

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No. 1471 of 1999

New Delhi, this the 21st day of March, 2002

HON'BLE MR. V.K. MAJOTRA, MEMBER (M)
HON'BLE MR. KULDIP SINGH, MEMBER (JUD)

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1. Association of Broadcasting Musicians (Regd.), 1634, Suiwalan, Daryaganj, Delhi-2.
2. Shri Harbhajan Singh
S/o Shri Narinder Singh
R/o G-364, Sarojini Nagar, New Delhi working under respondent No. 2.
3. Shri Amar Nath
S/o Shri Shiv Nath Prasad
R/o Y-318 Sarojini Nagar, New Delhi, working under Respondent No. 2.

-APPLICANTS

(By Advocate: Shri T.C. Aggarwal)

Versus.

Union of India through

1. The Secretary to G/I, Ministry of Information & Broadcasting, Shastri Bhavan, New Delhi-110 001.
2. The Director General, All India Radio Akashvani Bhavan, Parliament Street, New Delhi-110 001.
3. The Station Director, All India Radio, Broadcasting House, Parliament Street, New Delhi-110 001.

-RESPONDENTS

(By Advocate: Shri D.S. Mahendru)

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By Hon'ble Mr. Kuldip Singh, Member (Jud)

This OA has been filed by Association of Broadcasting Musicians and others wherein they have prayed for the following reliefs:-

- (i) To give arrears of pay from the date

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respondents promoted applicants in the impugned orders
Annexure A-1.

(ii) That interest should also be paid at 12%
from the date of promotion till date of payment.

(iii) That cost may also be awarded for reason
that applicants were forced to approach this Hon'ble
Tribunal in a matter already decided, applicable to
similarly situated - Apex Court as also the Hon'ble
Tribunal had deprecated the attitude.

2. Vide impugned order dated 21.7.1995 as per
approval on recommendation of minutes of the DPC,
Director General, All India Radio was pleased to promote
certain Instrumentalists whose names are given in S.No.1
to 91 of the order. The paragraph 2 of the office order
provides that no financial benefits on account of arrears
of pay and allowance is admissible to the persons shown
against S.No.1 to 51. However, their pay may be fixed
from the date shown against their names and in view of
this paragraph, certain members of the
Applicants-Association have not been given the financial
benefits.

3. But one Shri S.R. Raju, whose name appears at
S.No.3 in the order dated 21.7.95 had filed an OA before
the Ernakulam Bench. The Ernakulam Bench had allowed the
OA. Against that order, the respondents had filed Writ
Petition No. OP 3850/1998 before the Kerala High Court,
which was dismissed. It is further submitted that

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another person namely Shri Rash Behari Dutta at S.No. 28 of the said office order had filed an OA which was allowed following the judgment given by the Ernakulam Bench and in that case also the Government had gone in a writ by filing Writ Petition No. 6067/99 and the order of Tribunal was upheld by the Hon'ble Delhi High Court so it is the remaining applicants who are probably members of the Association seeking similar relief.

4. The OA is being contested by the respondents.

Shri D.S. Mahendru, appearing for the respondents submitted that though applicant No.1 is an Association of the Broadcasting Musicians but the applicant No.2 is an Instrumentalist. Amar Nath is also an Instrumentalist but his name is at S.No. 66 so he is not hit otherwise by paragraph 2 because paragraph 2 was confined to those members who are at S.No. 1 to 51, so none of the applicants is hit by the contents of paragraph 2, hence the OA should be dismissed.

5. In our view since the two different High Courts have upheld the orders passed by two different Benches of the Tribunal and the benefits of arrears of pay had been allowed, so we have no option but to follow those judgments. But considering the fact that the persons shown at S.No. 1 to 49 have been shown to be promoted from 19.12.1988 whereas persons from S.No.50 onwards have been shown to be promoted w.e.f. 31.5.90 so the arrears of pay in respect of those who are shown to have been promoted w.e.f. 19.12.1988 shall be paid in

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accordance with the earlier judgments delivered by the two different Benches, i.e., Principal Bench as well as Ernakulam Bench.

6. But as regards the other candidates, who are shown to have been promoted from 31.5.90, paragraph 2 does not otherwise come in their way, so they are entitled to get arrears from the date they were promoted. The arrears will also carry interest @ 12% as allowed by the Principal Bench of the Tribunal in an earlier OA.

7. OA stands disposed of with the above directions. The respondents to comply with the directions within a period of 4 months from the date of receipt of a copy of this order. No costs.

Kuldip Singh
(KULDIP SINGH)
MEMBER (JUDG)

W.K. Majotra
(W.K. MAJOTRA)
MEMBER (A)

Rakesh