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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.1361/98

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)
Hon'ble Shri Govindan S. Tampi, Member(A)

New Delhi, this the 9th day of October, 2000

1. Shri Som Dev
s/o late Sh. Kundan Lal
Senior Engineering Assistant
from office of Respondent No. 3
r/o House No. 348
village Haiderpur (main Road)
Delhi - 110 052.
2. Shri Madan Lal Sharma
s/o Late Shri T.R.Sharma
retired Senior Engineering Assistant
from office of R-3
r/o 281, Village DHAKA
P.O. Kingsway Camp
Delhi - 110 009. Applicants

(By Shri T.C.Agarwal, Advocate)

Vs.

1. Union of India through
Secretary to Govt. of India
Ministry of Information &
Broadcasting
Shastri Bhawan
New Delhi - 110 001.
2. The Director General of
All India Radio
Akashvani Bhavan
Parliament Street
New Delhi - 110 001.
3. Superintending Engineer
High Power Transmitter
All India Radio
Kingsway
Delhi - 110 009. Respondents

(By Shri A.K.Bhardwaj, Advocate)

O R D E R (Oral)

By Justice V. Rajagopala Reddy:

Applicant No.1 and 2 have filed this OA seeking to quash the impugned order whereby the applicants' pay fixation has been revised without notice and for further payment of arrears and interest thereon. The applicants were appointed as Mechanics in 1957 and 1954 respectively, in All India Radio and

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they were promoted from time to time and finally retired as Senior Engineering Assistants in 1991 and 1986 respectively. As per the decision of the Supreme Court the pay of Engineering Assistants has been revised/enhanced and their pay had been fixed under FR 22 in 1996 in the scale of Rs.2000-3200. Accordingly the pay of Applicant No. 1 has been fixed at Rs.2600/- and Rs.2375 as on 1.2.1991 and 1.1.1986 respectively. Subsequently as it was found that the applicants were not entitled for the benefits under FR 22 at the time of promotion of Engineering Assistants to Senior Engineering Assistants as the scale of Rs.2000-3200 was extended to all Engineering Service on provisional basis, the pay of the applicants was revised and refixed at Rs.2375 and Rs.2180 as on 1.1.1991 and 1.1.1986 respectively, by the impugned orders. The grievance of the applicants in this case is that once the pay has been fixed under FR 22 in 1996, it cannot be modified or refixed by the impugned order without issuing notice. The applicant also plead that his arrears as fixed have not been paid by them to the applicants hence they are entitled for the interest on the said arrears.

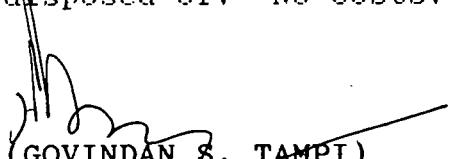
2. The learned counsel for the respondents submits that the pay fixation was ordered properly as the applicants were not entitled for the benefit under FR 22.

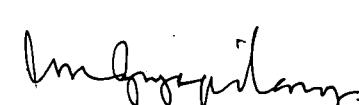
3. We have given careful consideration to the arguments advanced on either side. This case is squarely covered by the judgment of the Tribunal (in which both of us are the members) in Association of

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Radio & Television Engineering Employees, New Delhi and others Vs. Union of India & Others in OA No.165/97, decided on 13.9.2000. The question of the applicability of FR 22 in case the promotion of Engineering Assistants to Senior Engineering Assistants had been discussed and decided, relying upon the Judgment of the Supreme Court in Union of India and Others Vs. Ashoke Kumar Banerjee, 1998 SCC(L&S) 1277 holding that FR 22 the condition precedent is that the employees should be moving from a lower scale attached to the lower post to a higher scale attached to a higher post. In view of the above decision the applicants are not entitled for the benefit of FR 22 on their promotion from the post of Engineering Assistants to the post of Senior Engineer Assistants. As the benefit was wrongly given in the earlier order, the same has been rectified in the impugned order. There is however no justification for the respondents for not paying the arrears of pay in accordance with the pay fixation made in the impugned order till date.

4. We therefore, direct the respondents to pay the arrears of pay to the applicant in accordance with the impugned revised pay fixation within a period of three months from the date of receipt of a copy of this order along with interest at 12% till the date of actual payment. With this observation the OA is disposed of. No Costs.


(GOVINDAN S. TAMPI)
MEMBER(A)


(V. RAJAGOPALA REDDY)
VICE CHAIRMAN(J)