

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.1455/1999

Thursday, this the 1st day of March, 2001

HON'BLE SHRI M.P. SINGH, MEMBER (A)

(X)

Programme Staff Association of All
India Radio & Doordarshan, through

1. Shri S.C. Nayak
President
working as Assistant Director (Prog.)
All India Radio
R/o 509, Tagore Road Hostel
Minto Road Complex,
New Delhi
2. Shri Ashish Kumar
Treasurer
working as Transmission Executive
All India Radio
R/o 287, Ram Nagar,
Delhi-110051.

..Applicants.

(By Advocate : Ms. Harvinder Oberai, proxy
counsel for Shri Jog Singh)

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Union of India through

1. Secretary
Min. of Information & Broadcasting
Shastry Bhavan,
New Delhi.
2. Director General
All India Radio
Akashvani Bhavan
Parliament Street
New Delhi.
3. Director General
Doordarshan
Mandi House,
New Delhi.

..Respondents.

(By Advocate: Shri R.P. Aggarwal)

O R D E R (ORAL)

By Shri M.P. Singh, Member (A):-

This application is filed by the Programme
Staff Association of All India & Doordarshan
represented by applicants No.1 and 2. The applicants



(2)

have filed this OA under Section 19 of the Administrative Tribunals Act, 1985 challenging the order of the respondents in effecting deductions/recoveries of the amount of Over Time Allowances (OTA) and bonus already paid to them from the arrears of pay and allowances payable to the staff working in the category of Transmission Executives and Promotee Programme Executives in All India Radio and Doordarshan.

2. The brief facts of the case are that the applicants No.1 & 2 are working as Asstt. Director (Prog) and Transmission Executive respectively in All India Radio. The pay scale for the post of Engineering Assistant was revised by the respondents vide order dated 15.5.1995 in pursuance of the order passed by the Madras Bench of the Tribunal on 29.6.1996 in OA No.654/89. The revised pay scale was Rs.550-900/- w.e.f. 1.1.1978 and Rs.2,000-3,200/- w.e.f. 1.1.1986. One Shri Vishnu Prasad Sinha, Transmission Executive filed an OA No.307/95 in the Patna Bench of the Tribunal seeking parity of pay scales with that of Engineering Assistants. That OA was dismissed by the Tribunal and SLP 4563/96 was filed in the Supreme Court against the order of the Tribunal. The SLP was disposed of with the direction that in the event of Vth Central Pay Commission finding that the posts of Transmission Executive are equivalent to the posts of Engineering Assistants, the Central Government may consider giving the benefit of revision of pay scales with retrospective effect.



3. The pay scale of certain category of employees in Prasar Bharati have been revised vide order dated 25.2.1999 on notional basis w.e.f. 1.1.1978 which are as follows:-

"Date	Pay Scale
1.1.1978	Rs.550-900/-
1.1.1986	Rs.2,000-3,200/-
1.1.1996	Rs.6,500-10,500/- (on personal basis)"

4. Consequent upon the pay revision, the pay of the entitled officers was notionally fixed and allowed w.e.f. 1.1.1978 or as admissible, as the case may be and arrears were paid or being paid as per their entitlement. By virtue of the revision of the pay scale, from the retrospective dates the applicants were not entitled to OTA and Bonus paid to them on the basis of their earlier pay scale. According to the instructions issued by the DOP&T dated 19.3.1991 only non-gazetted Government servant drawing pay up to Rs.2200/-, after IVth Central Pay Commission are eligible for OTA. After the revision of the pay scale, the applicants were also not entitled for the payment of bonus. According to the respondents, the OTA and the Bonus already paid to them during the relevant period have to be recovered. The respondents further state that no order has been issued against the recovery of payment made to Transmission Executives. However, it is not necessary to issue fresh order for deduction/recovery if paid to an employee as the same is recoverable under the existing rules and regulations. The respondents also state that a large number of employees under the Government



who are drawing the pay of more than Rs.2200/- and above are working before and after office hours but no OTA is paid to them as a matter of policy. The revision of pay scale and payment of arrears thereon are the reasons to effect deduction/recovery especially when the applicants are not entitled to the OTA. Aggrieved by this, the applicants have filed this OA seeking relief by praying for direction to the respondents not to effect any recovery of OTA and bonus already paid from the arrears of pay, payable to them as a result of upgradation of their pay scale vide order dated 25.2.1999.

5. Heard both learned counsel for rival contesting parties and perused the records.

6. During the course of the arguments, learned counsel for the applicant draws my attention to the judgement of the Bangalore Bench of the Tribunal in OA No.743/93 with connected OAs No. 551 to 578/94 dated 20.4.1994. A similar controversy was considered by the Bangalore Bench of the Tribunal with regard to the recovery of payment of OTA and bonus which was necessitated due to the upgradation of the pay scale with retrospective effect. In this case the Tribunal held as under:-

"6. In the result, this application is allowed except for the relief sought as regards payment of interest on the deducted/withheld amounts of the applicants. We direct the respondents to refund the recoveries they have made in relation to overtime allowance and bonus which the applicants had received between 1.1.1988 or

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between different dates thereafter upto 23.6.1988, as the case may be, and 11.1.1993. This direction shall be complied with within a period of 2 months from the date of receipt of a copy of this order by Respondent-2. No order as to costs." (28)

7. The learned counsel for the applicants also draws my attention to another judgement of the Principal Bench in OA No.2341/1995 dated 9.3.2000 in which a similar question of recovery of OTA and bonus on account of revision of pay scale with retrospective effect was considered. In this case also the OA was allowed and the order issued by the respondents regarding deductions/recoveries of OTA and bonus was quashed and set aside. On the other hand, the learned counsel for the respondents oppose the contention of the applicants about the recovery of OTA and bonus. He submits that in the case of bonus, the applicants have not put any extra effort and it has become due to them by virtue of revision of the pay scales. He further submitted that the recovery as regards the bonus is concerned has to be effected from the applicants for the period for which they were not entitled as a result of the revision of pay scale with retrospective effect.

8. After considering the arguments of both the learned counsel, I am of the considered view that the present case is squarely covered by the judgement of the Bangalore Bench of the Tribunal in OA No.743/93 with other connected OAs No. 551 to 578/94 dated



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20.4.1994 and also the judgement of the Principal Bench of the Tribunal in OA No.2341/1995 dated 9.3.2000.

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9. Keeping in view the facts and circumstances of the case and the above judgements, the OA is allowed and respondents are directed not to effect any recovery of OTA and bonus which has already been paid to the applicants, from the arrears of payable to them, as a result of upgradation of their pay scale vide order dated 25.2.1999. No order as to costs.


(M.P. SINGH)
Member (A)

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