

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No. 123/2011

Jodhpur, this the 14th day of February, 2014

CORAM

Hon'ble Mr.Justice Kailash Chandra Joshi, Judicial Member
Hon'ble Ms. Meenakshi Hooja, Administrative Member

Subhash Chandra Bohra s/o Shri Shyma Kumar Bohra, aged about 48 years, resident of Kabutron Ka chowk, near Old Post Office, Jodhpur at present employed on the post of Production Assistant, Akashwani, Jodhpur, PB 607, Paota 'C' Road, Jodhpur

.....Applicant

By Advocate: Mr J.K.Mishra

Versus

1. The Union of India through Secretary to the Govt. of India, Ministry of Information and Broadcasting, Government of India, Shastri Bhawan, New Delhi.
2. Director General, Prasar Bharti, Doordarshan Bhawan, Mandi House, New Delhi.
3. Station Director, Akashwani, Jodhpur, PB 607, Paota 'C' road, Jodhpur

.....Respondents

By Advocate : Ms. K. Parveen

ORDER (Oral)

Per Justice K.C. Joshi, Member (J)

By way of the present OA the applicant has challenged the order dated 4.8.2004 (Ann.A/1) and 19.8.2004 (Ann.A/2) and has prayed that he may be placed in the pay scale of Rs. 6500-10500 on his regularization/appointment to the post of Production Assistant.



2. Short facts, as stated by the applicant, are that the applicant was initially engaged as Casual Production Assistant in November, 1987 at Jaipur and in that capacity he worked upto August, 2004. The applicant was given regular appointment on the post of Production Assistant in the pay scale of Rs. 5000-8000 and accordingly he was appointed vide office order dated 19.8.2004. It is averred by the applicant that the Central Government employees working in the Ministry of Information and Broadcasting as Engineering Assistant, Production Assistant etc. were placed in the scale of Rs. 6500-10500, but the applicant and other similarly situated persons were regularized after formation of the Prasar Bharti and they are holding similar posts in the pay scale of Rs. 5000-8000. Some of the similarly situated persons approached before this Tribunal and the Tribunal held that persons holding same posts cannot be discriminated vis-à-vis the scale of pay in which they have to be placed. The matter went upto the Hon'ble Apex Court and the same view was upheld. When the applicant came to know that similarly situated person was given the pay scale of Rs. 6500-10500, he filed representations dated 6.10.2010 and 14.10.2010. The applicant has stated that the judgment in respect of Engineering Assistant and Production Assistant etc. is sought to be implemented, but there seems to be no move to implement the said judgment in respect of Production Assistants. The controversy involved in this case has been set at rest and did not remain res integra. Therefore, aggrieved by the inaction on the part of the respondents, the applicant has filed the present OA.

3. By way of filing reply the respondents have denied the claim of the applicant. The respondents have submitted that the relief sought by the applicant is not sustainable in the eyes of law as the applicant has accepted

the offer of appointment with open eyes agreeing with the terms and condition and the post against which the applicant is appointed is having the pay scale which is granted to the applicant vide. Ann.A/1. The respondents have further submitted that the applicant was given regular appointment w.e.f. 4.8.2004 against a direct recruit vacancy at Doordarshan Kendra, Jaipur and he was not in Government employment as on 25.2.1999. As such, he was not entitled for the upgraded pay scale as per the provisions of Ministry of Information and Boardcasting order dated 25.2.1999 and was entitled to be placed in the pay scale of Production Assistant recommended by the 5th Central Pay Commission i.e. Rs. 5000-8000 and accordingly, his pay was fixed. The respondents have further submitted that similarly situated Production Assistants viz. Sanjay Kumar and others filed OA No.1462/2005 before the CAT-Principal Bench, New Delhi which was challenged before the Hon'ble High Court and thereafter SLP was filed before the Hon'ble Apex Court. After dismissal of the SLP vide its judgment dated 14.1.2011, a review petition has been filed before the Hon'ble Apex Court, which is pending and outcome of the review application is applicable in the present case.

4. The applicant has filed rejoinder reiterating the averments made in the OA.

5. Heard both the parties. Counsel for the applicant contended that the Review Petition filed against the order dated 14.1.2011 before the Hon'ble Apex Court has been dismissed vide order dated 9.1.2014 and the applicants in the case of Sanjay Kumar and others have been granted due benefits in implementation of the order issued in their favour. Thus, there is no obstruction in granting the same benefit to the present applicant. Counsel

for the applicant also drew our attention to the judgment dated 10th January, 2012 passed by the CAT-Jaipur Bench in OA No.375/2009 in the case of Smt. Anjula Soni and ors. vs Union of India and others wherein the respondents were directed to provide the pay scale of Rs. 6500-10500 to the applicants therein.

6. Considered the rival contention of the parties and perused the relevant material available on record. Counsel for the respondent-department has averred that in a similar matter a review petition is filed before the Hon'ble Apex Court and outcome of the review petition is applicable to the present case. The counsel for the applicant contended that the review petition has been dismissed by the Hon'ble Apex Court vide order dated 9.1.2014. In these circumstances, in our considered view, since the controversy has been settled upto the level of the Hon'ble Apex Court, therefore, the applicant is also entitled to the scale of Rs. 6500-10500 in the same manner it is granted to the similarly situated persons.

7. Accordingly, the OA is allowed with direction to the respondents to grant the pay scale of Rs. 6500-10500 on regularization/appointment to the post of Production Assistant to the applicant in the same manner, as has been granted to other similarly situated employees, within a period of three months from the date of receipt of a copy of this order. There shall be no order as to costs.



(MEENAKSHI HOOJA)
Administrative Member



(JUSTICE K.C.JOSHI)
Judicial Member

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for K. Kraemer
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