

**Central Administrative Tribunal
Principal Bench**

**OA No.2386/2005
MA No.2120/2005**

New Delhi this the 15th day of May 2007.

Hon'ble Mr. Shanker Raju, Member (J)
Hon'ble Mrs. Neena Ranjan, Member (A)

1. Sanjeev Kumar
 2. Ganeshi Lal
 3. Banwari Lal Juyal
 4. Anand Prakash
 5. Vijay Kumar
 6. Vijay Kumar Chandel
 7. Yogesh Kumar
 8. Malkiat Singh
 9. Ravinder Kumar
 10. Ajay Kumar
 11. Ran Bijay Singh
 12. Rajesh Rikhye
 13. Anil Kumar
 14. Anand Kumar
 15. Pramod Singh Negi
 16. Harjit Singh Bawa
 17. Jagmeet Singh
 18. Bhaiya Lal Tiwari
 19. Prahlad Sahani
 20. Ramesh Kumar
 21. Mahesh Kumar
 22. Anil Vaid
 23. Prem Pal Kapila
 24. Swatantra Kumar Shukla
 25. B.K. Garg
 26. Suresh Kumar Sachdeva
 27. Harvinder Pal Singh
 28. Ashok Kumar
 29. Virender Singh Rawat
 30. Davinder Kumar Garg
 31. Kishan Chand
- Applicants

All applicants C/o Sanjeev Kumar, S/o Shri Moti Sagar,
R/o S-533, Flat No.302, School Block, Shakarpur, Delhi.

(By Advocate Dr. Surat Singh)

-Versus-

1. Union of India through
Secretary, Ministry of I & B,
Shastri Bhawan,
New Delhi-110 001.
2. Director General,
Doordarshan Bhawan,
Mandi House, Copernicus Marg,
New Delhi.
3. Deputy Director General (Admn.),
Doordarshan Bhawan,
Mandi House, Copernicus Marg,
New Delhi.

---Respondents

(By Advocate Shri S.M. Arif)

O R D E R (O R A L)

Mr. Shanker Raju, Hon'ble Member (J):

Erstwhile casual workers since been regularized have sought quashing of order dated 26.4.2005, where their request for grant of higher pay scale and regularization from back date has been turned down.

2. Applicants, who have been appointed on casual basis in Doordarshan from 1983 to 1989, have been regularized on different dates in the years from 1993 to 2001. As the past service has not been accorded to them, it is contended by the learned counsel of applicants that having been appointed after following the due process of law and being eligible in the light of the decision of the Apex Court in Direct Recruits Class-II Engineering Officers' Association v. State of Maharashtra, 1990 (2) SCR 900, their services are to be regularized from the initial date.

3. Learned counsel would contend that applicants, who are functioning as Lighting Assistants in Doordarshan have also sought parity in the pay scale at par with Assistant Cameramen in the pay scale of Rs.5000-8000 in the light of the decision of the Apex Court in Doordarshan Cameramen Welfare Association (Regd.) v. Union of India & Anr., JT 1990 (2) SC 118.

4. On the other hand, learned counsel of respondents has vehemently opposed the contentions and stated that applicants in the light of the Scheme formulated by the respondents have been regularized. As such, earlier while working on casual basis they had been performing the duties on number of days in a month, which has been calculated as per the Schemes of 1992 and 1994 to regularize them. Accordingly, it is stated that when not on substantive post a casual worker, who is not at par with a

regular employee, has no right to reckon his earlier service rendered on casual basis. It is also stated that regularization is always prospective in effect.

5. As regards pay scale, it is stated that as the V Central Pay Commission had made no recommendation in respect of Lighting Assistant, as per the principle adopted they had been allowed the pay scale of Rs.4500-7000.

6. Learned counsel has stated that there is no order passed giving them seniority and other benefits in the CGIT Award from a retrospective effect.

7. Lastly, it is contended that the salary of Lighting Assistant of Doordarshan and salary of Assistant Cameramen in Film Division is different as both are not comparable.

8. We have carefully considered the rival contentions of the parties and perused the material on record.

9. Insofar as regularization of a casual labour from back date is concerned, the same cannot be countenanced, as earlier applicants had not been appointed after following the due process of law but were on casual basis and it is only after promulgation and application of the Scheme of Doordarshan that had resulted in their regularization, which is to be operated prospectively. There cannot be parity in the matter of regularization of applicants with regular employees of Doordarshan.

10. As regards to equal pay for equal work, the Apex Court in Doordarshan Cameramen Welfare Association (supra) has taken cognizance of a common order passed in Writ Petitions on 26.8.1986, where a specific finding has been recorded as to Lighting Assistants being comparable with Assistant Cameramen in Film Division. While commenting upon the aforesaid comparability the Apex Court ruled that comparability of duties and responsibilities is not to be examined before the Apex Court and as this issue is no more res integra concluded by the previous judgment, the benefit of the judgment should be extended to all those who belong to these categories. Accordingly, while parting with the case it is directed that petitioners, who are Lighting Assistants, are to be given the pay scale admissible to their counterparts in Film Division.

11. In the above backdrop, Director, Doordarshan, Bangalore, on 20.5.1994 on comparability of Assistant Cameramen with Lighting Assistants posted them on interchangeability basis.

12. On careful consideration of the rival contentions on this issue, we are of the considered view that having set at finality the decision of the Apex Court has clearly ruled as to the comparability of Assistant Cameramen of Film Division with Lighting Assistants of Doordarshan, the rejection of the claim of applicants by respondents that the pay scale has been granted to applicants as per the V Central Pay Commission's recommendations, cannot be countenanced. As per the V Central Pay Commission, CCS (Revised Pay) Rules, 1997 for Ministry of Information and Broadcasting in Film Division the pay scale of Assistant Cameramen has been revised to Rs.5000-8000 from 1.1.1996. Once the duties are comparable, on the principle of "equal pay for equal work", applicants are entitled to the benefit of pay scale at par with Assistant Cameramen of

Film Division w.e.f. 1.1.1996 with all consequential benefits. However, respondents' viewpoint and consideration thereof is totally oblivion of the finality arrived at by the Apex Court has a binding effect. Once a field is occupied by judicial verdict, even if there is an omission on administrative side, the judicial verdict has to be respected for grant of pay scale.

13. Resultantly, for the foregoing reasons, OA is partly allowed. Impugned order is set aside. Respondents are directed to reconsider grant of pay scale on established comparability of applicants with Assistant Cameramen of Film Division in the pay scale of Rs.5000-8000 w.e.f. 1.1.1996. The aforesaid shall culminate into a reasoned order to be passed within two months from the date of receipt of a copy of this order. Needless to mention that the consequences would ensue. No costs.

(Neena Ranjan)
Member (A)

(Shanker Raju)
Member (J)