

12

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

O.A. NO.1592/2004

New Delhi, this the 2nd day of September, 2005

HON'BLE MR. MUKESH KUMAR GUPTA, MEMBER (J)

S.N. Bansal, Aged about 83 years,
Assistant Station Engineer (Retired),
All India Radio/Doordarshan,
A-54, East of Kailash,
New Delhi – 110 065

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Applicant

(By Advocate : Shri S.N. Anand along with Shri S.N. Bansal
Applicant in person)

VERSUS

1. Union of India,
Through Secretary,
Ministry of Information & Broadcasting,
Shastri Bhawan, New Delhi
2. The Director General,
All India Radio,
(Now ECO Prasar Bharti),
Mandi House, New Delhi

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Respondents

(By Advocate : Mrs. Meenu Mainee)

ORDER

The reliefs prayed for are as follows –

- (a) Direct Respondents to grant in-service benefits by regularizing applicant's service as TA w.e.f. 1949, i.e., from the date the post was upgraded to Class-II;
- (b) As a result of regularization with retrospective effect, he would be deemed to have been AE on 1.7.1959 when the posts of TA/AE were merged in a single cadre of AE;

12

- (c) The entire previous service from 1949 to 1.7.1959 may count for increment in the post of TA and from 1.7.1959 to 16.6.1967 (the date of appointment as AE) in the post of AE;
- (d) Applicant may be allowed seniority in the grade of AE, it should be determined on the same basis as the seniority of Technical Assistant and Assistant Engineer were fixed when two cadres were merged on 1.7.1959 and the benefits should also accrue to Shri Bansal with effect from 1.7.1959;
- (e) Revise pensionary benefits pursuant to above reliefs; and
- (f) Pass such further or other order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

2. Admitted facts of the case are that the applicant, retired in the year 1977, was appointed as Technical Assistant (TA), a Class-III post, in the pay scale of Rs.150-250 in All India Radio vide appointment letter dated 05.03.1946. Prior to the said appointment, the applicant had served Radio Ceylon for about 2 years. The post of TA was upgraded to Class-II in the pay scale of Rs.250-400 w.e.f. 1.1.1947. The applicant's services were terminated w.e.f. 1.11.1951 with one month's notice. Thereafter, he joined the lower post of Senior Mechanic w.e.f. 22.12.1952. Subsequently the post of TA was merged with the cadre of Assistant Engineer w.e.f. 1.7.1959. After protracted representations on the subject, the applicant was appointed as Assistant Engineer w.e.f. 16.6.1967.

3. The grievance of the applicant is that though the UPSC vide letter dated 20.10.1975 recommended regularization of the appointment of several Officers including the applicant from Class-III to Class-II post of TA w.e.f. from the year 1949, the Respondents did not pay any heed though, he was informed vide communication dated 21.5.1976 that his case for regularization in the upgraded post was under consideration. The contention raised is that the Respondents committed wrong in not regularizing him retrospectively and the applicant being a senior citizen of 83 years old deserves sympathy and compassion and cannot be made to suffer. Therefore, a humble plea was made to regularize his services as TA w.e.f. the year 1949 when the said post was upgraded to Class-II as well as to count the entire previous service rendered from 1949 to 1959 for

the purposes of increment and consequential benefits including seniority and further promotion as well as to revise the pensionary benefits accordingly. The applicant has relied upon certain Commendation Letters to justify his claim and asserted that he had been denied the said benefits arbitrarily and unjustly and further he cannot be made to suffer.

4. The Respondents contested the claim stating that as the relief claimed by the applicant pertains to the period 1946 to 1949 and since no records are available for the said period, they are not in a position to file detailed reply; the OA is highly time barred and cannot be entertained at this belated stage as no cause of action accrued in applicant's favour. On merits, it is submitted that the applicant was appointed in the year 1946 after according relaxation in educational qualification and the appointment was made purely in temporary capacity. As the applicant was unqualified, he was given option for appointment as Senior Mechanic/Junior Mechanic. Since the applicant exercised his option, he joined as Senior Mechanic in December, 1952 on a regular basis, which was a fresh appointment. Various representations submitted by him to the Prime Minister's Office as well as Members of Parliament and through Common Cause were considered but could not be acceded to.

5. Rejoinder has been filed controverting the contentions raised by the Respondents, while reiterating the averments made in the OA.

6. I have heard the learned counsel for both the sides besides applicant in person and perused the pleadings carefully.

7. Section 21 of the Administrative Tribunals Act, 1985 deals with the limitation as well as confers jurisdiction to entertain an Application. It would be relevant at this stage to reproduce relevant excerpts of said provision, which reads as under:

"21. Limitation.-(1) A Tribunal shall not admit an application, -

(a) in a case where a final order such as is mentioned in clause (a) of sub-section (2) of section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made;

20

(b) xxxxxx xxxxxx xxxxxx xxxxxx
xxxxxx

(2) *Notwithstanding anything contained in sub-section (1), where*

(a) *the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date of which the jurisdiction, powers and authority of the Tribunal becomes exercisable under this Act in respect of the matter to which such order relates; and*

(b) *no proceedings for the redressal of such grievance had been commenced before the said date before any High Court,*

the application shall be entertained by the Tribunal if it is made within the period referred to in clause (a), or, as the case may be, clause (b), of sub-section (1) or within a period of six months from the said date, whichever period expires later.

(3) xxxxxx xxxxxx xxxxxx “ (emphasis supplied)

8. A perusal of the aforesaid provision of the Act, in my considered view, mandates in specific that where the grievance in respect of which an application is made, had arisen at any time during the period of 3 years immediately preceding the date on which the jurisdiction, power and authority of the Tribunal became exercisable under this Act alone could be entertained. It is a known fact that the provisions of the aforesaid Act came into force from 1.11.1985. Therefore, 3 years has to be counted prior to the said date, i.e., 1.11.1985. In other words, if a cause of action had arisen at any time upto 1.11.1982, only then the jurisdiction, powers and authority of this Tribunal could be exercised and not otherwise. In the present Application, the applicant's claim is based on an event, which arose much prior to the said cut off date, i.e., 1.11.1982. A perusal of the relief clause in itself would indicate that the applicant's claim is for retrospective regularization as well as other benefits during the year 1949-1956 as well as the increments, which fell from 1.7.1959 to 16.6.1967, which could not be said to have been given a continuous cause of action. Therefore, in my considered view the present application cannot be entertained and has to be rejected particularly for the reason that this Tribunal has no

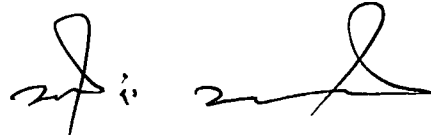
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21

powers to condone the delay for cause of action, which arose prior to 1.11.1982.

Accordingly, I find that this Tribunal is precluded to exercise any jurisdiction, powers and authority in the present case.

9. The OA is accordingly dismissed. No costs.



(Mukesh Kumar Gupta)
Member (J)

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