

Central Administrative Tribunal  
Principal Bench

O.A. No. 2696 of 1997

2<sup>nd</sup> NOVEMBER  
New Delhi, dated this the 2 ~~September~~, 2000

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

Shri Vijay Kumar Kam,  
S/o Shri Prem Nath Mam,  
R/o 40-Gautam Apartments,  
DDA, SFS, Gautam Nagar,  
New Delhi .. Applicant

(By Advocate: Shri S.Y. Khan)

Versus

1. Union of India through  
the Secretary,  
Ministry of Information & Broadcasting,  
Shastri Bhawan,  
New Delhi.
2. Director General,  
All India Radio,  
Akashvani Bhawan,  
Parliament Street,  
New Delhi.
3. Director General,  
News Service Division,  
All India Radio, Akashvani Bhawan,  
Parliament Street,  
New Delhi. .. Respondents

(By Advocate: Shri K.K. Patel)

ORDER

MR. S.R. ADIGE, VC (A)

Applicant impugns respondents' order dated 13.11.97 (Annexure A-1) and claims the pay scale of New Reader-cum-Translator (Rs.2000-3500 Pre-revised) w.e.f. March, 1990, i.e the date from which he states that he has been discharging the duties of News Reader-cum-Translator under direction of respondents. Consequential benefits have also been prayed for by him including regularisation in the above post.

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2. Applicant's case is that he was appointed as Copyist (General Assistant) in Radio Kashmir, Srinagar on 27.4.67 and was subsequently promoted to the post of Production Assistant there vide Respondents' letter dated 23.8.82. Applicant states besides doing his normal duties, he started working as News Reader-cum-Translator w.e.f. April, 1983. Because of insurgency of terrorism he was compelled to leave Kashmir on 3.2.90 and came to Delhi. By order dated 7.3.90 (Annexure A-5) his Headquarter was changed to External Services Division, All India Radio, New Delhi. Upon shifting of Regional News Unit of Radio Kashmir, Srinagar to Delhi on 5.3.90 applicant was called upon verbally to work as News Reader-cum-Translator which was in the scale of Rs.2000-3500 (pre-revised) although applicant was paid in the scale of Rs.1400-2600 (pre-revised) as Production Assistant being the post to which he had been promoted. Applicant states that respondents had allowed him an honorarium of Rs.1000/- vide their letter dated 27.3.95 (Annexure-A-13) which he refused to accept, which was subsequently increased to Rs.2000/- by letter of November, 1995. He claims that on the principle of equal pay for equal work, he is entitled to the pay scale of the post of News Reader-cum-Translator which he was discharging since March, 1990.

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3. Respondents in their reply admit that applicant's services have been utilised as News Reader-cum-Translator but contend that as no formal orders were even issued appointing him as such, under FR 49 respondents are not compelled to pay him in that scale. They further contend that under FR 11, they are competent to utilise applicant's services in any manner they deem fit without payment of any extra remuneration. It is argued that respondents' orders dated 28.6.95; 29.9.97 and 18.4.97 when applicant's designation has been shown as Nes Reader-cum-Translator is erroneous, and cannot be termed to have been issued to appoint him to the said post. Furthermore it is urged that applicant does not fulfil the essential qualification of the post of News Reader-cum-Translator, and the post of Production Assistant is also not in the feeder grade for promotion as News Reader-cum-Translator.

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

5. Respondents themselves admit that applicant has been discharging the duties of the higher post of News Reader-cum-Translator since March, 1990 till date. This is not a short term, ad hoc, stop gap arrangement, but has continued for over 10 long years. The question arises whether applicant

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can legally be denied the benefit of pay and allowances of this higher post despite having admittedly discharged the duties and responsibilities of the same during this period? A further question arises whether an honorarium of Rs.2000/- can be considered just recompense for discharging the duties of the higher post ~~for~~ continuously for over 10 long years?

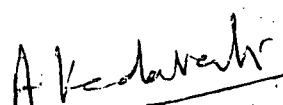
6. The Hon'ble Supreme Court in Selvaraj Vs. Lt. Governor of Islands, Port Blair & Others JT 1998 (4) SC 500 under similar circumstances, after applying the principle of quantum merit, set aside the C.A.T's order and allowed the appellant's claim for payment of salary and allowances of the higher post of Secretary (Scouts) (Rs.1640-2900) less what he had actually been paid for the period 29.1.92 to 19.9.95, during which he had actually worked as Secretary (Scouts), notwithstanding the fact that he was not regularly promoted to the higher post, and was substantively only in the lower pay scale of Rs.1200-2040. It was, however, made clear in that ruling that the payment of the aforesaid difference in amount of salary would not be treated to amount to any promotion given to the appellant to the said post, and was being allowed only on the ground that he had actually worked on the higher post.

7. In our view the aforesaid ruling is squarely applicable to the facts and circumstances of the present case and indeed the present case stands on an even stronger ground, because while in Selvaraj's case (supra) he discharged the duties of the post of Secretary (Scouts) from 29.1.92 to 19.9.95 i.e. approximately three years, and eight months, the present applicant has continued to discharge the duties of the higher post for well over 10 years from March 1990 till date. We also hold that

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the payment of honorarium of Rs.2000/- for discharging the duties of the higher post cannot, under any circumstances, be considered just recompense for the same in the light of the principle of quantum merit.

8. Under the circumstances this O.A. succeeds and is allowed to the extent that in the light of the Hon'ble Supreme Court's ruling in Selvaraj's case (supra) respondents are directed to pay applicant the pay and allowances of the post of News Reader-cum-Translator from March, 1990 onwards till such time as respondents take the work of News Reader-cum-Translator from him, after deducting the pay and allowances of the lower post which has already been paid to him, as also the honorarium paid to him. Payment of arrears and current dues in accordance with these directions should be made to applicant within three 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)

/GK/