

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 2153/99

199

T.A.No.

DATE OF DECISION 9-10-2000

Association of BroadcastingPetitioner:
Musician(Regd.) and Ors.

Sh.T.C.Aggarwal

.....Advocate for the
Petitioner(s)

VERSUS

UOI & Ors

.....Respondent:

Sh.A.K.Bhardwaj

.....Advocate for the
Respondents.

CORAM

The Hon'ble Smt.Lakshmi Swaminathan, Member (J)

The Hon'ble Shri V.K.Majotra, Member (A)

1. To be referred to the Reporter or not Yes
2. Whether it needs to be circulated to other Benches of the Tribunal? No.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

Central Administrative Tribunal: Principal Bench

O.A. No. 2153/99

12

New Delhi this the 9th day of October, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member (J)
Hon'ble Shri V.K. Majotra, Member (A)

1. Association of Broadcasting
Musician (Regd) through
Shri Kailash Sharma, Vice-President
S/o Shri H.R. Sharma,
R/o 91, Kishan Kunj, Laxminagar-110092.
2. Shri Nirmala Dey, Composer,
Broadcasting House, Parliament
Street, New Delhi-110001.
3. Shri Anoop Ghosh, Instrumentalist,
S/o Late D.N. Ghosh, Resident of
J-3/113, Kishan Kunj, Laxminagar,
Delhi-110092.
4. Shri Brij Bhushan Goswami
S/o Shri Ram Sharan Gupta,
R/o R-117/A, Ramesh Park,
Laxminagar, Delhi-110092.

(By Advocate: Shri T.C. Aggarwal) -Applicants

Versus

Union of India, through:

1. Secretary,
Ministry of Information & Broadcasting,
Shastri Bhawan, New Delhi-110001.
2. Director General,
All India Radio, Akashwani Bhawan,
Parliament Street, New Delhi-1.
3. Station Director, All India Radio,
Broadcasting House, Parliament Street,
New Delhi-1.

(By Advocate: Shri A.K. Bhardwaj) -Respondents

ORDER (Oral)

By Smt. Lakshmi Swaminathan, Member (J)

The applicants, who state that they belong to the category of Music Composers, Instrumentalists and Tanpure Players, are aggrieved by inaction of the respondents in not holding regular DPCs annually, as per the relevant instructions issued by the Govt. of India and taking further necessary action on the lines recommended by the 5th Pay Commission. They have

13

stated that this OA has been filed not against any particular order of the respondents but they seek a direction to the respondents to hold regular DPCs, which should be held yearwise, and promote them against vacancies which have arisen in accordance with the rules. They have also sought a direction to the respondents to implement the recommendations of the 5th Pay Commission w.e.f. 1.1.1996.

2. Shri T.C. Aggarwal, learned counsel for applicants has submitted that the 5th Pay Commission, in its recommendations has stated in paragraph-73.48 that the process of revision of recruitment rules in respect of Music Artists should be expedited with a view to remove stagnation in the cadre of Instrumentalists and that, the Tanpura Players should also be included in the category of Instrumentalists and be governed by the same recruitment rules and multi-grade structure. He has submitted that none of these recommendations of the 5th Pay Commission, including the Assured Career Progression Scheme for the Tanpura Players and other Instrumentalists, have been complied with by the respondents. He has also drawn our attention to a Note dated 9.3.95 with regard to the revision of pay scale of Tanpura Players and rules etc. (Annexure A-6). He also relies on the Tribunal's order dated 5.9.97 in A.K. Ravindra Nath Vs. Union of India & Ors (OA-429/97). In this order the Tribunal had noted the submissions of the learned counsel for respondents that the case of Tanpura Artists is in hand and under their consideration, especially in view of the recommendations of the 5th Pay Commission. The petitioners in that OA were also

13

14

granted liberty to approach the Tribunal for additional reliefs which might not have been granted at the appropriate time. Learned counsel has submitted that for more than 10 years, the respondents have not held any DPC as required under the DOP&T instructions which provides that annual DPCs should be held.

3. In the reply filed by the respondents, they have admitted that DPCs had not been conducted for promotion of Music Composers due to non-availability of vacancies and administrative compulsions in any of the grades. However, they have stated that DPC for promotion of Music Composers is under process and apparently their intention is to hold the same ^{as} soon as after the finalisation of the relevant seniority list.

4. We have seen the reply filed by the respondents and heard Shri A.K.Bhardwaj, learned counsel. He has submitted that the O.A. is not maintainable as there are multiple reliefs prayed for in paragraph-8. However, during the hearing, Shri T.C. Aggarwal, learned counsel has submitted that he does not press for reliefs in Clauses 'c' & 'd' of para-8. He has further submitted that the reliefs in Clauses 'a' & 'b' of this Paragraph are inter-connected because after taking a decision on the recommendations of the 5th Pay Commission regarding Music Composers and other Instrumentalists, for their promotion, DPCs have to be held. Shri A.K Bhardwaj, learned counsel, however, submits that only after a decision on the recommendations of the 5th Pay

Commission are taken by the respondents, the question of holding a DPC arises depending upon the availability of vacancies. 23.

5. We have carefully considered the pleadings and submissions made by the learned counsel for the parties.

6. It is seen from the facts stated in the reply filed by the respondents that with regard to promotion of Music Composers, because of administrative compulsions, the respondents have delayed holding of the DPC. Shri T.C. Aggarwal, learned counsel has submitted that even according to the existing recruitment rules, the respondents have delayed in holding the DPC. However, noting the facts stated by the respondents themselves that they are already ceased with the matter of holding DPCs for promotion of the eligible persons under the relevant recruitment rules and noting also the fact that more than 7 months have elapsed since the filing of the reply, they should hold the DPC without any further loss of time.

7. As regards the recommendations of the 5th Pay Commission and the claims of the applicant, no doubt, it is for the respondents to consider the same and take an appropriate decision in the matter. However, in this regard also we consider that sufficient time has been taken by them as the recommendations have been given nearly 4 years back. It is, further, relevant to note that in paragraph-73.48 of the report of the Commission, they 23.

have referred to the fact that there is stagnation in the cadre of Instrumentalists and that of Tanpura Players. They have, therefore, recommended that the process of revision of recruitment rules in respect of the Music Artists should be taken up by the respondents to remove the stagnation. The grievance of the applicants is that this is also not being done. The Pay Commission had accepted the views expressed by the respondents that the grade structure of the Music Artists is commensurate with their duties and responsibilities and no recommendations were made in this regard; but they have expressed a view that the ACP Scheme should be made applicable to the Instrumentalists, including the Tanpura Players, noting that they are stagnating in their cadres. The observations of the Tribunal in the case of A.K. Ravindra Nath (supra) is also relevant. In that case, all the three applicants were Tanpura Artists Grade-A. The respondents shall also keep in view this order while considering the recommendations of the 5th Pay Commission with regard to removing the stagnation of the Instrumentalists, including the Tanpura Players. In Paragraph-73.45 of its Report, the Pay Commission had also noted that these Artists were earlier engaged on casual contract basis and they have been declared as Government servants w.e.f. 6.3.1982. Taking into account the facts and circumstances of the case, we see force in the prayer of the applicants that the respondents should take an appropriate decision in the matter, as expeditiously as possible, and give them the benefits from the date of implementation of the 5th Pay Commission report, as has been given to other similarly situated persons, i.e. w.e.f. 1.1.1996.


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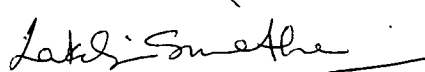
17

8. In view of what has been stated above, the OA is allowed and disposed of with the following directions:-

- i) the respondents shall take an appropriate decision in the matter regarding the recommendations of the 5th Pay Commission within three months from the date of receipt of a copy of this order, if not already done, keeping in view the above observations, with intimation to the applicants. This shall also include consideration of the the cases of the applicants under the Assured Career Progression Scheme;
- ii) They shall hold the DPCs for promotion of the eligible persons in accordance with the relevant rules for Music Composers in different grades as expeditiously as possible, in accordance with the relevant rules;

No order as to costs.


(V.K. Majotra)
Member (A)


(Smt. Lakshmi Swaminathan)
Member (J)

cc.