

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 459 OF 2013

Tuesday, this the 16th day of September, 2014

CORAM:

HON'BLE MR. U.SARATHCHANDRAN, JUDICIAL MEMBER

A.Joseph Abraham
(Retired Instrumentalist / Staff Artist
All India Radio, Thiruvananthapuram)
Residing at Bethelham
Chemmakkad PO, Perinad
Kollam – 691 603

... Applicant

(By Advocate Mr. TCG Swamy)

versus

1. The Director General
Prasar Bharathi Broadcasting Corporation of India
Directorate General, All India Radio
Akashvani Bhavan, Sansad Marg
New Delhi – 110 001
2. The Station Director
All India Radio
Prasar Bharathi Broadcasting Corporation of India
Trivandrum – 695 014
3. The Pay and Accounts Officer
Pay and Accounts Office
All India Radio, 7 Kamaraj Salai, Mylapore
Chennai – 600 004
4. The Pay and Accounts Officer
Central Pension Accounting Office
Trikoot – 2, Bhikaji Cama Place
New Delhi – 110 066

... Respondents

(By Advocate Mr. Sunil Jacob Jose, SCGSC)

The application having been heard on 16.09.2014, the Tribunal on the same day delivered the following:

ORDER

HON'BLE MR. U.SARATHCHANDRAN, JUDICIAL MEMBER

Applicant is a retired Instrumentalist who was working in the All India radio (presently Prasar Bharathi Broadcasting Corporation of India) at



Thiruvananthapuram Station. He is aggrieved by the refusal on the part of respondents to draw and disburse revised pension to be ordered by 3rd Respondent, Pay and Accounts Officer, Chennai. He is further aggrieved by the non payment of benefit of 2nd Financial Upgradation with effect from 15.04.2001 in the scale of Rs.6500 -10500 with consequential arrears of pay and allowances etc. He has prayed for the following reliefs:

- (i) *Declare that the non-feasance on the part of 4th respondent to finalise the rectification / modification of the Pension Payment Order, as directed in A-4, is arbitrary, discriminatory, contrary to law and unconstitutional;*
- (ii) *Direct the 4th respondent to revise the applicant's pension with effect from 01.11.2003, as directed in A-4, and direct further to revise the pension with effect from 01.01.2006 (VI CC) also on that basis, and direct further to grant all the consequential benefits arising there from, including arrears of pension and other benefits;*
- (iii) *Direct the respondents to issue necessary orders, as indicated in A-3, granting the applicant the benefit of the 2nd financial upgradation with effect from 15.04.2001 in scale Rs.6500 – 10500 with consequential arrears of pay and allowances, retirement gratuity, leave salary, commuted value of pension etc. and direct further to grant the benefit of pay and allowances, all with interest calculated @ 9% per annum at least with effect from 01.01.2012 up to the date of full and final settlement of the same;*
- (iv) *Award costs of and incidental to this Application*
- (v) *Pass such other orders or directions as deemed just, fit and necessary in the facts and circumstances of the case."*

2. The proceedings ensued in this case show a grim picture of the manner in which the respondents has dealt with this OA, especially in the matter of filing reply. The proceedings further show that a heavy cost was imposed on respondents 1 to 3 for the delay in filing reply to this OA. Even for payment of cost there was non compliance on the part of respondents and this Tribunal had issued a show cause to Respondent No.1 and 4 why



CS26
be used to determine the best sequence of operations for a given problem if the problem is sufficiently complex but not so large that it is not feasible to consider all possible sequences.

(vi) Notwithstanding the provisions of section 10 of the Indian Contract Act, 1872, the parties to this Agreement shall be bound by the terms and conditions of this Agreement.

Ytssesan aissi of Shimbondesi the fact
 and inscillads atti gundanag 'C-A in besedion 25 stqdo
 most is desfa atti nchibesmabu lsdanant 'C atti to friened
 belinunupesos atti CO20T - 00202.2A 61905 in 1000.40.21
 avsel yllyisad inamegderi secanswolli bus ved to zberes
 earthful 15c1b bus. dia noisined to suliv beiummico. Ytsses
 tsavatli niv ill secanswolli bus ved to friened atti heng of
 mow 15 desfa niv isessi ts minuns ved 2006.09.06
 atti to inamegdes lsdan bus llyi to sles atti to aq 21020110
 mow:

• If the judge decides that the defendant is guilty, the judge will then decide what sentence to give the defendant. The sentence will depend on the type of crime and the circumstances of the case.

multiple dimensions for the following small business sectors etc. He has also been involved in the following areas:

action under the Contempt of Courts Act shall not be initiated against them. The matter went on without any sign of redressal of the applicant's grievance. When learned counsel for applicant pointed out that the counter affidavit filed on behalf of Respondent no.4 does not indicate as to what action respondents have taken for revision of pay and the other payments relating to leave salary, commuted value of pension etc., this Tribunal directed the Deponent of the counter affidavit to appear in person along with records on 08.08.2014, when the Deponent of the counter affidavit on behalf of Respondent No.4 appeared before this Tribunal, it was submitted by him that he has filed the affidavit as per directions of Respondent No.3. Accordingly, this Tribunal directed Respondent Nos. 2 & 3 to appear in person on 22.08.2014. On that day, respondent No.2 appeared in person and submitted that pension papers relating to the applicant were sent to Respondent No.3 for processing. But Respondent No.3 did not turn up on that day. Learned SCGSC submitted that the present incumbent of Respondent No.3 has taken charge only recently and she requires some time to sort out the files.

3. Since learned counsel for applicant has submitted that applicant is a bed ridden cancer patient eager to enjoy the service benefits after his retirement this Tribunal with a view to bring a quietus to this case, directed Respondent No.3 to be present along with relevant records on 03.09.2014. However, she did not turn up. Learned SCGSC submitted that she has sustained an injury and hence she is seeking adjournment or to condone her absence. Since this Tribunal was not convinced by the reasons stated by the learned SCGSC for the absence of Respondent No.3, once again it was directed Respondent No.3 to be present today failing which Respondent No.1 to appear in person.



4. Today when the case was taken up, the learned SCGSC submitted that Respondent No.3 has filed an affidavit stating that she is not in a position to undertake long journey and was on medical leave from 12.09.2014 onwards. No medical certificate was produced. Though this conduct of Respondent No.3 was not convincing and was bordering a contumacious conduct, the subsequent events which unfolded were congenial to the reliefs sought by the applicant. Hence those events were helpful to respondent No.3 to mitigate the gravity of her conduct.

5. Learned SCGSC submitted that in the meantime necessary steps have been taken by Respondent No.3 to rectify the short comings occurred on the part of respondents in the matter of disbursing of revised pension and also other payments relating to the 2nd Financial Upgradation due to the applicant and also in payment of other retirement benefits to him. He referred to Paragraphs 7,10 and 11 of the affidavit sworn in by Respondent No.3 on 11.09.2014 which reads as under :

7. In this context, it may be pointed out that consequent on the implementation of the 6th CPC, the pension of the applicant has been revised and fixed @ Rs. 7265/- with reference to his corresponding pre-revised basic pension of Rs. 3214/- w.e.f. 01.11.2003 (date of retirement is 31.10.2003) (without taking into account the ACP benefit granted to the applicant) with the name of "Shri. Joseph Abraham" vide letter pension authority no. PAD/AIR/Chen/Pre-2006/11-12/38 dated. 17.02.2012 in the computer generated E authority and the same has been Honoured by CPAO vide letter no. 28554/03/00717/980816/A1 dated 18.04.2012. This pension of Rs. 7265/- is being paid to the applicant by the bank, with dearness relief till to-day. In other words, the applicant is in receipt of pension of Rs. 7265+ Relief till the Payment of Arrears by Cheque dated 09.09.2014.

.....

10. However, keeping in mind the health condition of the applicant the Pension arrears pertaining to the period of 01/01/2006 to 31/08/2014 has been paid directly by depositing the cheque into the SB a/c of the applicant (SB A/c .No. 10889 amounting to Rs. 47606/- Rupees Forty

5

seven thousand six hundred six only) vide cheque. No. 434621 dated 09/09/2014 drawn in favour of IOB, Chemmankund Branch by NEFT.

11. The revised pension @ Rs. 7588/- per month + relief commencing from the month of September 2014 will be authorised separately to the applicant through CPAo. Thus the arrear consequent on grant of ACP for the period from 01/11/2003 to 31/12/2005 amounting to Rs. 17250/- credited to his A/C on 25/07/2014 by CPAO through bank as well as pension arrears pertaining to the period from 01/01/2006 to 31/08/2014 amounting to Rs. 47606/- consequent on implementation of the 6th CPC has been settled and as such no arrears of pension is pending against the applicant. "

6. In the light of the above deposition of Respondent No.3 Ms.Sreekala, learned counsel for applicant submitted that applicant would be satisfied with the aforesaid steps taken by respondents in relation to the revision of pension, payment of benefits of 2nd financial Upgradation and other retiral benefits due to the applicant. However, she strongly canvassed for interest on the delayed payment of retiral benefits due to the applicant.

7. Mr.Sunil Jacob Jose, learned SCGSC submitted that the delay occurred was due to an error crept in the computer records wherein the initials in the name of the applicant was happened to be missing and hence the revision and consequential increase in the pension of the applicant could not be properly recorded and disbursed. He further submitted that after filing of this OA respondents have rectified the mistakes and made necessary revisions in the payments due to the applicant.

8. However, this Tribunal is of the view that there had been latches on the part of respondents in revising his pension and also in the matter of granting of 2nd Financial Upgradation due to him and further in the matter of

S

payments of other pensionary benefits. This Tribunal feels that the delay on the part of respondents had been financially disadvantageous to the applicant who is a retired person suffering from a serious disease.

9. Under Rule 68 of the CCS (Pension) Rules, 1972 delayed payment of gratuity will attract payment of interest by the Administrative Department. Therefore, this Tribunal is inclined to grant interest at 9% on the delayed payment of gratuity to the applicant from the date of his retirement till actual disbursement. Besides, this Tribunal is of the view that respondents should be imposed with additional cost of Rs.5,000/- for the delayed response to the requests of a pensioner suffering from cancer, in view of the circumstance that only after taking coercive steps, the respondents had acted upon the pensionary dues payable to the applicant. Further, this Tribunal directs Respondent No.1 to fix the responsibility and take disciplinary action on the officials concerned for the delay occurred in payment of gratuity as per provisions of Rule 68 of CCS (Pension) Rules, 1972. The cost ordered above shall be payable to the applicant within one month from the date of receipt of a copy of this order and the same shall be recovered from the official so identified by Respondent No.1.

10. OA is disposed of Accordingly. No order as to costs.

Dated, the 16th September, 2014



U.SARATHCHANDRAN
JUDICIAL MEMBER