

**(2002) 12 PAT CK 0075**

**Patna High Court**

**Case No:** C.W.J.C. No. 13608 of 2002

Brij Kishore Rai and Others

APPELLANT

Vs

The Union of India (UOI) and  
Others

RESPONDENT

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**Date of Decision:** Dec. 5, 2002

**Citation:** (2003) 1 PLJR 249

**Hon'ble Judges:** Ravi S. Dhavan, C.J; R.N. Prasad, J

**Bench:** Division Bench

**Advocate:** Ganesh Pd. Singh and Sanjiv Krishna Bariar, for the Appellant; P.K. Shahi, for the Respondent

**Final Decision:** Dismissed

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### **Judgement**

@JUDGMENTTAG-ORDER

1. This petition has been filed against the order of the Central Administrative Tribunal (CAT) dated 20 September, 2002 on O.A. No. 693 of 2001: Brij Kishore Roy and Ors. v. The Union of India and Ors. by which the Tribunal has declined to interfere to grant reliefs for promotional avenues of the applicants before the Tribunal.

2. Before this Court, only five of the applicants have filed the petition. These are Brij Kishore Rai, Manoj Kumar Mathur, Harendra Kumar Mishra, Irshad Ahmad and Nagina Singh. They were applicant Nos. 1, 5, 7, 25 and 26 The petition is, in effect, defective for mis-joinder of parties. If the group which filed the claim petition before the Tribunal were 27 then it is entirely up to them to join the petition if they so like and those who have not joined may added. Counsel for the Union of India will ensure that memoranda of petition is corrected and the balance of them are added as proforma Respondents. The Stamp Reporter will also heat a caution on this matter to examine the matter from the impugned order or before it a formal order and submit his report accordingly should any of the parties in original cause are left

out.

3. However, the Court has heard arguments on the petition as they were submitted on merits. The claims of the Petitioners are that they are stagnating in the service originally in All India Radio. It is contended that All India Radio is now constituted from the same personnel, and is known as the Broadcasting Corporation of India known as Prasar Bharti.

4. The Petitioners seek promotion to higher positions. Regard being had to the circumstances that at the time of entry of service they had been recruited on the basis of the qualifications they possessed with no commitment that they will compete with other staff of All India Radio and/or Prasar Bharti. It was no way also a condition of service to receive promotions as of right.

5. No personal discrimination between one staff or the other is the subject matter of an issue. If the Petitioners are to receive promotions as they so desired and noticed by the CAT in the first paragraph that is from the present positions to the post of Senior Engineering Assistants to Assistant Engineers and also to the post of Assistant Station Engineer to Station Engineer, at present these positions do not exist for them. If there is class promotion from among the group of the Petitioners then a cadre would have been created. The CAT has observed that it is unable to issue a direction to the Union of India to create a cadre as this is a policy decision.

6. The reference to the case which was on the notice of the CAT was repeated before this Court. In the matter of Chinnoy Mallick and Ors. v. D.V.C. the issue was very different. In that case, a cadre had been created and those who were also with higher qualifications were, in effect, subjected to discrimination. In the present case, the claim is that promotions be granted with a direction that a cadre be created. To create a cadre is a matter of policy.

7. In the circumstances, the Tribunal was not in error. Thus, the Court is not inclined to Issue a writ with a direction to the Prasar Bharti to create a cadre.

Dismissed.