

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

44

RA 28/2006

MA 323/2006

OA 518/2004

New Delhi, this the 6th day of March, 2006

HON'BLE MR. V.K. MAJOTRA, VICE-CHAIRMAN (A)
HON'BLE MR. MUKESH KUMAR GUPTA, MEMBER (J)

Ashfaq-Ul-Nabi
Aged About 66 years,
Son on Shri Mohd. Nabi Khan
RTD STAFF CAR DRIVER, A I R, RAMPUR;

Resident of D-35, M I G Flat, DDA
B-Block, Vivek Vihar, Phase-II
(Opp. Jhilmil Colony), Delhi-95.

.... Petitioner

Thro.: H.P. Chakravorti, Advocate
Bar Room CAT, P/Bench, New Delhi.

VERSUS

1. Union of India thro'
The Director General, AIR
Broadcasting Corporation of India
Prasar Bharti, Inf. & Brod. Ministry,
Sansad Bhawan, New Delhi.
2. The Station Director,
A I R, Prasar Bharti,
Lucknow.
3. The Station Engineer (Head of the Office)
AIR, Prasar Bharti, Rampur.

.... Respondents.

O R D E R (In Circulation)

By Hon'ble Mr. Mukesh Kumar Gupta:-

The present RA has been taken up for consideration under circulation in terms of powers conferred under Rule 17 (3) of the C.A.T. (Procedure) Rules, 1987.

MA. NO 323 OF 2006

2. By this M.A., the applicant prays to take Order dated 4.2.2005 issued by the respondents fixing pay of Sh. Chandra Dev Prasad on record. It is contended that by the aforesaid Order, the said official had been allowed the difference of arrears of pay as well as terminal benefits. It is further prayed that the said order be taken into consideration while examining the RA.

[Signature]

us

RA No 28/2006

3. By the present RA, the applicant prays to recall and review an oral Order dated 29th November, 2005. By the said order OA No 518 of 2004 was allowed in part, with the following observations:

"11. In view of the discussions made hereinabove, we allow the Original Application in part and quash & set aside impugned communications dated 03.03.2003 as well as 13.02.2003 and hold that the Applicant would be entitled to the benefit of waiver of trade test, as allowed to others. Consequently the applicant would be entitled to the grant of pay scale of Rs.1320-2040/- w.e.f. 01.08.1993. However, in the facts and circumstances of the present case, we do not wish to either accord him the arrears of pay or interest as prayed for. However, the Applicant would be entitled to re-fixation of his pensionary benefits along with arrears of pension and pensionary benefits. This exercise shall be completed within a period of two months from the date of receipt of a copy of this order. No costs."

4. The contention raised is that the applicant has ^{been} put in a great gross financial loss in comparison to similarly situated persons. The denial of arrears amounts to injustice without any reasons or justifications, which has to be taken as an error apparent on the face of record while deciding the aforesaid OA. It is further prayed that the observations and directions made vide aforesaid para, to the extent, which state that he would not be entitled to "arrears of pay or interest", may be deleted.

5. We have carefully perused the order sought to be reviewed as well as the RA and are of the considered view that the applicant has tried to challenge the findings recorded on merits, which is impermissible under the review jurisdiction. We may note that the applicant had retired on attaining the age of superannuation w.e.f. 31.1.1996 though the OA was filed in the year 2004. In these circumstances, a conscious decision was taken by this Tribunal not to allow any arrears of pay as well as interest. Moreover we may note that no reasons have been furnished by the applicant as to why the order dated 04.2.2005 fixing the pay of Shri Chandra Dev Prasad had not been produced before this Tribunal.

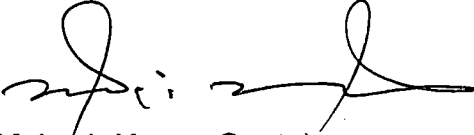
6. Finding no error apparent on the face of record vide order dated 29.11.2005, RA is dismissed. We may also note that the respondents had also

f

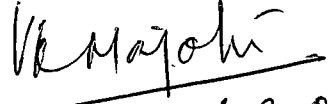
MF

filed MA No.47/2006 seeking recalling of the aforesaid order dated 29.11.2005,
which was dismissed vide order dated 03.2.2006.

7. Therefore, RA as well as MA is dismissed.


(Mukesh Kumar Gupta)
Member (J)

/gkk/


(V.K. Majotra) 6.3.06
Vice-Chairman (A)