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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH CUTTACK

Original Application No. 600 of 1992

Date of Decision: 16. 11. 1993

Haridas Chakraborty

Applicant(s)

Versus

Union of India & Others

Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? N.
2. Whether it be circulated to all the Benches of the N. Central Administrative Tribunals or not ?

VICE-CHAIRMAN

km 16/11/93

MEMBER (ADMINISTRATIVE)

16 Nov 93



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### Respondents

For the applicant

M/s.M.R.Panda  
D.K.Pani  
S.K.Sahoo  
M.K.Das  
Advocates

### For the respondents

Mr.U.B.Mohapatra  
Addl.Standing Counsel  
(Central)

C O R A M:



THE HONOURABLE MR. K. P. ACHARYA, VICE - CHAIRMAN  
AND

THE HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER (ADMN)

JUDGMENT

MR. H. RAJENDRA PRASAD, MEMBER (ADMN) : In this application Shri Haridas Chakravarthy, formerly Staff Artist, Akashvani, Cuttack Station, has challenged the rejection, by the Principal Accounts Officer, AIR, of his claim for pensionary benefits and refixation of pay in the revised scales which came into effect from 1st January, 1986. He prays for the quashing of the orders issued to that effect and a further direction to the Respondents to (i) sanction him two increments, (ii) refix his pension accordingly, and (iii) grant him all due benefits with 12% interest thereon.

2. Shri Haridas Chakravarthy joined the All India Radio as a Staff Artist on 1st April, 1950, and retired at the age of 60 years on 8th September, 1986. According to him, he was retained in service for a period of two years on 9th September, 1984. Whatever be the validity of this assertion, he has rendered a continuous, uninterrupted service of 35 years.

3. As per an executive decision, the Staff Artist were later designated as Artists. The Government thereafter decided also to rationalise the pay-structure and terms of service of the Artists. Orders were issued accordingly on 3rd May and 26th June, 1983, asking, inter alia, the concerned personnel to exercise options in terms of the said rationalisation policy. The applicant chose to remain an artist and exercised his option accordingly. A screening committee was constituted thereafter to interview the concerned officials and to examine their service records.

4. It is the grievance of the applicant that he has been denied his legitimate retirement benefits like pension/ whereas artists similarly placed in the



1. Rajendra Prasad

organisation have been given these benefits under Central Civil Services(Pension) Rules, 1972. He contends that inasmuch as the Artists have been held to be the holders of civil posts (AIR 1987 SC 1526), any denial of pensionary benefits amounts to a contravention of Articles 14 and 16(i) of the Constitution. He argues that retirement benefits are no more than deferred wages, and are on this score, properties, the deprivation of which is violative of Article 330 A.

5. The applicant represented to the Secretary, Ministry of Information & Broadcasting, besides the Station Director, Cuttack AIR Station. He also filed a petition before this Tribunal (O.A. No.380/88) which was disposed of with a direction that due benefits be disbursed to the applicant.

6. The applicant complains that the Rationalisation Scheme of the Government clearly envisaged refixation of pay after due screening to determine the officials' fitness for the same. He asserts that he was found fit but denied the benefit, all the same. And then, while refixing his pay, two increments due to him were disregarded on the ground that he had already reached the maximum of his pay scale in 1980. He claims that with the revision of pay scales from 1st January, 1986, in the wake of the accepted recommendations of the IV Pay Commission, his increments, which were due to him under the old scale in March, 1982 and 1984, should have been taken into reckoning while refixing his pay. This, he says, has not been done, which violates Articles 14 and 16 of the Constitution, in as much as due increments cannot



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be withheld in anticipation of an uncertain future event like pay-revision.

7. Based on these arguments, the applicant contends that he has been made the victim of a continuing wrong, that he is deprived of Rs.15.00 every month since his retirement, and that the total loss, according to his computation, is to the extent of Rs.6,000.00. He asserts that the action and decision of the Respondents in denying him the legitimate benefits is illegal, unconstitutional, bad in law and violative of Articles 14, 16(i) 21 and 300-A.

8. The Respondents in their reply wholly refute the charges of discrimination or deprivation of any due or lawful benefit to the applicant. No provision of the Constitution has been transgressed, they maintain. The applicant has already been given all benefits due to him under CCS (Pension) Rules, 1972, and also under the revised pay-scales, - thus, incidentally, complying with the directions of this Tribunal issued in O.A. No.389/89.

9. It is stated on behalf of the respondents that the basic weakness of the applicant's case lies in the fact that, when offered an option, he preferred to remain an Artist and also exercised a clear option to that effect. He has been given the due benefits even under the revised pay scales which came into effect from 1st January, 1986, to the extent of their application to the Artist category. The increments, which the applicant claims as being due to him, are simply not admissible as he was drawing the maximum of his pay scale at the relevant time. Stagnation increments, if any, are admissible to Central Government Employees as per F.R. 26.



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The applicant, on the other hand, had given a categorical declaration that he does not wish to be treated as a Central Government Employee. Such being the undeniable position, it is not open to him now to claim the benefits which are available only to Central Government Employees.

10. It is shown in the counter that the document produced by the Applicant in support of his claim (Annexure 1 to the application) actually spells out the revised fee-scales payable to Artists. His pension has actually been determined and fixed under the revised scales effective from 1st January, 1986, as per their applicability to Artists category. The respondents finally point out that the applicant, by virtue of his preference to remain an artist, has already benefitted therefrom by continuing in service for two additional years beyond the statutory superannuation of Central Government Employees. They clinch their case by citing the provisions of Government of India Orders No.45011/29/91-B (A) dated 21st November, 1991, which clearly state the pension of persons retiring beyond 58 years of age shall be determined with reference to their deemed date of superannuation at 58 years of age, and any service thereafter shall be merely regarded as re-employment.

11. Based on the above arguments and explanations, the Respondents contend that there is no merit in any of the claims put forth in the application which deserves to be dismissed.

12. The applicant has submitted a rejoinder to the counter-affidavit earlier filed by the opposite parties (summarised in Paras 8 to 10 above). It is, however, seen



*H. S. J. J.*

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that the rejoinder contains no new point which has not already been covered in the original plaint, nor does it squarely meet any point raised in the counter-affidavit of the Respondents. The Rejoinder, being merely a repetition of the points already made by the applicant, is not summarised here as it would neither serve a useful purpose nor strengthen the applicant's claims, such as they are.

13. We have carefully considered the facts as pleaded by the applicant, and the explanations as offered by the respondents. It is undisputedly clear that Shri Haridas Chakraborty preferred to remain in the cadre of Artist when an option was made available to him to convert himself into a regular government servant. This option was exercised voluntarily and of his own free-will. It is possible that the consideration which weighed with the applicant at that point of time was the incentive of two additional years of service, upto the age of 60 years, available to Artists. It was only after the recommendations of IV Pay Commission were announced and accepted by the Government of India that the applicant appears to have had second thoughts in the matter. By then, it was too late for him to change his option. He cannot now claim the privilege of converting to a regular Government servant at this distant date. It is also seen that the respondents have already granted him all the dues, incentives and benefits that became available to his category in the wake of the recommendations of IV Pay Commission. He cannot, also therefore, have any genuine or tenable



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grievance on this score.

14. As regards the stagnation incements claimed by him, we find that the reply of the respondent on this point is adequate and it satisfactorily explains the position.

15. In the light of the discussions in the preceding paras, we find no merit in the claims put forth by the applicant and we are constrained to disallow the application as wholly lacking in merit. No costs.

VICE-CHAIRMAN

16. XI. 93

MEMBER (ADMINISTRATIVE)

16 Nov 93

Central Administrative Tribunal  
Cuttack Bench Cuttack  
dated the 16.11.1993/B.K. Sahoo

