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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

O.A. NO. 1293/2003

NEW DELHI THIS... 11<sup>th</sup> May, 2005

HON'BLE JUSTICE MR. V S AGGARWAL, CHAIRMAN  
HON'BLE SHRI S.A. SINGH, MEMBER (A)

1. Programme Staff Welfare Association of  
All India Radio & Doordarshan (Regd.)  
Through its President Shri Pramod Mehta,  
11, Annexe Broadcasting House,  
All India Radio, Sansad Marg, New Delhi
2. Shri S C Bhatia  
Programme Officer,  
DTPES All India Radio,  
Akashvani Bhawan, New Delhi

.....Applicants

(By: Applicant No. 1 & 2 in person)

VERSUS

1. Union of India,  
Through it's Secretary,  
Ministry of Information & Broadcasting,  
Shastri Bhawan, New Delhi
2. Union Public Service Commission,  
Through it's Chairman,  
Dhaulpur House, Shahjahan Road,  
New Delhi.
3. Prasar Bharti , Broadcasting Corporation of India  
PTI Building, Sansad Marg, New Delhi
4. Shri J K Das, Director National Channel AIR, New Delhi
5. Shri B R Puri, Chief Producer (Cameraman)  
Doordarshan, New Delhi
6. Sh. R.A.P. Rao, DDG(AIR),  
Doordarshan Mandi House, New Delhi
7. Ms Indra Mathur, Director CBS, Aakashvani Bhawan, New Delhi
8. Shri A V Magazine,  
Director T& PES, Aakashvani Bhawan, New Delhi

...Respondents

(By Advocate: Sh. S.M. Arif for Respondents 1 to 3  
And Shri S Y Khan for Respondent 4 to 8)

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**ORDER**

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**BY HON'BLE SHRI S.A. SINGH, MEMBER (A)**

The Programme Staff Welfare Association of All India Radio (AIR) and Doordarshan (Regd) through Sh Pramod Mehta and others have filed the application, seeking the following relief:

- a) To notify the duties and powers of Programme Production Cadre (discipline wise) and Programme Management Cadre of each Grade of IB (P) S in AIR and Doordarshan and also to disclose the number of posts separately in each one of the streams / discipline in Programme Production cadre.
- b) To prepare the eligibility list in each grade of Programme Management Cadres and Programme Production cadres (discipline wise in each one of the grades i.e. JTS, STS, JAG & SAG) in AIR and Doordarshan, and
- c) To direct the Respondents to disclose the disciplines of each one of the officers promoted during the period 11.5.1990 till date in the Programme Production Cadres of (a) AIR and (b) Doordarshan as provided in Schedule VII of IB (P) S Rules and also to disclose the sanctioned strength in each of the disciplines at the relevant time of the DPC.

2. The brief facts of the case pertinent to the controversy are that in the year 1990 the Indian Broadcasting (Programme) Service (IB (P) S) was constituted and rules were promulgated vide notification dated 5<sup>th</sup> November 1990. The service comprises of 4 independent Group 'A' cadres as under:

- a) Programme Management Cadre of AIR
- b) Programme Management Cadre of Doordarshan,
- c) Programme Production Cadre of AIR, and
- d) Programme Production Cadre of Doordarshan.

On the date of commencement of the service, Schedule I and II of the Rules specified the grades included in the service, their scales of pay etc.

3. In the Programme Production Cadre of AIR there are 5 discipline namely:

- (i) Classical Music (Hindustani)
- (ii) Classical Music (Karnataka)
- (iii) Light and Folk Music
- (iv) Spoken word (including women, children & youth). Drama.

Features farm and home and education and

## (v) Sports.

3. Similarly, the Production Programme cadre of Doordarshan consists of three disciplines namely

- (i) News & Current Affairs, interviews, discussions, literary programmes, Special Audience Programmes and Farms & Developmental Programmes, Drama and Documentaries.
- (ii) Sports, and
- (iii) Music & Dance.
- (iv) Besides this, there are specifically earmarked posts of Programme Officers (Cameramen).

5. It is the grievance of the applicant that despite the explicit condition that promotions in the Programme Production cadre are to be made discipline wise from JTS up to SAG by preparation of separate lists of eligibility in each discipline, this has never been done. As a result of this the discipline wise bifurcation of the cadre has become redundant and ineffective. The promotion orders do not reflect the stream of discipline, which resulted in affecting the interest of the applicants.

6. The applicants seek the relief mentioned earlier on the ground that the inaction of the respondents in not specifying the duties, powers and sanctioned strength in each one of the streams/disciplines in the Programme Production Cadre and Programme Management Cadre is causing lot of confusion, disturbance and arbitrariness in case of promotion. Moreover the applicants were made to understand when the rules were framed that the nature of duties, extent of powers and number of posts in different disciplines and spheres shall be spelt out very soon but nothing has been done in this matter. This non-specification has given rise to undue promotions of the officers of the particular stream/ discipline and simultaneously leading to the situation where officers have to work under those who have no knowledge of the discipline they are heading. Further the responders are illegally giving promotions in various cadres/grades of IB (P) S without notifying the duties and the powers of

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the Programme Management and Programme Production Cadres (discipline wise) and also without disclosing the sanctioned strength in each of the disciplines resulting that those who were expecting to be promoted in four years as indicated in the rules are lagging behind waiting for their promotions even after completion of their 14/15 years of service.

7. The applicants have relied upon to sub rule 6 b (ii) of Rule 7 of the notification-dated 05.11.1990, which reads as under:

“The Departmental Promotion Committee, as specified in Schedule VI, shall, after due consideration of the preference and suitability thereof for acceptance, will recommend the cadre including the discipline as well as the media in which they shall be appointed on promotion”

8. However, orders are passed without showing the discipline as is apparent from order dated 1/5/2003 promoting officers in the Programme Production cadre of AIR to Sr. time scale of Indian Broadcasting Service. The applicants also pleaded that while constituting the service conditions of sub rule 2(b) of Rule 6 were not followed. The said sub rule is reproduced below:

“(b) In the event of options not being received within the stipulated time, the Departmental Candidates shall be deemed to have opted in the respective cadre of the All India Radio or Doordarshan, as the case may be, where they are working:

Provided that the Departmental Candidates referred to in sub-clause (ii) of clause © of rule 2 shall merge with the Programme Production Cadre of Doordarshan and will maintain their separate identity as indicated in Schedule VII.”

9. The applicants pointed out that the distinction of discipline has to be maintained because as per schedule III for direct recruitment to the post of SAG to JTS of IB (P) S the qualification, experience and age limit are given, and it is mentioned that for the post of SAG in Programme Production Cadre 07 years experience must necessarily be in the discipline (as enumerated in schedule VII, in which the vacancies arose) is required. Similarly is the condition specified in JAG where five years experience is necessary and for Junior Time scale it is mentioned as under:

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"The job requirements of the Programme Officer are not academic but are one of initiative, drive and intelligence. The recruitment to this post will be on language/discipline basis. The candidates applying for this post will have to indicate their preference for the language/discipline for which they would like to be considered for appointments, as also the options as specified in rule 7(5) (C)."

10. Despite the clear stipulation in the rules the respondents have failed to mention eligibility for various disciplines.

11. The respondents contested this. The private respondents 4,5,6,7 and 8 have made preliminary objections stating that above Association cannot be called a representative body of AIR and DD as their membership is 11 out of the total number of 4604 of Programme Staff in AIR & DD all over the country. Moreover, the members of the above association are Transmission Executive at lowest rank of Group 'C' post and Programme Executive in Group 'B' post of the organization. So they are not representing a body that can challenge the notification dated 05.11.1990 because as per rule 3(2) posts included in the services are Group 'A' posts and the applicants are not belonging to Group 'A'. Hence applicants have no legal position to challenge the conditions of service to which they do not belong. Moreover, the IB (P) S rules were notified on 05.11.1990 and the first DPC for promotion to JTS and STS were held in 1994 & 1995 and cadres were allotted even prior to this. The applicants are challenging the rules after about 13 years during which period a large number of officers have been promoted to JTS and from JTS to STS and as such their settled position would be unsettled. Therefore the present OA is barred by limitation.

12. In reply to the preliminary objections the applicants have pleaded that applicant No. 1 is a recognized association and having sufficient number of members and has been given due participation by the official respondents while making decisions about welfare of the staff. Applicants have not challenged the IB (P) S rules as alleged by the private respondents but the correct implementation of said rules. Similarly the official respondents have also raised objection that rules of 1990 have

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been challenged after 13 years and would unsettle the settled position. From the reading of the relief it is apparent that the applicants have not challenged the rules but have merely asked the notification of duties and powers of the Programme Production cadre and programme Management cadre discipline wise in AIR and DD and for disclosing the number of posts separately in each of the stream/disciplines. They have also asked that they be promoted discipline wise to the grade of JTS, JAG, and SAG both in AIR and DD. The relief do not challenge the basic rules and nor are the applicants challenging the promotions of any particular individual or any DPC. In view of this we take a broad view in the interest of justice and allow the OA.

13. With regard to relief © where the applicants have requested the Tribunal to direct the respondents to disclose the discipline of each officer promoted from 11.5.1999 till date, in the Programme Production Cadre of AIR and Doordarshan the Tribunal will not be able to grant such a relief as it is would not come within the ambit of Section 14 of the Tribunal Act for the reason that it is in the form of a Public Interest Litigation (PIL).

14. With regard to the merit of the case the respondents have argued that the department has been holding DPCs and review DPCs in compliance with various Court orders ever since IB (P) S and Prasar Bharati (1997) become functional. While the erstwhile staff belonging to the Production Cadre have been equated with equivalent ranks of Programme Cadre and almost all of them have been en-carded in IB (P) S some of the Programme Officers are yet to be given appropriate promotion and posting in the service. With this objective in mind, the Recruitment Rules of the IB (P) S notified in the year 1990 are being looked into for suitable amendments for which a committee has already been constituted to examine and incorporate the same in the New Prasar Bharati Service Rule and for preparation of draft rule and service conditions of various cadres and discussion with representations of various programme staff. With the changed scenario in the field of broadcasting particularly in

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 Prasar Bharati persons are being posted to fields not mentioned in IB (P) S Rules. A Committee has been constituted for making suitable amendments in the rules. Private respondents have pleaded that when promotions are made to JTS from the feeder cadres discipline wise seniority lists are prepared and circulated and in the promotion orders disciplines are shown. An example of such orders is placed at A-II. Options are called from the Programme Executives also and after screening by a DPC as per rules cadres are allocated. Copies of the duty lists circulated by the respondents were placed on record as additional documents and the respondents pleaded that the relief asked for was thus infructuous.

16. We have heard the counsel for the parties and perused the documents placed on record. The question concerning relief (a) and (b) is whether promotion from JTS and up to SAG are to be discipline wise in Programme Production and Programme Management cadres of the IB (P) S in AIR and Doordarshan. As per rule 5 only those who have been appointed to duty post under Rule 6 and 7 are members of the service. Rule 6 is applicable to initial constitution of service. Sub rule 2(a) of Rule 6 relates to departmental candidates and Rule 7 pertains to the manner of filling vacancies for future maintenance of service. According to rule 7 50% of the vacancies in JTS after constitution of the service are to be filled by promotion from officials of the feeder grades having minimum qualification, service etc. as subscribed in appropriate columns of schedule IV and V. For convenience Schedule IV and V are reproduced:

#### SCHEDULE – IV

(See sub-rule (2) & (3) or rule 7)

Method of recruitment, field of promotion and maximum qualifying service in the next lower grade for appointment of officers on promotion to duty posts in the Programme Management Cadre of the Indian Broadcasting (Programme) Service.

S. No.	Grade	Method of recruitment	Field of selection and the minimum qualifying service.
1.	<u>Senior Administrative Grade</u> Additional Director General/	By promotion by selection	Officers with 8 years' regular service in the Junior Administrative Grade (including non-functional selection grade) or with 17 years'

	Deputy Director General Rs.5900- 200-6700/-		regular service in Group 'A' post out of which at least 4 years' regular service should be in Junior Administrative Grade.
2.	<u>Junior Administrative Grade (Selection Grade)</u> Senior Director Rs.4500-150-5700	By appointment on the basis of seniority based on suitability taking into account the overall performance, experience and other related matters.	Officers in the Junior Administrative Grade (Director) who have entered the 14 <sup>th</sup> year of Group A Service on the 1 <sup>st</sup> July of the year with reference to the year of examination or initial recruitment to Junior Time Scale Group 'A'. Note; - The Junior Administrative Grade officers who entered into the service other than by direct recruitment to Junior Time Scale Grade shall also be considered provided they are senior to the junior most officer who has become eligible for consideration to Junior Administrative Grade (Selection Grade).
3.	<u>Junior Administrative Grade</u> Director Rs.3700-125-4700-150-5000/-	By promotion by selection	Officers in the Senior Time Scale with five years of regular service in the grade.
4.	<u>Senior Time Scale</u> Deputy Director/Controller Rs.3000-100-3500-125-4500/-	By promotion on seniority-cum-fitness basis.	Officers in Junior Time Scale with four years regular service in the grade.
5.	<u>Junior Time Scale</u> Programme Officer Rs.2200-75-2800-EB-100-4000.	50% by promotion and 50% by direct recruitment in accordance with sub rule 2 of rule 7.	Programme Executives with three years' regular service in the grade.

Note:(1) For purpose of promotion to the Junior Time Scale posts, eligibility list of programme Executives, Farm Radio Officers and Extension Officers shall be prepared on the basis of their date of appointment on regular basis in the pay scale of Rs.2000-3500 subject to the condition that the inter-se-seniority in their respective cadres shall be maintained. In case there is more than one officer appointed on the same date, their placement in the Eligibility Lists will be determined according to their date of birth, on the principle of 'Older the senior'.

(2) For promotion to the Junior Time Scale vacancies in the Programme Management and Programme Production Cadre of the media, all officers in the field of selection shall be required to give an option as provided for in sub- rule (6) of rule 7.

(3) Posts at Sl. No.1 and 3 may also be filled by direct recruitment as provided for in sub-rule (7) of rule 7.

#### SCHEDULE – V

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Method of recruitment, field of promotion and maximum qualifying service in the next lower grade for appointment of officers on promotion to duty posts in the Programme Production Cadre of the Indian Broadcasting (Programme) Service.

S. No.	Grade	Method of recruitment	Field of selection and the minimum qualifying service.
1.	<u>Senior Administrative Grade</u> Deputy Director General (Production) Rs.5900-6700/-	By promotion by selection	Officers with 8 years' regular service in the Junior Administrative Grade (including non-functional selection grade) or with 17 years' regular service in Group 'A' post out of which at least 4 years' regular service should be in Junior Administrative Grade.
2.	<u>Junior Administrative Grade (Selection Grade)</u> Director (Production) Rs.4500-5700	By appointment on the basis of seniority based on suitability taking into account the overall performance, experience and other related matters.	Officers in the Junior Administrative Grade (Director) who have entered the 14 <sup>th</sup> year of Group A Service on the 1 <sup>st</sup> July of the year with reference to the year of examination or initial recruitment to Junior Time Scale Group 'A'. Note: - The Junior Administrative Grade officers who entered into the service other than by direct recruitment to Junior Time Scale Grade shall also be considered provided they are senior to the junior most officer who has become eligible for consideration to Junior Administrative Grade (Selection Grade).
3.	<u>Junior Administrative Grade</u> Chief Producer Rs.3700-5000/-	By promotion by selection	Officers in the Senior Time Scale with five years of regular service in the grade in the medium in which the vacancy has arisen.
4.	<u>Senior Time Scale Executive</u> Rs.3000-4500/-	By promotion on seniority-cum-fitness basis.	Officers in Junior Time Scale with five years' regular service in the grade in the medium in which the vacancy has arisen.
5.	<u>Junior Time Scale</u> Programme Officer Rs.2200-75-2800-EB-100-4000	50% by promotion and 50% by direct recruitment in accordance with Sub rule 2 of rule 7.	The following categories of staff with three years regular service in the grade will be eligible: 1. Producer (Selection grade) 2. Producer 3. Producer Grade II 4. Translator 5. Editor 6. Editor (Scripts) 7. Reference Officer. Likewise Cameraman Grade 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).

17. As per the Schedules IV and V the eligibility list for promotion to JTS is prepared as per note one above. Further promotions to STS and

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above are, to be made according to the conditions prescribed under field of selection and minimum qualifying service. From perusal of the schedules it is obvious that for promotions beyond JTS there is no requirement for minimum service in the discipline of the vacancy. Applicants have relied upon Schedule VII arguing that this Schedule specifies posts discipline wise; therefore promotions have to be discipline wise. Scrutiny of the Schedule VII does show posts in grades up to SAG in 5 disciplines with a 6<sup>th</sup> category for posts not falling in the 5 disciplines for AIR. However, schedule VII has to be read in a harmonious manner along with the rules. Clause (b) of sub rule (2) of Rule 6 refers to Schedule VII. This rule pertains to initial constitution of the service and stipulates the manner when constituting the service departmental candidates referred to in sub clause (ii) of clause (c) of Rule 2 are to be merged with the Programme Production Cadre of Doordarshan. Sub clause (ii) of clause (c) of Rule 2 explains that this rule is applicable to all officers appointed on regular basis to the post of Video Executives in Doordarshan in the scale of Rs.3000 – 4500/- and is not applicable to others. Similarly, Schedule VII is again referred to in sub clause (i) sub rule (b) of Rule 6 and it is again applicable to officers in the field for promotion to JTS of Programme Production cadre of either of the two media. For promotions beyond JTS sub rules (i) and (ii) of rule 7 will be applicable. This is reproduced for convenience:

**7. Future maintenance of the Service:**

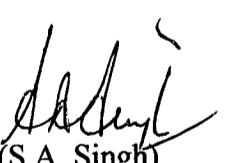
- (1) Any vacancy in any of the grades referred to in Schedules II, and I shall, after the initial constitution of the Service as provided in rule 6, be filled in the manner hereinafter provided under this rule.
- (2) (a) 50% of the vacancies in the Junior Time Scale in the Programme Management and Programme Production Cadres of the media shall be filled by direct recruitment on the basis of competitive examination conducted by the Commission in accordance with any scheme of examination that may be notified by the Government in consultation with the Commission from time to time.

(b) The remaining 50% of the vacancies in the Junior Time Scale shall be filled by promotion of officers of feeder grades possessing the minimum qualifying service as specified in the appropriate column in Schedule IV and V.

Nowhere in these rules has it been laid down that promotions beyond JTS will be discipline wise. The basic principles for constituting an organized service are that posts included in a service having similar time scales and the same grade should be inter changeable. If the averments of the applicants are accepted then inter-changeability between posts in the same grade will not be possible and the objective of forming the IB (P) S set at naught.

18. The applicants have pointed out that for vacancies arising in a discipline specified in Schedule VII experience in the discipline in which the vacancy has arisen has been specified in col. 4 of Schedule III. According to the applicants from this it can be taken that promotions beyond JTS have to be discipline wise. We cannot accept this argument for the reason that qualifications prescribed for initial recruitment does not imply that further promotions have necessarily to be discipline wise when rules do not lay down any such requirement. Schedule III, in any case, is for direct recruitment to posts in IB (P) S hence not applicable to the applicants.

19. In view of the foregoing the OA is without merit and accordingly fails and is dismissed. No costs

  
(S.A. Singh)  
Member (A)

  
(V S Aggarwal)  
Chairman

Patwal/