

12

Central Administrative Tribunal
Principal Bench, New Delhi.

OA-1495/2004

New Delhi this the 20th day of August, 2004.

Hon'ble Shri V.K. Majotra, Vice-Chairman(A)
Hon'ble Shri Shanker Raju, Member(J)

Poonam Dabas,
Special Correspondent,
DD News, New Delhi,
R/o 1 LF, Babar Place,
New Delhi.

..... Applicant

(through Sh. M.K. Bhardwaj, Advocate)

Versus

Union of India & Ors. Through

1. The Secretary,
Ministry of I&B,
Govt. of India,
Shastri Bhawan,
New Delhi.
 2. The Director General,
Delhi Doordarshan,
Akashwani Bhawan,
Sansad Marg,
New Delhi.
 3. Chief Executive Officer,
Prasar Bharti,
Broadcasting Corporation,
PTI, New Delhi.
 4. Chief Controller of Accounts,
Pay and Accounts Office,
Ministry of I & B,
Shastri Bhawan,
New Delhi.
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5. Director (Admn),
Doordarshan News,
CPC, Siri Fort,
Khel Gaon,
New Delhi.

..... Respondents

(through Sh. Rajeev Sharma, Advocate)

Order (Oral)
Hon'ble Shri Shanker Raju, Member(J)

Through this OA applicant claims following reliefs:-

- (i) To direct the respondents to release increments to the applicant from Aug. 1993 with all consequential benefits including the arrears with 18% interest.
- (ii) To direct the respondents to revise their order-dated 1.7.2003 by taking into account the increments of the applicant from Aug. 1993 and then implement the same with all consequential benefits including interest.
- (iii) To direct the respondents to release the salary of the applicant for the period Nov. and Dec. 1992, June-Aug. 1994, Sept. 1997 and since Nov. 2003 with 18% interest.
- (iv) To pass such other and further orders which their lordships of this Hon'ble Tribunal deem fit and proper in the existing facts and circumstances of the case."

2. Heard the learned counsel.

3. The grievance of the applicant who is working as T.V. News Correspondent, Doordarshan, Delhi is that the respondents have wrongly treated her as absent from duty where she had performed her duties and certain documents in support have been filed. It

is stated that vide order dated 1.7.2003 the applicant had taken into consideration increments from August, 1993 onwards but the break up has not been given and fixation of pay as Fifth C.P.C. and grant of ACP was not, inter alia, formed part which deprived the applicant of saving her income tax on the salary.

4. As regards payment of November and December 1992, June to August 1994, September 1997 and salary since November 2003 it is stated that the same are yet to be paid.

5. Learned counsel of the applicant further states that vide letter dated 15.7.2003, respondents have issued a memo to the applicant to take up an action under FR 17. According to him, the same is unwarranted as the applicant had remained unauthorisedly absent. It is stated that no due procedure has been followed to issue letter dated 15.7.2003 to hold disciplinary proceeding against the applicant and once no final order has been passed, salary cannot be withheld which amounts to punishment.

6. In the rejoinder, it is contended that the applicant's increments have been wrongly computed and she had been fixed in wrong pay scale after Fifth C.P.C.

7. On the other hand, respondents' counsel vehemently opposed the contentions and stated that as far as payment of salary for the period November and December 2002 is concerned, the same had been disbursed and received by the applicant. Moreover, as regards salary for the period from June to August 1994, the same has been prepared and the respondents shall pay it to the applicant. As regards salary for the period September 1997 is concerned, the same stands paid to the applicant alongwith pay and allowance in July 2003.

8. As regards the salary for November 2003 onwards is concerned an action under FR 17 is concerned, it is stated that all the communications sent to the applicant have been refused. Accordingly, no further action has been taken with reference to FR 17. It is stated that one gets salary attached to the post on assumption. If one is absent, is not entitled to salary unless unauthorized absence is finally settled either under FR 17(a) or any other proceeding.

9. On careful consideration of the rival contentions of the parties, we find that payment of November and December salary 2002 had already been paid to the applicant.

10. Respondents have calculated and are ready to pay the salary from June to August 1994. Salary since September 1997 had already been paid. As regards salary from February to November 2003 the same had already been paid. From November onwards the salary is not paid as the respondents on absence of the applicant have issued her notice under FR 17(a) on 15.7.2003.

11. As regards increments are concerned whereby an order dated 1.7.2003, a sum of Rs. 2 lacs has been released on account of arrears pertaining to the increments of the applicant due from November 1993.

12. However, we find that due and drawn statement is also attached alongwith this order.

13. Having regard to the aforesaid, the only issue which is contentious in this case is withholding of salary of November, 2003 onwards. We are of the considered view that salary cannot be withheld unless the period is treated as dies non or a disciplinary proceeding is taken up. In the present case notice dated 15.7.2003 issued to the applicant remained unresponded and the communication has been refused. However

from documents presented on both sides an attempt has been made to confirm the claims of absent from duty as well as reporting by the applicant. However, we cannot assume the role of Appellate Authority to enter into this arena and to substitute our views.

14. In the fitness of things, we dispose of this O.A. with the following directions:-

- (a) Respondents shall supply to the applicant within four weeks from the date of receipt of a copy of this order, a detailed statement as to how the Fifth C.P.C., ACP recommendations regarding pay have been implemented in her case and also in what manner the increments have been released from August 1993 giving yearwise break up.
- (b) Respondents shall also release the due salary as admissible to the applicant for the period from June to August 1994 within the aforesaid period.

15. As regards absence of November 2003 is concerned, we find notice dated 15.7.2003 was issued to the applicant under FR 17(a). Respondents are directed to reframe the notice incorporating the entire alleged absent period of the applicant and thereafter afford her an opportunity to represent in writing followed by a personal hearing and thereafter pass an order regulating the above period. The documents to be tendered by the applicant shall also be considered. A reasoned order shall have to be passed. This shall be complied with within a period of three months from the date of receipt of a copy of this order.

16. Applicant if still remains aggrieved shall be at liberty to take up appropriate proceedings in accordance with law. No costs.

S. Raju
(Shanker Raju)
Member(J)

V.K. Majotra
(V.K. Majotra)
Vice-Chairman(A)
20.8.07