

Central Administrative Tribunal
Principal Bench

O.A. No. 1486 of 1998

New Delhi, dated this the ^{11th} July 2001

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

S/Shri

1. P.D. Sharma,
Assistant Engineer,
All India Radio,
HPT, Kingsway, Delhi.
2. J.M. Nangia
3. R.K. Handa .. Applicants

(By Advocate: Shri B.S. Mainee)

Versus

Union of India through

1. The Secretary,
Ministry of Information & Broadcasting,
Shastri Bhawan,
New Delhi.
2. The D.G., All India Radio,
Parliament Street, New Delhi.
3. The D.G., Doordarshan,
Doordarshan Kendra, Mandi House,
New Delhi.
4. The Chief Executive Officer,
Prasar Bharati,
New Delhi. .. Respondents

(By Advocate: Shri R.P. Aggarwal)

ORDER

S.R. ADIGE, VC (A)

Applicants seek fixation of their salary at Rs.550-900 after giving them the benefit of weightage of earlier service, as has been done in the case of sound recordists vide para 3 of respondents' circular dated 17.7.90 (Annexure A-6). Consequential benefits are also sought.

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2. One Shri A. Rajasekharan who was a senior Engineering Assistant in Doordarshan Kendra, Madras filed O.A. No. 654/89 before CAT, Madras Bench for revision of the scale of pay of the post of Engineering Assistant from Rs.425-750 to Rs.550-900 w.e.f. 1.1.78, the date from which the Hon'ble Supreme Court allowed revision of ^{pay scales of} Sound Recordists and to allow him the corresponding scale of Rs.2000-3200 as per 4th Pay Commission's recommendations with effect from 1.1.86. It was his case that Engineering Assistants and Sound Recordists in Doordarshan were in the same scale of Rs.425-750 w.e.f. 1.1.73 as per 3rd Pay Commission's recommendations, but Sound Recordists in Films Division had been given higher scale of Rs.550-900. The Sound Recordists in Doordarshan had filed CWP No. 974/98 in Hon'ble Supreme Court claiming the same scale of Rs.550-900, which had been allowed, upon which respondents had issued O.M. dated 21.12.88 revising the scale of Sound Recordists in Doordarshan to Rs.550-900.

3. After hearing both parties O.A. No. 654/89 was allowed by the CAT, Madras Bench by order dated 29.6.90 (Annexure A-4), with a direction to extend the benefits of order dated 21.12.88 to Engineering Assistants.

4. S.L.P. filed against that order was dismissed by Hon'ble Supreme Court on 7.1.91, and R.A., too was dismissed on 16.7.91.

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5. Thereupon respondents filed R.A. No. 4/92 before CAT, Madras Bench seeking review of its order dated 29.6.90, which was allowed by that Bench on 10.6.92. SLP (C) No. 4307-08/93 and No. 15205-07/92 against the CAT, Madras Bench's order dated 10.6.92 was allowed by the Hon'ble Supreme Court by order dated 25.11.94 and the impugned order dated 10.6.92 was set aside (Annexure A-5).

6. In implementation of the Hon'ble Supreme Court's order dated 25.11.94, respondents issued letter dated 15.5.95 (Annexure A-1) revising the pay scale of Engineering Assistants to Rs.550-900 w.e.f. 1.1.78 and Rs.2000-3200 w.e.f. 1.1.86.

7. Applicants contend in Para 4.20 of the O.A. that to secure the benefit of weightage of earlier service, the Sound Recordists in Doordarshan filed WP No. 240/89 in Hon'ble Supreme Court and pursuant to the Hon'ble Supreme Court's order dated 12.4.90, they were allowed the benefit of weightage of service rendered even prior to 1.1.78 vide respondents' letter dated 17.7.90 (Annexure a-6), Para 3 of which reads as follows:

"The pay of the employee will be fixed in the grade at the same stage as the person in Films Division, having the same length of service in the grade. They will, however, not be entitled to get the benefit of arrears of difference of fee/pay as a result of the above revision and refixation in respect of the person before the dates mentioned against each of the three categories as under:

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- (i)
(ii) sound recordists 1.1.78
(iii)

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8. Applicants' grievance is that there are a large number of Engineering Assistants who had been working as such from dates much earlier than 1.1.78, but while fixing pay in the scale of Rs.550-900 w.e.f. 1.1.78 weightage of service already put in by them prior to 1.1.78 has not been taken into consideration, as a result of which those who were appointed much prior to 1.1.78 such as 1972 or even before that, as well as those who were appointed on 1.1.78 have been started off on the basis of the scale of Rs.550-900.

9. Respondents challenge the O.A. on grounds of limitation. On merits, they concede that pursuant to the Hon'ble Supreme Court's judgment dated 12.4.90 the pay scales of Sound Recordists (as well as Cameraman Grade II and Lighting Assistants) in Doordarshan were revised to bring them at par with corresponding scales admissible to their counterparts in Films Division, but contend that the benefits admissible to Sound Recordists cannot be extended to Engineering Assistants as the latter category i.e. Engineering Assistants cannot be treated at par with any category posts in Films Division.

10. We have heard both sides and considered the matter carefully.

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11. When by respondents' own order dated 21.12.88 the Sound Recordists in Doordarshan have been granted the same pay scale as Sound Recordists of Films Division i.e. Rs.550-900 w.e.f. 1.1.78, and by the CAT, Madras Bench's order dated 29.6.90, respondents have been directed to extend the benefit of the order dated 22.12.88 to Engineering Assistants of Doordarshan treating them on par with Sound Recordists of Doordarshan, which have been upheld by the Hon'ble Supreme Court, respondents cannot deny to applicants the benefit of Para 3 of their own circular dated 17.7.90 (Annexure A-6). To do so, would be to treat equals unequally which would be violative of Articles 14 and 16 of the Constitution.

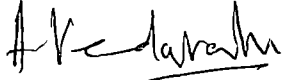
12. In so far as the plea of limitation taken by respondents is concerned the same is rejected, as ^{wrong} pay fixation gives applicants a continuous cause of action, as has been held by the Hon'ble Supreme Court in M.R. Gupta Vs. Union of India 1995 (5) SCALE 29.

13. This O.A., therefore, succeeds and is allowed to the extent that respondents are directed to refix the pay of applicants and other similarly situated Engineering Assistants by giving them the benefit of weightage of earlier service as has been done in the case of Sound Recordists vide para 3 of respondents' circular dated 17.7.90, together with consequential benefits, including fitment in the revised pay scales consequent to the recommendation of the 5th Pay Commission as well as payment of

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arrears, which shall be limited to Para 3 of the
aforesaid circular dated 17.7.90. These directions
should be implemented as expeditiously as possible
and preferably within four months from the date of
receipt of a copy of this order. No costs.



(Dr. A. Vedavalli)
Member (J)



(S.R. Adige)
Vice Chairman (A)

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