

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD
EXE. APPLICATION No.2692/01 IN
ORIGINAL APPLICATION No.1565/1992

FRIDAY, THIS THE 19TH DAY OF APRIL, 2002

HON'BLE MR. JUSTICE R.R.K. TRIVEDI .. VICE CHAIRMAN

HON'BLE MAJ. GEN. K.K. SRIVASTAVA .. MEMBER (A)

Nikhil Chandra Joshi,
S/o late Shri Ila Chand Joshi,
Programme Executive,
All India Radio,
Varanasi.

...

Applicant

(By Advocate Shri D.D. Gupta)

Versus

1. Union of India,
through Ministry of
Information of Broadcasting,
New Delhi.

2. Director General,
All India Radio,
Aakashvani Bhavan,
New Delhi.

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Respondents

(By Advocate Shri R.C. Joshi)

ORDER

Hon'ble Mr. Justice R.R.K. Trivedi, Vice Chairman:

By this application under Section 27 of the A.T. Act, 1985, the applicant has prayed that the respondents be directed to pay all benefits and the arrears of pay from joining time dated 26.6.1976 to October, 1992 as Transmission Executive after having served as Staff Artist on contract basis. His submission is that on the basis of the operative part of the order the respondents have given the benefit ^{only} from 1992, though they have added the service from 1972 to 1976 but they are not giving the arrears.



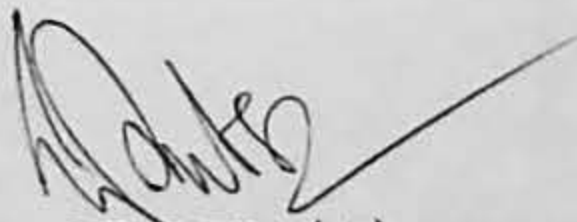
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2. The question is of interpretation ^{of words}. This Tribunal, vide judgment dated 29.6.1999, passed in O.A.No.1565/1992 gave the following direction:

"We therefore, direct ^{that} the respondents shall re-fix the pay of the applicant, granting pay protection from the date he joined as Transmission Executive after havint served as Staff Artist on contract basis. The applicant shall also be granted the benefit of joining time, joining time pay, carry forward of leave and transfer T.A. in case these were given to Smt. Kanta Pant or Shri B.N.P. Sinha. The arrears shall be paid to the applicant with interest of 12% per annum from the date of filing of this application, i.e., from November, 1992. This order shall be complied within a period of three months from the date of this communication by the applicant to the respondents. The cost shall be paid to the applicant by the respondents."

3. From a perusal of the aforesaid order, it appears that the Bench allowed arrears with 12% interest from November, 1992, ^{from} from the date of application, i.e., from the date the O.A. was filed in this Tribunal. Thus, the respondents have correctly executed the order and we do not find any mistake on their part.

4. Application is accordingly rejected. No order as to costs.


MEMBER (A)


VICE CHAIRMAN

psp.

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD.

Original Application No. 1565 of 1992
Transfer Application no.

Date of Decision 29-6-99

Nikhil Chandra Joshi Applicant(s)

Shri K.M. Mishra Counsel for the Applicant(s)

V E R S U S

Union of India and Others Respondent(s)

Shri N.B. Singh Counsel for the Respondent(s)

C O R A M

Hon'ble Mr. S. Dayal, Member (A)
Hon'ble Mr. S.K. Agrawal, Member (J)

- 1.
1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether their Lordship wish to see the fair copy of the judgment ?
6. Whether to be circulated to all Benches ?


(SIGNATURE)

PIYUSH/

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 1565 of 1992

Allahabad this the 29th day of June 1999

Hon'ble Mr. S. Dayal, Member (A)
Hon'ble Mr. S.K. Agrawal, Member (J)

Nikhil Chandra Joshi, son of Late Shri Ila Chand Joshi,
Programme Executive, All-India Radio, Varanasi.

Applicant

By Advocate Shri K.M. Mishra

Versus

1. Union of India through Ministry of Information and Broadcasting, New Delhi.
2. Director General, All India Radio, Akashwani Bhawan, New Delhi.

Respondents

By Advocate Shri N.B. Singh

ORDER

By Hon'ble Mr. S. Dayal, Member (A)

This application under section 19 of the Administrative Tribunal Act, 1985 has been filed for a direction to set aside the order dated 22.5.1992 and grant of benefits of joining time, joining time pay, transfer T.A., Carry forward of leave, protection of pay to the applicant as per office order no.45011/66/ - 79-B(A) dated 28.6.1992.

2. The applicant worked as Staff Artist, A.I.R. w.e.f. 18.3.1972 and was getting the pay scale of Announcer who is a Staff Artist. The applicant applied for the post of Transmission Executive in the year 1976 and was selected. He tendered technical resignation on 25.3.1976 and on 26.3.1976 applicant joined on the post of Transmission Executive at All India Radio, Varanasi.

3. The applicant was however, not granted the benefit of pay protection and other benefits and his salary was fixed at Rs.425/- per month at the time he applied for Transmission Executive. Thus, the benefit of O.M.No. 6(23)E-III/62, dated 22.6.1962, were not allowed to him. The applicant claims to have been legally entitled of his salary at Rs.500/- per month at the time of his joining on the post of Transmission Executive. The applicant mentions that Government of India allowed for grant of the benefit, protection of pay, joining time pay, transfer T.A., carry forward of leave etc. to the staff Artist who joined as Transmission Executive. He has cited the instances of Shri B.N.P. Sinha and Smt. Kanta Pant who were given the benefit of the Office order No.45011/56/79-B(A), dated 28.6.1982. The applicant made representations dated 31.7.89 and 31.10.91 which were recommended by the Directorate at Allahabad but have been turned down, once at the level of Ministry of Information and Broadcasting and second at the level of Finance Ministry.

4. The arguments of Shri K.M. Mishra for the applicant and Shri S.K. Anwar proxy counsel forpg.3/-



Shri N.B. Singh have been heard. The pleadings on record have been taken into consideration.

5. Copy of O.M.No.6(23)-E-II/62, dated 22.6.63 delegates the power to the Ministry for fixation of pay of government servants who are promoted or transferred from one officiating post to another or re-appointed after retrenchment and also for fixation of pay of temporary government servant on transfer from one post to another. By O.M.No.45021/56/79-B(A), Dated 28.6.82, Ministry of Information and Broadcasting has clarified in continuation of Ministry's letter dated 20.5.1981 that those Staff Artists who were selected for civil post, was to be fixed in the identical or higher pay scale on selection for appointment to a regular civil post according to O.M.No.6(23) E,III/62 dated 22.6.62 if the regular appointment in a higher or regular post is against a temporary post, the official were entitled for joining time, joining time pay and transfer T.A. if they had completed more than 3 years continuous service as Staff Artist and his selection to the Civil post is in response to public advertisement open to serving Staff Artists as well as general public. He was also entitled to carry forward leave. The benefits were denied to the applicant because they were not admissible with retrospective effect.

6. The respondents in their counter-reply have stated that the instructions given vide O.M.No.6(23)S-23/62, dated 20.6.62 regarding pay protection were to be allowed to permanent/quasi permanent government servant who were transferred from one post to another. They have mentioned that the applicant was engaged on contract basis and,

therefore not entitled to the benefit of the instructions. They mentioned that the benefits of letter dated 28.6.82 were not applicable with retrospective effect.

7. The respondents have denied that they have extended the benefit of protection of pay to Shri B.N.P.-Sinha and Smt. Kanta Pant in pursuance of Ministry of Information and Broadcasting Order No.45011/56/79-BA, dated 28.6.82. Original files of Shri B.N.P. Sinha and Smt.Kanta Pant were called for. The file of Smt. Kanta Pant and Shri Nikhil Chandra Joshi have been sent. Smt. Kanta Pant appeared to have been appointed as Programme Executive on 18.4.75. Her pay was fixed at Rs.810/- in the scale of Rs.600-1200 w.e.f. 18.4.75. Prior to that she was drawing Rs.810/- as Staff Artist. This is contained in her personal file in Order No.4(6)/77-SI, dated 05.11.79. The name of Shri B.N.P. Sinha appears in this list and his pay also appears to have been similarly protected. By the same order, pay of some 19 officials have been fixed and their dates of appointment as Programme Executive range from 31.3.75 to 12.9 .77. The file of Shri Nikhil Chandra Joshi-the applicant, shows that the benefit which was granted to Smt. Kanta Pant and Shri B.N.P. Sinha were protected while the same benefit was denied to the applicant. The applicant had joined as Staff Artist on 26.3.76 which is the same period for which benefits were given to number of other officials promoted from Staff Artist to Programme Executive.

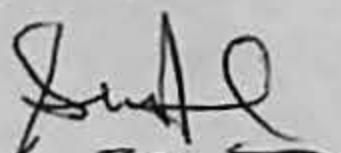
8. The applicant has cited the authorities of P. Padmeshwaran Vs. Secretary to Government of India 1987(Supp.) S.C.C. 18. In this case, the applicant who

was Field Publicity Officer Grade IV were upgraded to Grade III pursuant to the recommendation of Third Pay Commission. They were given the pay scale w.e.f. 01.10.75 and not from 01.1.73 due to some administrative difficulties. It was held that denying the revised grade and scale from 01.1.1973 was discriminatory.

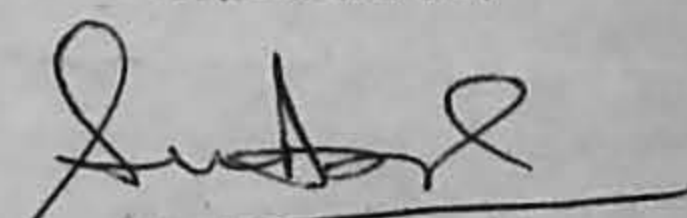
9. In the case before us, the discrimination in protecting the pay of ^a number of Staff Artists who were promoted as Programme Executive viz-a-viz the applicant has been established. The applicant has claimed a number of other benefits like joining time, joining time pay, carry forward of leave, Transfer T.A., Protection of Pay. It is not clear from the files produced before us whether these benefits have been granted to Smt. Kanta Pant or Shri B.N.P. Sinha and others. It is, however, likely that these benefits may have been granted to Smt. Kanta Pant and Shri B.N.P. Sinha.


10. We, therefore, direct that the respondents shall re-fix the pay of the applicant, granting pay protection from the date he joined as ^{Transmission} Programme Executive after having served as Staff Artist on contract basis. The applicant shall also be granted the benefit of joining time, joining time pay, carry forward of leave and Transfer T.A. incase these were given to Smt. Kanta Pant or Shri B.N.P. Sinha. The arrears shall be paid to the applicant with interest of 12% per annum from the date of filing of this application, i.e. from November, 1992. This order shall be complied within a period of three months from the date of its communication by the applicant to the respondents. The cost shall be paid to the applicant by the respondents.

Correction made
vide order of D.B.
dated 27.7.99


J.M.


A.M.


Member (J)


Member (A)