

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.458/2006
Dated the 19th day of June, 2008

CORAM:

**HON'BLE MR GEORGE PARACKEN, JUDICIAL MEMBER
HON'BLE DR. K.S.SUGATHAN, ADMINISTRATIVE MEMBER**

R.H.Das,
Sound Recordist,
Doordarshan Kendra,
Kudappanakunnu,
Thiruvananthapuram

By Advocate Mr.P.Santhosh Kumar

VS.

- 1 Union of India represented by
The Secretary,
Ministry of Information & Broadcasting,
Government of India, New Delhi.
- 2 The Prasar Bharathi (Broadcasting Corporation
of India) New Delhi represented by
the Chief Executive Officer,
New Delhi
- 3 The Director General,
Office of the Directorate General,
Doordarshan, Doordarshan Bhawan,
New Delhi
- 4 The Director,
Doordarshan Kendra,
Kudappanakunnu,
Thiruvananthapuram

By Advocates Mr.TPM Ibrahim Khan SCGSC (R-1)
Mr.N.N.Sugunapalan Sr Mr.Sujin (R 2-4)

This application having been heard on 19th June, 2008, the Tribunal on the same day delivered the following

(ORDER)

Hon'ble Mr. George Paracken, Judicial Member

This is the second round of litigation by the applicant for the redressal of his grievance regarding non grant of benefits under the Assured Career Progression scheme (ACP for short).

2 The brief facts of the case are that applicant has been working as a Sound Recordist in Doordarshan Kendra, Thiruvananthapuram since 1972. As per the recommendations of the IVth Central Pay Commission, the Sound Recordist have been granted the payscale of Rs.2000-3200. But the Vth Pay Commission, has recommended only the scale of Rs.5000-8000 as against the replacement scale of Rs.6500-10500. However, considering the fact that the Sound Recordist have already been drawing the scale of Rs.2000-3200, the respondents, with the approval of the Ministry of Finance, have allowed them to draw the scale of Rs.6500-10500 on purely personal basis. However, when the ACP scheme was introduced, the respondents did not grant them any financial upgradations. The applicant has, therefore, made a representation stating that since the entry level qualification for both Sound Recordists and Cameraman Gr.II are the same and since the Cameraman Gr.II have been granted the payscales of Rs.8000-13500 and Rs.10,000-15200 as first and second financial upgradation respectively under the ACP Scheme, he should also be given the same benefits. Meanwhile, the Bangalore Bench of this Tribunal vide its order dated 5.5.2004 in OA Nos.235 & 236/2004

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(Annexure A-1) directed the Doordarshan Kendra, Bangalore to grant the aforesaid financial benefits to the similarly placed applicants therein. Since there was no response from the respondents to his aforesaid representation, he filed OA 565/2005 before this Bench and it was disposed of vide order dated 30.9.2005 directing the 3rd respondent, namely, the Director General, Office of the Directorate General, Doordarshan, Doordarshan Bhawan, New Delhi to consider and dispose of it. In the impugned Annexure A-3 order dated 22nd December, 2005, issued in pursuance of the aforesaid directions of this Tribunal, the respondents have submitted that they have considered the applicant's case in consultation with the Department of Personnel & Training but according to their advice, the pay scale presently given to him is by way of protection of personal pay and it is already much higher than the pay scale recommended by the Vth Central Pay Commission for the post and therefore he is not entitled for any further upgradation of the post.

3 In the reply statement filed in this OA also, the contention of the respondents was that the applicant is not entitled for any financial upgradation under the ACP scheme because he has been permitted to retain the scale of Rs.6500-10500 on purely personal basis as against the recommendation of the Vth Pay Commission granting him the scale of Rs.5000-8000. They have also submitted that the orders of the Bangalore Bench in OA Nos.235 & 236/2004 have been stayed by the Hon'ble High Court of Karnataka vide order dated 3/1/2005 in Writ Petition No.48042-48044/2004 (S.CAT).

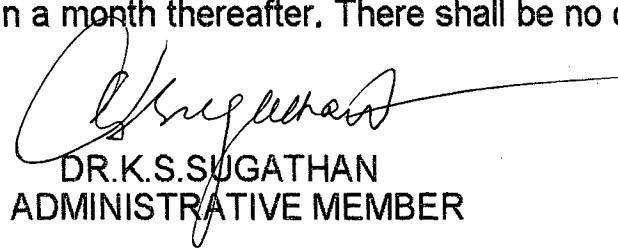


4 The applicant has filed MA-270/08 stating that the Bombay Bench of this Tribunal has also passed similar orders in OA 923/2003, 272/2004, 279/2004 and 282/2004 dated 7.1.2005 but the respondents have filed Writ Petition No.9345/2005 before the Hon'ble High Court of Mumbai challenging the same. However, the respondents themselves have implemented the orders of the Tribunal by constituting a screening committee for considering the case of the four Sound Recordists in the Mumbai Doordarshan Kendra, who were the applicants in those OAs and who have completed 12 or 24 years without any promotion and they were granted 1st and 2nd financial upgradation from the present pay scale of Rs.6500-10500 to Rs 7450-225-11500 and Rs.7500-250-12000 respectively subject to the outcome of said Writ Petition pending before the Hon'ble High Court of Mumbai vide the Office Order No.2/4/2004-5/(A) dated 21.1.2008 (Annexure A-4). Later on, the High Court of Bombay have dismissed the aforesaid Writ Petition No.9345/2005 on 28.11.2006 and the Supreme Court had also dismissed the SLP No.CC.10427/07 filed against High Court's judgment vide order dated 19.11.2007 as per the copy of the order produced by the applicant's counsel. The applicant in this OA has submitted that he would be satisfied if similar benefits are extended to him also as against the relief sought by him in the OA for grant of first and second financial upgradation in the scales of Rs.8,000-13,500 and 10,000-15,200 respectively.

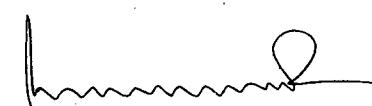
5 We have heard Advocate Mr.Santhosh Kumar for the Applicant, Advocate Mr.Shaji VA for Mr.TPM Ibrahim Khan SCGSC for the

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respondent no.1 and Advocate Mr.M.C.Gopi for Mr.N.N.Sugunapalan Sr for respondents 2 to 4. There is no dispute that the applicant in the present case is similarly placed as the applicants before the Bangalore Bench and the Bombay Bench of the Tribunal in the aforementioned OAs.. With the dismissal of SLP No.CC.10427/07 arising out of the Writ Petition NO.9345/2005 of the Hon'ble High Court of Mumbai by the Apex Court on 19.11.2007, the issue involved in the above OAs including this OA has been finally settled. When the respondent no.3 has already granted the 1st and 2nd financial upgradation under the ACP scheme to similarly placed Sound Recordists in Bangalore and Bombay, he could have extended the same benefit to the applicant herein also without waiting for any order of this Tribunal. We, therefore, allow this OA and direct the respondents to grant the applicant also the 1st and 2nd financial upgradation in the pay-scales of Rs.7450-225-11500 and Rs.7500-250-12000 from the due dates. The respondents shall issue the necessary orders in this regard within a period of two months from the date of receipt of this order and the financial benefits arising therefrom shall be disbursed to the applicant within a month thereafter. There shall be no orders as to costs.



DR. K. S. SUGATHAN
ADMINISTRATIVE MEMBER



GEORGE PARACKEN
JUDICIAL MEMBER

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