

Order dated 21.5.2004

This Original Application has been filed by Shri Hemanta Kumar Tripathy with a prayer to issue a direction to the Respondents to consider his case for fixing his pay in the pay scale of Music Composer by granting three advance increments and on such refixation, allow him revision of pay in that scale of pay and all other consequential benefits upon such refixation.

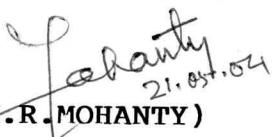
2. The applicant had joined All India Radio, Jeypore, as Staff Artist Instrumentalist (Violin) on 8.7.1976 in the fee scale of Rs.425-750/- on three years contract basis. The contract was renewed from time to time. He had applied for the post of Music Composer (Junior Grade) advertised by All India Radio, Jeypore, on 15.11.1980 and was selected for that post. He was offered the appointment vide Respondents' letter dated 26.10.1981 (Annexure R-I) and was asked to take up the job by 7.11.181. In response to the offer of appointment, the applicant instead of indicating his willingness or otherwise of accepting the offer of appointment made a representation for granting him four additional increments in the scale of pay attached to the post of Music Composer (Junior Grade). The Respondents disposed of the applicant's representation saying that as there was no provision in the Recruitment Rules of Staff Artists for grant of additional increments to one selected for appointment to a higher post on direct recruitment basis, the request of the applicant could not be acceded to. The applicant did

not join the post which was subsequently filled up by appointing another candidate. Thereafter the applicant had carried the matter to this Tribunal in OA No.91 of 1987 praying for a direction to the Respondents to absorb him in the post of Music Composer (Junior Grade) in All India Radio, Jeypore or Koraput. The said O.A. was disposed of by the Tribunal by order dated 3.5.1988 directing the Respondents to take a sympathetic view of the matter and in case there would still be vacant posts, the case of the applicant be favourably considered so as to adjust him against one such vacant post subject to his being found otherwise suitable. In compliance with the direction of this Tribunal, the applicant was offered an appointment to the post of Music Composer (Junior Grade) in the fee scale of Rs.1640-2900- by order dated 19.7.1988 (Annexure R-III). The applicant was asked to sign an agreement on 29.9.1988, a contract for five years to work as Music Composer (Junior Grade) in the Artist Category, in response to which the applicant represented that the contract was illegal and was meant to harass him and therefore, he declined to sign the same. The applicant was, however, informed that his request for postponing of signing of the contract would not be allowed because of the Rules made in this regard for the post and he was granted time upto 5.10.1988 for executing the contract. Eventually, the offer was cancelled by the Respondents' order dated 7.10.1988 and it was declared that he would continue as Staff Artist Instrumentalist at Al India Radio, Jeypore. However, he ultimately joined the post of Music Composer (Junior Grade) in the pay scale of

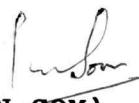
Rs.1640-2900/- with effect from 9.4.1990 .

3. The Respondents in their counter reply have emphasized that the delay if at all in his regular appointment as Music Composer (Junior Grade) had happened on account of his intransigence and therefore, he cannot claim any benefit of past service. The Respondents have, therefore, opposed the relief prayed for by the applicant being not maintainable.

4. Having heard both the learned counsel for the parties and having regard to the facts and circumstances of the case, we see no merit in the contention of the applicant that the Respondents are liable to fix his pay in the scale of pay for the post of Music Composer (Junior Grade) by granting him three advance increments. In the circumstances, this O.A. fails. We order accordingly. No costs.


(M.R. MOHANTY)

MEMBER (JUDICIAL)


(B.N. SOM)

VICE-CHAIRMAN