

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

ORIGINAL APPLICATION NO. 33/2009

Date of order: 6-4-2010

CORAM:

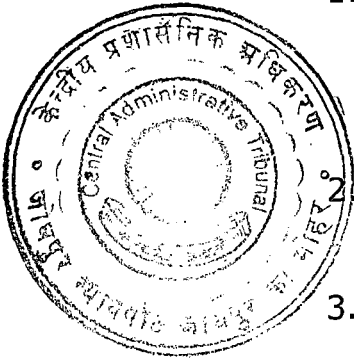
**HON'BLE MR. JUSTICE S.M.M. ALAM, JUDICIAL MEMBER
HON'BLE DR. K.S. SUGATHAN, ADMINISTRATIVE MEMBER**

Navneet Kashyap S/o Shri Chhagan Lal Ji Rawal, aged about 46 years, Resident of Rampura, District Sirohi, Rajasthan, presently working as Senior Engineering Assistant, Doordarshan Relay Kendra, Jalore, Rajasthan.

...Applicant.

Mr. N.K. Khandelwal, counsel for applicant.

VERSUS



1. Union of India through the Secretary, Broadcasting Corporation of India, office of the Chief Engineer (North Zone) Aakashwani and Doordarshan, Jamnagar House, Sahajahan Road, New Delhi.
2. The Station Engineer, Doordarshan Maintenance Centre, Lal Maidan Paota 'C' Road, Jodhpur- 342 010.
3. The Station Engineer, Doordarshan Maintenance Centre, 13 Ganesh Nagar, University Road, Udaipur.
4. The Assistant Engineer, Doordarshan Relay Centre, Jalore, Rajasthan.
5. Shri Ram Singh, Senior Engineering Assistant, Doordarshan Relay Kendra, Sriganganagar, Rajasthan.

... Respondents.

Mr. M. Godara, proxy counsel for
Mr. Vinit Mathur, counsel for respondent Nos. 1 to 4.
None present for respondent No. 5.

ORDER

Per Hon'ble Dr. K.S. Sugathan, Administrative Member

The applicant in this Original Application is working as a Senior Engineering Assistant in the Doordarshan at Jalore,

Rajasthan. He filed this Original Application seeking the following relief:

- "(a) By an appropriate Writ, Order or Direction, the respondents may kindly be directed to step-up the pay of the applicant at par with his junior (respondent No. 5) from the date when the same was reduced.
- (b) By an appropriate Writ, Order or Direction, the arrears of different of pay which becomes due on account of re-fixation of pay/stepping up of his pay, may be paid to the applicant.
- (c) By an appropriate Writ, Order or Direction, respondents may kindly be restrained from making any Recovery from the arrears which was paid to the applicant as per Annex. A/9 (in case his prayer as aforesaid is not accepted) for the simple reason that the Hon'ble Apex Court has observed in a catena of judgments that if any payment is made inadvertently and without any mis-representation, the same should not be recovered from the employee.
- (d) By an appropriate Writ, Order or Direction, interest @ 18% per annum may kindly be allowed on the arrears due to be paid.
- (e) Any other relief(s) which this Hon'ble Tribunal, deems just and proper in the facts and circumstances explained above, be accorded to the applicants' in the interest of justice.
- (f) The cost of the present Original Application be awarded to the applicant and against the respondents."



2. It is contended by the applicant that he joined the organization on 18.02.1985 whereas the respondent No.5 joined on 28.03.1985 and therefore he was always senior to the respondent No.5. He was also drawing higher pay than the respondent No.5 till 2006. In the year 2008, the pay scales were revised on the basis of the recommendations of the VI Pay Commission with effect from 01.01.2006. While doing the re-fixation of pay as on 01.01.2006 the applicant was fixed at Rs.10600 whereas the pay of the respondent No.5 was fixed at Rs.10825 (Annex. A/5 and A/6). Prior to the said re-fixation of pay the applicant's pay was reduced from Rs.10825 in April 2005

to Rs.10375 in May 2005 (Annex. A/8). The applicant has made several representations regarding the disparity in the pay vis-avis that of his junior (respondent No.5), but there was no response.

3. The respondents have filed their reply. It is stated in the reply that rectification of the pay fixation of respondent No.5 was under consideration and instructions had been issued to the authorities in Sriganganagar where the respondent No.5 was posted for rectifying the discrepancy in the pay fixation of respondent No.5 (Annex. R/3). In response to the said instructions the authorities at Sriganganagar has rectified the discrepancy in the pay fixation of the respondent No.5 and his pay has been fixed at Rs.10375 as on 01.01.2006 instead of Rs.10825 vide order dated 26.03.2009 (Annex. R/4). As a result there is now no disparity between the pay of the applicant and that of the respondent No.5.



4. In the rejoinder filed by the applicant, he has stated that reducing the pay of the respondent No. 5 is not the solution to the issue raised by the applicant. He has also raised several new issues, which have no relevance to the relief claimed in the OA. However he has made a prayer that in case of any change in his earlier pay fixation issued on 12.08.2003 (Annex. A/10) there should not be any recovery in view several judgments of the Hon'ble Supreme Court.

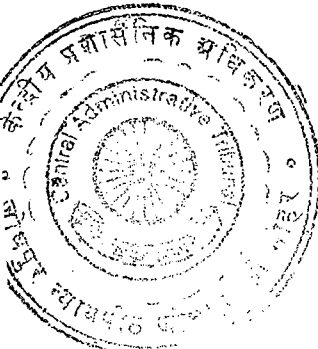
5. We have heard the learned counsel for the applicant Shri N.K. Khandelwal and the learned counsel for the respondent Nos.

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1 to 4 Shri M. Godara for Shri Vinit Mathur. We have also perused the documents carefully.

6. The relief claimed by the applicant is limited to the rectification of the disparity in the pay between him and the respondent No.5 as on 01.01.2006 when the pay scales were re-fixed following the recommendations of the VI Pay Commission. Though the applicant is admittedly senior to the respondent No.5, the pay of the respondent No.5 as on 01.01.2006 was taken as Rs.10825 (Annex. A/5) whereas the pay of the applicant was taken as Rs.10600 (Annex. A/6). As per the reply filed by the respondents there was a discrepancy in the pay fixation of the respondent No.5 which has now been rectified and his pay as on 01.01.2006 is now taken as Rs.10375 for the purpose of fixing the pay in the new pay scale. Therefore, the disparity that existed at the time of filing of the OA has now disappeared. The applicant has tried to make several new arguments in his rejoinder, which are not relevant to the relief claimed by him. The relief claimed by him merely says that his pay should be stepped up on par with that of respondent No.5. That relief stands granted by the respondents themselves on account of the down-ward revision of the pay of the respondent No.5 which was erroneously fixed at a higher level earlier.

7. In view of the above, we are of the considered opinion that the Original Application has become infructuous. As regards the prayer of the applicant that there should be no recovery from him on account of any change in his earlier pay fixation, we would like

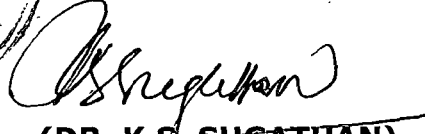


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to merely observe that as and when any such recovery is ordered the applicant is at liberty to agitate the matter at the appropriate forum.



8. For the reasons stated above, the Original Application is disposed of as having become infructuous. There is no order as to costs.


(DR. K.S. SUGATHAN)
ADMINISTRATIVE MEMBER


(JUSTICE S.M.M. ALAM)
JUDICIAL MEMBER

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R/L

(H2) 926.
8/4/10

दिनांक 17/2/16 के आदेशानुसार
घेरी व्यवस्थिति में दिनांक 10.2.16
को भाग-II व III नष्ट किए गए।

अनुभाग अधिकारी
केन्द्रीय प्रशासनिक अधिकरण
जोधपुर न्यायपीठ, जोधपुर

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