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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JODHPUR BENCH, JODHPUR

...

ORIGINAL APPLICATION NO.: 46/2002

DATE OF ORDER: 17.07.03

Bhagirath son of Shri Jaimal Ram aged 44 years, Resident of Qtr. No. C-16, Akashwani Colony, Suratgarh, Presently working on the post of Technician, in All India Radio, Suratgarh, District Sri Ganganagar.

...APPLICANT.

V E R S U S

1. Union of India Through:
the Secretary, Ministry of Information
& Broadcasting, Lal Bahadur Shastri Marg,
New Delhi.
2. The Director General,
All India Radio, Sansad Marg,
Akashwani Bhawan, New Delhi.
3. Superintending Engineer,
All India Radio, Suratgarh,
District Sri Ganganagar.
4. Shri Alok Sahani
5. Shri Sohan Lal
Both Technician C/o Superintending Engineer,
All India Radio, Suratgarh, Distt., Sri Ganganagar.

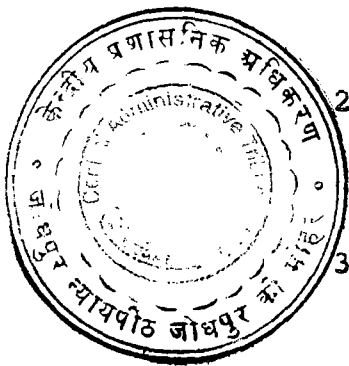
...RESPONDENTS.

Mr. R.S. Saluja, counsel for the applicant.
Mr. Kuldeep Mathur, counsel for respondents no. 1 to 3.
Mr. O.P. Sawhney, counsel for respondent no. 4.
Mr. R.S. Gill, counsel for respondent no. 5.

CORAM:

HON'BLE MR. R.K.UPADHYAYA, ADM. MEMBER.
HON'BLE MR. J.K. KAUSHIK, JUDL. MEMBER.

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ORDERBY THE COURT:

Shri Bhagirath has filed this Original Application seeking number of reliefs as mentioned in para 8 of the application. But the learned counsel for the applicant has pressed only the relief relating to quashing of order dated 02.11.2001 (Annexure A/2) and has specifically abandoned the relief relating to Annexure A/1 and Annexure A/1A.

2. Skipping up the super-fludies, the material facts necessary for adjudicating the relief pressed on behalf of the applicant, are that the applicant is holding the post of Helper since 24.06.1982. He has not been granted the benefits of upgradation under Assured Career Progression Scheme (ACP Scheme, for brevity) on completion of 12 years of service as a Helper, and this is said to be done on account of that the applicant has already been given upgradation pay scale vide order dated 25.02.1999 and his case has been turned down vide impugned order dated 02.11.01 (Annexure A/2). The impugned order has been assailed primarily on the ground that the same is ex-facie illegal and the claim of the applicant has been over-looked inasmuch as the scope of ACP Scheme is different than that of upgradation of pay scale.

3. The official respondents as well as the private respondents have filed their separate replies and have controverted the facts and grounds raised in the Original Application. It has been averred that if one opts for revised pay scale as per the Ministry of I & B letter

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dated 25.02.1999, he cannot get the benefit of ACP Scheme and the applicant has already opted for the said scales and is not entitled to the benefit of ACP. Therefore, the Original Application deserves to be dismissed with costs. A very short rejoinder has been filed on behalf of applicant.

4. With the consent of the learned counsel for the parties the case was taken up for final hearing at the stage of admission. We have heard the elaborate arguments led on behalf of the parties and have bestowed our earnest consideration to the pleadings and the records of this case.

5. The learned counsel for the applicant has confined his arguments to the relief relating to the quashing of Annexure A/2 wherein he has been denied the benefits of ACP Scheme. He has struggled ~~to~~ hard to establish his case ~~countering~~ the grounds mentioned in the Original Application. He has invited our attention and has tried to stress on the point of discrimination by submitting that certain persons have been allowed the benefits of upgraded scale as well as the benefits of ACP. To this effect, he has taken us to pages 77 and 82, wherein the benefit of ACP have been granted to certain persons holding the post of Peon and Junior Engineers. His contention is that the same benefit has not been extended to the applicant. The further case of the applicant that the applicant has completed the 12 years of service on the post of Helper and he is fully entitled for grant of benefit under ACP Scheme but his case has been ignored illegally and without any cogent reason.

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6. On the contrary, the learned counsel for the respondents has submitted that there was upgradation of the scales vide Annexure RA-3 on page 62 of the paper book and the post of Helper is one of the post where pay scale has been upgraded. The applicant opted for the said upgraded pay scale and has been granted and at present he is drawing the pay in the scale of Rs. 3050-4590. He has submitted that they have specifically made averments in para 4.10 of the reply that in case one has opted for the upgraded scale, he will not be entitled to the benefits of ACP and there is no refutation to this even in the rejoinder filed on behalf of the applicant which is silent on this point. As regards the point of discrimination, he has pointed out that the post of Peon or Junior Engineer who have been allowed the benefit of ACP, have not been included in the upgradation scales so the contention of the learned counsel for the applicant is patently wrong and has no basis. The case of the applicant cannot be compared with that of Peon or Junior Engineer. The respondents have committed no error or illegality and this Original Application is ex-facie mis-conceived and deserves to be dismissed with costs.

7. We have considered the submissions made on behalf of the parties. To cut short the very controversy, we extract the contents of para 4.10 of the reply as under, since, the same is complete ~~xxx~~ answer to the controversy and goes to its route.

"4.10. That the averments contained in para 4.10 of the ~~xx~~ original application are not admitted in the manner as alleged by the applicant. It is humbly

submitted on behalf of the respondents that in so far as the financial upgradation of the scale under Assured Career Progression Scheme is concerned, the Government has introduced a scheme for financial upgradation under the Assured Career Progression Scheme vide O.M. No. 35034/1/97-Estt. (D), dated 9.8.1999 for those employees who are not promoted on completion 12 years and 24 years of regular service. That the scales of some categories of government employees of All India Radio & Doordarshan (including the applicant) currently working under the Control of Prasar Bharti (Broadcasting Corporation of India) were upgraded over and above the scales accepted by the Government on the recommendation of the Vth Pay Commission vide Ministry of I & B Order No. 310/173/97-B(D), dated 25.2.1999. These upgraded scales were allowed not as Government employees perse but as Government employees currently in service of Prasar Bharti (Broadcasting Corporation of India). That it has been subsequently clarified by the Prasar Bharti (Broadcasting Corporation of India), Directorate General, All India Radio, vide order No. 14/57/99-SIV(A), dated 9.3.2000 that those employees who have already opted for pay scales revised by Ministry of I & B Order No. 310/173/97-B(D), dated 25.2.1999 are not entitled to Assured Career Progression Scheme introduced by the Government in August, 1999 as such a scheme is already inbuilt in the said order. That as the applicant has already opted for pay scales revised by the Ministry of I & B vide order dated 25.2.99, he is not entitled for benefits of Assured Career Progression Scheme. That this clarification has been given to the applicant vide letter No. Sugh-22(2)/2001-S/2204, dated 2/5 November, 2001."

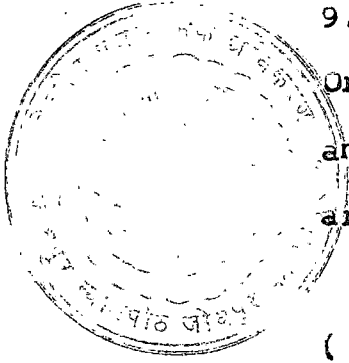


There is absolutely no rebuttal to the contents aforesaid. The same contains elaborate reason for not granting the benefit of ACP to the applicant

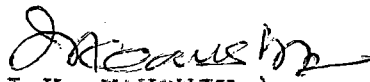
8. From the perusal of the provisions mentioned in the aforesaid para, it is evident that the applicant has opted for the revised pay scales i.e. upgraded scale of pay on the post of Helper and he is not entitled for the benefits of ACP. In this view of the matter, the inescapable result is that the contention of the learned counsel for the applicant has no force and there is no illegality or impropriety in the impugned order. Therefore, no interference is called from this Tribunal.

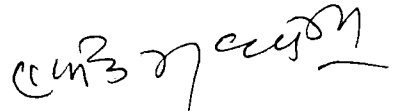
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9. In view what has been said and discussed above, the Original Application is devoid of any merit and substance and the same is hereby dismissed. However, the parties are directed to bear their own costs.


(J.K. KAUSHIK)
Judl. Member


(R.K. UPADHYAYA)
Adm. Member

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kumawat

copy of letter sent to R-4 & R-5
via NO 211 & 212 date 6-8-03

AD Review from R-4 & R-5
with 8th AD
19/8/03

AD
22/3/03

Part II and III destroyed
in my presence on 23-3-07
under the supervision of
section officer (1) as per
order dated 13-2-07

Section officer (Records)

Ref/ent
22/3/03