
5. Usha Kini
W/o. Kulai Vasanth Kini
Aged about 60 years
Assistant Director (Programme)(Adhoc)
O/o. Doordarshan Kendra
J.C.Nagar
Bangalore-560006.
6. Nirmala Yaligar
W/o.Chandrashekar Yaligar
Aged about 54 years
Assistant Director (Programme)(Adhoc)
O/o.Doordarshan Kendra
J.C.Nagar
Bangalore-560006.
7. Udayadri
S/o.Rajatadri
Aged about 60 years
Assistant Director (Programme)(Adhoc)
O/o.Commercial Broadcasting Service
All India Radio
Bangalore-560001.
8. G.K.Raveendra Kumar
S/o.G.S.Krishna Murthy
Aged about 57 years
Assistant Director (Programme)(Adhoc)
O/o. All India Radio Complex
Rajbhavan Road
Bangalore-560001.
9. Dr.D.Padmavathi
D/o.Sri Dr.S.R.Krishna Murthi
Aged about 55 years
Asst.Director (P)(Adhoc)
O/o. All India Radio Complex
Rajbhavan Road
Bangalore-560001.
10. Dr.N.Raghu
D/o.Sri S.Nanjundiah
Aged about 52 years
Asst.Director (P)(Adhoc)
O/o.All India Radio Complex
Rajbhavan Road

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Bangalore-560001. ...Respondents

(By Advocates Sri M.Vasudeva Rao for R1-4 and Sri N.G.Phadke for R5-10)

ORDER

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

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

- a) *To restrain the respondents from promoting the 'Programme Executives' to fill up the posts of JTS of IB(P)S without including the Cameraman Grade-I in pursuance of the order F.No.01/02/2017-S-1(A)/731 dated 24.08.2018, issued by the respondent No.3, Annexure-A11.*
- b) *Direct the respondents to ascertain the vacancies in the cadre of Junior Time Scale of IB(P)S and the vacancies to be earmarked for Cameraman Grade-I for encadrement in JTS as per the Recruitment Rules of 1990, Annexure-A4 and consider the applicants for JTS post.*

2. The applicant No.1 is an association of officials espousing the cause of the Cameraman Grade-1 working in Doordarshan Kendras all over India. The details of 93 Cameraman Grade-1 working in Doordarshan as on 01.01.2018 are furnished in the official memorandum dtd.16.5.2018(Annexure-A1). Applicant No.2 was appointed as Cameraman Grade-II initially and promoted to Cameraman Grade-I on 08.11.2007 in Doordarshan. He is working in Doordarshan Kendra, Bengaluru at present. The applicant No.2 possesses the qualification of Diploma in Cinematography. As per the 5th Pay Commission recommendation, the Government vide order dtd.06.02.1998(Annexure-A2) has revised the scale of pay for Cameraman Grade-I from Rs.2375-3500 (Gr.B) to Rs.8000-13500(Gr.A) and also decided to encadre the Cameraman Grade-I in Indian Broadcasting (Programme) Service(IB(P)S) at Junior Time Scale level. Accordingly, respondent No.3 has been advised to keep the recommendations of 5th Central Pay Commission in

view while framing regulations for the programme service of Prasar Bharati vide order dtd.20.09.2000(Annexure-A3). However, the upgradation of the post of Cameraman Grade-I and the recommendations of the 5th CPC to encadre the said post to IB(P)S have not been reflected in the IB(P)S Rules, 1990 which were brought into force w.e.f. 05.11.1990(Annexure-A4). As per Schedule V of these rules, Cameraman Grade-I in the pay scale of Rs.2375-3500 with two years regular service will be eligible against the vacancies specially earmarked for Programme Officer (Cameraman). However, no vacancies have been earmarked for Programme Officer (Cameraman) in terms of the said rules so far. In the above circumstances, some of the similarly situated Cameraman approached CAT, Principal Bench in OA.No.1176/2013 with a request to re-designate the post of Cameraman Grade-I as Programme Officer and include them in IB(P)S as per the above rules and the same was disposed of vide order dtd.08.07.2015(Annexure-A5) directing the 1st respondent to earmark the vacancies of Programme Officer(Cameraman) from among the Cameraman Grade-I with two years regular service for their inclusion in feeder category for post of Junior Time Scale Programme Officer and extend the consequential benefits. In spite of which, the 1st respondent passed order dtd.30.11.2015(Annexure-A6) holding that earmarking of the vacancies of Programme Officer(Cameraman) from among the Cameraman Grade-I with 2 years regular service for their inclusion in feeder category for post of Junior Time Scale under IBPS is not feasible and the request of the applicants therein for re-designating the post of Cameraman Grade-I as Programme Officer and encadrement of applicants into IBPS cannot be acceded to. Aggrieved by the same, the applicants therein have filed CP for non-compliance of the order before CAT, Principal Bench which gave a direction to the respondent No.1 to reconsider the matter

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in the light of the Recruitment Rules as well as order of the Tribunal and to comply with the same in letter and spirit vide order dtd.01.12.2015(Annexure-A7). The said order was questioned by the respondents before the Hon'ble High Court of Delhi in WP(C) No.670/2016 which was disposed of on 04.04.2016(Annexure-A8) without expressing any opinion and giving liberty to the private respondents to challenge the order dtd.30.11.2016 before CAT. Thereafter, some of the Cameraman Grade-I approached the CAT, Principal Bench again in OA.No.1895/2016 with a prayer to re-designate the post of Cameraman Grade-I as Programme Officer and to include them in the IB(P)S and the same was disposed of vide order dtd.25.09.2018(Annexure-A9) directing the respondents to deal with the entitlement of the applicants to be considered for the post of Programme Officer(Cameraman) in the light of para 5 of the Schedule V of Indian Broadcasting(Programme) Service Rules, within 3 months. In the meantime, the 2nd respondent initiated the process of promotion of Programme Executive/equated cadres to JTS and their encadrement of IBPS. The same has been questioned by the aggrieved Cameraman before this Tribunal in OA.No.1376-1381/2018 which is pending now, saying that the Programme Executives belong to Group 'B' posts as per All India Radio (Group 'B' Posts) Recruitment (Amendment) Rules, 1984 notified on 23.10.1984(Annexure-A10).

3. They further submit that the 3rd respondent has now initiated the process of promotion to the post of JTS of IB(P)S against the vacancies from 2000-2001 to 2017-2018 by seeking option of the Programme Executives who are in the Group 'B' cadre vide order dtd.24.08.2018(Annexure-A11) without considering the Cameraman Grade-I for encadrement in IB(P)S as per the rules. The said order indicates that the proposal of promotion to fill up the vacancies in JTS cadre is in accordance with the recruitment rules of 1990 but it excludes the

Cameraman Grade-I from consideration for JTS cadre even though they are in the cadre of Group 'A' and the officials sought to be promoted as per Annexure-A11 are in Group 'B' cadre. The view taken that 'Programme Executive' a Group 'B' officer is preferable to Cameraman Grade-I, a Group 'A' Officer to be encadred in to IB(P)S is erroneous and arbitrary. The applicants submit that Cameraman Grade-I will be seriously prejudiced if their juniors are considered for promotion to JTS cadre disregarding their seniority and status in Group 'A' cadre. The applicants shall have no opportunity to be the Video Executives (the post at STS level) unless they are promoted to JTS cadre. The respondents have taken steps to fill up the posts in JTS cadre for the last 18 years at a time when the issue is pending consideration in OA.1376-1381/2018 and they did not disclose the total number of vacancies to be filled up. Hence, the action of the respondents is totally unfair and unjustified.

4. The respondents have filed reply statement wherein they submit that the Tribunal has no jurisdiction to entertain the case of the 1st applicant who is General Secretary in Doordarshan Programme Professionals' Association(DDPA) working at Doordarshan Kendra Mumbai and the Association is defective as the conditions mentioned in Rule 7 of CAT Rules of Practice 1993 has not been followed. Neither an authorisation letter for and on behalf of the Association nor the copy of the resolution of the Association empowering such persons to file the OA have been produced. Besides, the list of the members of the Association has also not been produced. Hence, on this ground alone, the OA is not maintainable and is liable to be dismissed.
5. The respondents submit that the final seniority list of Cameraman Grade-I of Doordarshan as on 1.1.2018 at Annexure-A1 is released by the department with a condition that the seniority list will be subject to the outcome of the Writ

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Petition No.(C).2297/2018 in the Hon'ble High Court of Delhi. Ministry of Information & Broadcasting had advised Prasar Bharati vide order dtd.20.9.2000 to keep the recommendations of V CPC in view while framing recruitment regulations for the Programme Service of Prasar Bharati. Moreover, employees recruited till 5.10.2007 are Govt. employees on deemed deputation to Prasar Bharati governed by Recruitment Rules and not by Recruitment Regulations. The recommendations of 5th CPC was implemented w.e.f. 1.1.1996 whereas the Gazette Notification on IB(P)S rules, 1990 was published on 5.11.1990. The action to publish the IB(P)S Rules, 1990 was taken much before introduction of 5th CPC. A final decision on the matter of non-encadrement of Cameraman Grade-I into IB(P)S has already been taken by Ministry of Information and Broadcasting in consultation with Prasar Bharati. Accordingly, necessary amendments in IB(P)S Recruitment Rules are being carried out. Earlier an OA.No.1248/2001 filed by Sri Krishan and Doordarshan Cameraman Welfare Association before CAT, Principal Bench(PB) with a prayer for encadrement of Cameraman Grade-I into IB(P)S, Group 'A' with all consequential benefits was dismissed vide order dtd.27.6.2003(Annexure-R1) stating that Cameraman Grade-I does not belong to any of the four cadres mentioned in Recruitment Rules. Therefore, the applicants cannot claim that they have right to automatic encadrement. The order dtd.27.6.2003 of Hon'ble CAT was challenged before Hon'ble High Court of Delhi in WP(C) No.19717/2004 which was also dismissed by order dtd.28.3.2008(Annexure-R2) stating that 'the Pay Commission had not recorded any findings on the merits or otherwise and had only recommended the issue of encadrement in the final decision was to be taken by the concerned competent authority'. The Court also noted that 'the nature of functions performed by Cameraman is different from Programme Service.

Work of Cameraman is technical in nature and that of programme service is to conceptualize, visualize and produce programme. Work of Cameraman is ancillary to the programme service and cannot be equated with the same'. The Hon'ble High Court did not find error in the order dtd.27.6.2003 of CAT, PB which directed that the Cameraman Grade-I does not belong to any of the four categories or independent cadres of IB(P)S, namely Programme Management Cadre of All India Radio, Programme Management Cadre of Doordarshan, Programme Production Cadre of All India Radio, Programme Production Cadre of Doordarshan and that the applicants cannot claim that they have the right to encadrement. Despite the decision of the competent authority for non-inclusion of Cameraman Grade-I, the applicants through their Association or other individuals are approaching various judicial forums for re-agitating similar demands which is coming in the way of holding DPCs.

6. The respondents further submit that the Ministry of Information and Broadcasting have issued a speaking order dtd.30.11.2015 clarifying the stand taken to the directions in OA.No.1176/2013 and mentioned that 'the matter has been reconsidered in consultation with Prasar Bharati and the fact that Schedule VII of IB(P)S rules providing that the post of Video Executive will maintain their separate entity and will be filled up from the respective feeder grade (i.e.Cameraman Grade-I) until they are merged at the stage of 3700-5000 (i.e.JAG level of IBPS) is being followed in letter and spirit and taking into consideration the other facts mentioned above, it has been decided that earmarking the vacancies of Programme Officer (Cameraman) from among the Cameraman Grade-I with 2 years regular service for their inclusion in feeder category for post of Junior Time Scale(JTS) under IBPS is not feasible. It has also been decided that the request of the applicants for re-designating the post of Cameraman Grade-I as Programme Officer and

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 encadrement of applicants into IBPS cannot be acceded to'. The Hon'ble CAT, PB vide order dtd.25.9.2018(Annexure-R3) in OA.No.1895/2016 observed that once it is not feasible to equate the post of Programme Officer(Cameraman) to the post of JTS Programme Officer, the respondents are justified in declining to accede to the request of the applicants. In view of the observations of Hon'ble CAT, the Ministry of Information and Broadcasting is in process for carrying out amendments in IB(P)S Rules 1990 by removing the clauses of the Recruitment Rules, that have become redundant. The 2nd respondent has initiated the process of promotion to the post of JTS of IB(P)S against the vacancies from 2000-2001 to 2017-2018 from the officers working in Programme Management Cadre or Programme Production Cadre of either of the two media (i.e. Doordarshan/All India Radio). The respondents are taking the action to fill the vacancies as per the provision of sub rule 7(6)(A)(i) of the IB(P)S Rules, 1990. Sub-Rules (1) and (2) of Rule 6 of IBPS rules provide that only the departmental candidates holding posts on regular basis in the scale of pay of Rs.5900-6700, Rs.3700-5000, Rs.3000-4500 and Rs.2200-4000 shall from the date of commencement of these rules be deemed to have been appointed to corresponding posts and grades in the service. Rule 2(c) of IBPS Rules, 1990 defines the departmental candidates as 'officers appointed on regular basis in consultation with the Commission on the recommendations of the DPC and who hold posts on regular basis or hold lien in Group 'A' Programme cadre of All India Radio and Doordarshan on the date of commencement of these rules' and 'all officers appointed on regular basis to the post of Video Executive in Doordarshan in the pay scale of Rs.3000-4500'. Since Cameraman Grade-I is the feeder cadre for Video Executives as per the Doordarshan Programme(Technical-Camera) Group A and Group B Recruitment Rules 1987 and there was no post as Programme

Officer(Cameraman) in Group 'A' Programme cadre of All India Radio and Doordarshan, a combined reading of Sub Rule (i) of Rule 6 and Rule (c) of IBPS rules indicates that Programme Officer (Cameraman) or Cameraman Grade-I does not fall into this category of Departmental Candidates, to be inducted into IBPS at the time of constitution of the service. Since, Cameraman Grade-I has been indicated to have the pay scale of Rs.2375-3500 (at the time of notification of IBPS rules), IBPS rules do not intend to make Cameraman Grade-I as the feeder cadre for JTS Programme Officer posts. Also there is no provision in IBPS Rules, 1990 to re-designate the post of Cameraman Grade-I as Programme Officer and to include such officers in IBPS.

7. On the contention of the applicants that the respondents have now initiated the process of promotion to the post of JTS of IB(P)S against the vacancies from 2000-2001 to 2017-2018, the respondents submit that in pursuance of directions of Hon'ble CAT, Principal Bench dtd.4.11.2015 in CP.No.39/2004 in OA.No.243/2002, DPC for promotion to the post of JTS of IBPS for the vacancies of years 1993-94 to 1999-2000 has been convened by UPSC for which an order empanelment/regular promotion to the Grade of JTS of IB(P)S has been issued on 14.9.2018. Next DPC for the years 2000-01 onwards has to be convened by the Prasar Bharati which is at the advance stage. The applicants will receive their promotion according to their turn as per their existing recruitment rules i.e., Doordarshan Programme (Technical/Camera) Group A and Group B Recruitment Rules 1987. The Cameraman Grade-I will receive their promotion according to their seniority. The applicants' contention that their juniors are considered for promotion to JTS is purely imaginary. It was clarified in the speaking order dtd.30.11.2015 that there is no provision in IBPS Rules, 1990 to re-designate the post of Cameraman Grade-I as

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Programme Officer and to include such officers in IBPS. It was further clarified that Doordarshan Programme (Technical-Camera) Group 'A' and 'B' Recruitment Rules 1987 have so far not been repealed, the Cameraman Grade-I still exists as feeder posts to Video Executive. 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(PS). This is a policy matter. The applicants cannot question the policy matters adopted by the employer and they are required to abide by this. Also it was clarified that the Cameraman Grade-I has already been granted the scale of Rs.8000-13500 (V CPC), no need was felt for creating of another post of Programme Officer (Cameraman) in the same pay scale to be covered by the Doordarshan Programme(Technical-Camera) Group 'A' and 'B' Recruitment Rules 1987. Therefore, the contention of the applicants is devoid of merit and the OA is liable to be dismissed.

8. We have heard the Learned Counsel for the parties. The Learned Counsels for the applicant and the respondents have made submissions reiterating the factual position and their points as highlighted by them in the OA and the reply statement.
9. We have gone through the main contentions of the applicant and reply of the respondents in detail. The main relief sought by the applicants is for ascertaining the vacancies in the cadre of Junior Time Scale(JTS) of IB(P)S and the vacancies to be earmarked for Cameraman Grade-I as per the recruitment rules of 1990 so as to consider them for the JTS level posts and to restrain the respondents from promoting the Programme Executives to fill up the posts of JTS of IB(P)S without including the Cameraman Grade-I. The issue has been comprehensively dealt with by the Principal Bench of CAT in

OA.No.1895/2016 vide order dtd.25.09.2018. The details of the issue at stake are succinctly reproduced in the order of the Hon'ble Principal Bench of CAT which we reproduce below:

"The applicants held the post of Cameraman Grade-I in Doordarshan. They approached this Tribunal by filing O.A. No. 1176/2013 with a prayer to direct the respondents to implement the Indian Broadcasting (Programme) Service Rules, 1990 in true spirit, in respect of the post of Cameraman Grade-I, to re-designate the post of Cameraman Grade-I as Programme Officer and to include them in the Indian Broadcasting (Programme) Service. Their contention was that the post of Cameraman Grade-I carried the pay scale of Rs.2200-4000, which is the same, as that of Junior Time Scale Programme Officer of the Programme Production Cadre of the IB (P) Service and there was no justification for not merging the post of Cameraman Grade-I, into that cadre. Their further plea was that under the service rules for promotion to the post of Junior Time Scale Programme Officer, the Cameraman Grade-I with two years of service is treated as one of the feeder categories but, there was no opportunity for them on account of not earmarking vacancies for their cadre.

2. The O.A was disposed of on 08.07.2015 with a direction to reconsider the entire issue and to earmark the vacancies of Programme Officers (Cameraman) for the Cameraman Grade-I with two years regular service, and to consider the cases of the applicants with others; and to extend the consequential benefits.

3. The respondents passed a detailed speaking order dated 30.11.2015 refusing to accede to the request of the applicants. A Contempt Petition was filed and it was closed leaving it open to the applicants to challenge the said speaking order. Hence this O.A.

4. The applicants contend that once there is a specific direction to earmark posts of Programme Officer (Cameraman) for Cameraman Grade-I, there was absolutely no basis for refusing to accede to the request of the applicants through the speaking order.

5. The respondents filed a detailed counter affidavit and other supporting documents. According to them, Cameraman Grade-I happens to be a feeder category for the post of Video Executive and question of its being treated as part of the Indian Broadcasting Programme Service does not arise. It is also stated that over a period, several developments have taken place on account of which, the necessity to earmark posts of Programme Officers in favour of Cameraman Grade-I ceases to exist. Other contentions of the applicants are also dealt with.

6. Heard Mr. S. S. Mishra, learned counsel for applicant and Mr. G. S. Virk, learned counsel for respondents.

7. The operative part of the order passed by the Tribunal in the O.A reads as under :-

"10. We, therefore, dispose of this OA with a direction to the respondents-Ministry of Information and Broadcasting to re-consider the matter in the light of the aforesaid provisions of the Recruitment Rules and to first of all earmark the vacancies of Programme Officer (Cameraman) from among the Cameraman Grade-I with two years regular service for their inclusion in feeder category for post of Junior Time Scale Programme Officer under

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the IB(P) S. If the applicants are found eligible, they shall be given the consequential benefits. The aforesaid directions shall be complied with, within a period of two months from the date of receipt of a certified copy of this order. There shall be no order as to costs."

8. In compliance to this, a speaking order dated 30.11.2015 was passed. It runs into several pages. Para 16 thereof indicates the conclusion arrived at by the respondents, and reads as under :-

"Now, therefore in compliance of the order dated 08.07.2015 of Hon'ble CAT, Principal Bench, New Delhi in the instant case, the matter has been reconsidered in consultation with Prasar Bharti and the fact that Schedule-VII of IBPS Rules providing that the posts of Video Executive will maintain their separate entity and will be filled up from the respective feeder grade (i.e Cameraman Grade-I) until they are merged at the stage of 3700-5000 (i.e JAG level IBPS) is being followed in letter and spirit and taking into consideration the other facts mentioned above, it has been decided that earmarking of the vacancies of Programme Officer (Cameraman) from among the Cameraman Grade-I with 2 years regular service is not feasible. It has also been decided that the request of the applicants for re-designating the posts of Cameraman Grade-I as Programme Officer and encadrement of applicants into IBPS cannot be acceded to."

9. To understand the entire scenario, it is necessary to refer to certain basic facts. The Indian Broadcasting (P) Service is a separate cadre by itself and it comprises of as many as five Grades in all, which are as under :-

Sl. No.	Grade	All India Radio	Doordarshan	Scale of Pay
1.	Senior Administrative Grade Deputy Director General (Management)	10	11	Rs.5900-200-6700
2.	Junior Administrative Grade (Selection Grade) Senior Director	-	-	Rs.4500-150-5700
3.	Junior Administrative Grade Director/Controller	44	15	Rs.3700-125-4700-150-5000
4.	Senior Time Scale Deputy/Deputy Controller	130	32	Rs.3000-100-3500-125-4500
5.	Junior Time Scale Programme Officer	144	37	Rs.2200-75-2800-EB-100-4000
	Total	328	95	

10. There is a separate cadre known as the Doordarshan Programme (Technical - Camera) Group 'A' and Group 'B', under the Recruitment Rules, 1987. The post of Video Executive is at the top and the feeder category for that is Cameraman Grade-I. The other posts such as Cameraman Grade-I occur down below.

11. In the Indian Broadcasting (Programme) Service Rules also, a provision is made for promotion of Cameraman Grade-I to a post which is equivalent to Junior Time Scale Programme Officer. This is evident from para 5 of Schedule V of these rules, which reads :

5.	Junior Time Scale Programme Officer Rs.2200-75-2800-	50% by promotion and 50% by direct recruitment in accordance with	The following categories of staff with three years regular service in the grade will be eligible
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	EB-100-4000	sub rule 2 of rule 7	1.Producer (Selection Grade) 2. 2. Producer 3. Producer Grade II 4. Translator 5. Editor 6. Editor (Scripts) 7. Reference Officer Like-wise Cameraman Grade I in the pay scale of Rs.2375-3500 with two years regular service will be eligible against the vacancies specifically earmarked for Programme Officer (Cameraman).
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12. From this, it becomes clear that the Cameraman Grade-I is made as Feeder Category for the post of Junior Time Scale Programme Officer on the one hand and Video Executive on the other, which occur two different services. The applicants made substantial efforts to get themselves equated to the post of Programme Officer with the pay scale of 2200-4000/-, did not fructify on account of the fact that method of selection and other attributes of the two posts are totally different. Similar prayer made in O.A. No.1248/2001 was declined by the Tribunal vide order dated 27.06.2003. WP (C) No. 19717/2004 preferred against the Tribunal's aforementioned order was also dismissed by the Hon'ble Delhi High Court on 28.03.2008.

13. The only question, therefore, which remains to be decided, is as to whether the applicants were entitled to be considered for promotion to the post of Programme Officer (Cameraman), as per Schedule V of the Indian Broadcasting (Programme) Service Rules. The speaking order proceeded on the lines, which are inappropriate, obviously because the prayer of the applicants was totally different from the one that was canvassed before this Tribunal. They want straightaway to be equated to the post of Junior Time Scale Programme Officer. Once it is not feasible, the respondents are justified in declining to accede to the request of the applicants. The respondents made a specific mention to the orders referred to above and passed a speaking order.

14. However, the aspect of the enforcement of para 5 of the Schedule V of the Indian Broadcasting (Programme) Service Rules was not addressed. In case the post of Programme Officer (Cameraman) has not been created, the reasons as to why the provision of promotion to the post still exists, need to be mentioned. On the other hand, if the post has become redundant, even that needs to be mentioned.

15. We, therefore, dispose of the O.A and direct the respondents to deal with the only aspect namely the entitlement of the applicants to be considered for the post of Programme Officer (Cameraman) in the light of para 5 of the Schedule V of Indian Broadcasting (Programme) Service Rules. This exercise shall be completed within a period of three months from the date of receipt of a certified copy of this order.

10. With regard to the exercise now undertaken by Prasar Bharati as at Annexure-A11, for promotion to the post of JTS of IB(P)S against the

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vacancies from 2000-2001 to 2017-2018, the respondent organisation intends only to consider Programme Executives with 3 years of regular service and the applicants in this OA are not considered for this exercise. As already noted, the Hon'ble CAT, Principal Bench has directed the respondents to deal with the entitlement of the applicants namely Cameraman Grade-I to be considered for the post of Programme Officer(Cameraman) in the light of para-5 of Schedule V of Indian Broadcasting(Programme) Service Rules. The said Rules do have a provision for earmarking of vacancies specifically for Programme Officer(Cameraman). It is to be noted that the JTS Programme Officer vacancies to be filled up as per Annexure-A11 have the same pay scale which the Cameraman Grade-I have already been given. Therefore, while considering the promotional aspects of Programme Executives who are in Group-B and in a pay scale one level below that of Cameraman Grade-I, it defies logic as to why the respondents cannot earmark certain posts for the Cameraman Grade-I as already provided in IB(P)S Rules 1990 which admittedly are still in existence. After all the litigations, the respondents would now claim in their reply in para-7 that the Ministry of Information and Broadcasting is in the process of carrying out amendments in IB(P)S Rules 1990 by removing the clauses of the recruitment rules that have become redundant(including those related to Cameraman). The main plea of the respondents has all along been that the Cameraman Grade-I did not have any right for automatic encadrement of IB(P)S Rules since they are already a feeder category to the posts of Video Executives and along with Senior Time Scale employees on the Programme side, they will also be merged with the same at the level of Junior Administrative Grade of IB(P)S. This does not mean that the applicants are not eligible for the vacancies of JTS Programme Officers based on the number of vacancies earmarked for them as already

provided in the service rules. In fact, contrary to the respondents' claim, the said rules in note-(iii) of Schedule-VII specifically state that the number of posts of Cameraman to be included in the Junior Time Scale of Programme Productions Cadres of Doordarshan will be decided separately. Therefore, the claim of the respondents in para-8 of their reply that since Cameraman Grade-I have the pay scale of Rs.2375-3500 (at the time of notification of IBPS Rules), IBPS Rules do not intend to make Cameraman Grade-I as the feeder cadre for Junior Time Scale Programme Officer posts cannot be accepted since the request of the applicants is for earmarking certain posts in the JTS Programme Officer level for Cameraman Grade-I and nowhere has any request been made for considering them as feeder categories since they already are in that pay scale level. All along, the Cameraman Grade-I have been considered to be one of the categories of the staff eligible to be entered into the IB(P)S and any amendment to the rules which the respondents are contemplating can have only prospective effect and not retrospective effect as has been held in a number of cases.

11. The respondents are therefore directed to consider the order of the Hon'ble Principal Bench of CAT in OA.No.1895/2016(supra) and take appropriate action for the purpose of earmarking certain vacancies in the JTS of IB(P)S rules, encadre them in the JTS and give them an opportunity as has been given to the Programme Executives who are one level below them. We do understand that the respondents' organisation has every right to take a policy decision in this regard but their arguments for denying the case of the applicants are not sustainable as the relief sought for by the applicants is clearly provided in the rules which are currently applicable. The OA is therefore, allowed. The respondents are also directed to proceed with the process initiated as per Annexure-A11 only after implementation of the above

orders. No costs.

(C.V.SANKAR)
MEMBER (A)

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

/ps/

Annexures referred to by the applicant in OA.No.170/01719/2018

Annexure-A1: Copy of the OM dtd.16.05.2018
Annexure-A2: Copy of the order dtd.06.02.1998
Annexure-A3: Copy of the order dtd.20.09.2000
Annexure-A4: Copy of the notification dtd.05.11.1990 with the recruitment rules
Annexure-A5: Copy of the order dtd.08.07.2015 in MA.No.898 of 2013
Annexure-A6: Copy of the order dtd.30.11.2015
Annexure-A7: Copy of the order dtd.01.12.2015 in CP/636/2015
Annexure-A8: Copy of the order dtd.04.04.2016 in WP(C) No.670/2016
Annexure-A9: Copy of the order dtd.25.09.2018 in OA.No.1895 of 2016
Annexure-A10: Copy of the notification dtd.23.10.1984
Annexure-A11: Copy of the order dtd.24.08.2018

Annexures with reply statement:

Annexure-R1: Copy of the order dtd.27.6.2003 in OA.No.1248/2001 of CAT, PB, N.Delhi
Annexure-R2: Copy of High Court of Delhi order dtd.28.03.2008
Annexure-R3: Copy of order dtd.25.09.2018 in OA.1895/2016 of CAT, PB, N.Delhi
