

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 76 of 2007

Wednesday, this the 5th day of March, 2008.

C O R A M :

**HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN
HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER**

U. Subramoniam,
S/o. Uthiramala,
Retired Instrumentalist (Grade III)
(Tabala B High), All India Radio,
Trivandrum, Residing at TC
20/2806(1), Vysakh, Karamana,
Trivandrum : 695 002

... **Applicant.**

(By Advocate Mr.M.R. Hariraj)

v e r s u s

1. Union of India represented by
The Secretary to Govt. of India,
Ministry of Information & Broadcasting,
New Delhi.
2. Prasar Bharati Broadcasting Corporation
of India, represented by its Director General,
All India Radio, Directorate General,
Akashvani Bhavan, Sansad Marg,
New Delhi -1
3. Station Director, All India Radio,
Prasar Bharati Corporation, Trivandrum. ... **Respondents.**

(By Mr. S.Abilash, ACGSC)

The Original Application having been heard on 17.01.08, the Tribunal on
05.03.2008 delivered the following:

O R D E R
HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER

The applicant has challenged Annexure A-9 and A-10 order. By A-9, the

Respondents have provided for grant of ACP benefits to the staff artists, but with

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a rider that those who do not upgrade their skill through MAB from B to H-High or B-High to A are not eligible for grant of ACP benefit so as to raise their pay scales from Rs 5,000 – 8,000/- to Rs 5,500 – 9,000/- or from Rs 5,500 – 9,000/- to Rs 6,500 – 10,500/-. It is this rider that has been challenged by the applicant for, the applicant, otherwise fulfills all the conditions for such ACP.

2. Brief facts: The applicant commenced his services as a Tablist in 1977 on contract basis, which was later on extended for five years as a staff artist in 1978. He had appeared for audition test in 1981 and was awarded B High grade vide Annexure A-1 order dated 11-01-1982. By Annexure A-2 order dated 01-01-1993, he was treated as a Government servant with retrospective effect from 06-03-1982. The applicant as such continued in service. In 1999 ACP scheme was introduced as per which first financial upgradation is available after 12 years of service, while the second after 24 years, subject, of course to certain conditions, which inter alia include that all the eligibility conditions for promotion should be fulfilled by the individual concerned. The applicant has preferred a representation 24-05-2000 vide Annexure A-3 and requested for upgradation of his pay scale next to the scale of Rs 5,500 – 9,000/- i.e. at Rs. 6,500 – 10,500/-. According to the applicant many who had not qualified for Grade A artists on audition test, have been granted such upgradation, vide Annexure A-4 order dated 23-02-2001. Annexure A-5 is yet another order whereby many under the second respondent were granted financial upgradation. The Third respondent had recommended the case of the applicant vide Annexure A-8 communication dated 04-08-2004. It was by Annexure A-10, based on Annexure A-9 order that the case of the applicant had been rejected.

3. There was no reply to the OA, despite adequate notice nor was there any

instruction to the counsel.

4. Counsel for the applicant has submitted that the applicant had already qualified in Grade B High and he has put in 24 years of service to become eligible for ACP. In addition, according to the applicant there is no regular audition test conducted by the respondents. In fact, according to the counsel, the posts are as such promotional post as such higher grade is not dependent upon vacancies. As such, the norms for promotion may not be applicable to the case of the applicant. Hence, Annexure A-9 order which warrants qualifying in the audition test for A grade for availing of the benefit of second financial upgradation is illegal and hence should be quashed and set aside.

5. Counsel for the respondents submitted that the order is clear and ACP is granted to avoid disgruntlement in stagnation and as the applicant did not choose to make attempt for Grade A, he is not entitled to the benefits.

6. Arguments were heard and documents perused. Two aspects are to be seen in this case – (a) whether qualifying as Grade A artist is required for becoming entitled to financial upgradation of Rs. 6,500 – 10,500/- and (b) in case, the version of the applicant that vide Annexure A-3 certain persons even without so qualifying for such a grade had been afforded the upgradation is correct, whether the respondents can single out the applicant.

7. As regards (a) above, it appears that there is no promotional ladder as B, B-High and A Grade and each is independent of the other. For, a Grade B artist, on qualifying as Grade A, could directly move to the pay scale of A Grade. Thus, each post is to be considered as only an isolated post and appointment to



it is to be treated as one of direct recruitment and not promotion. As no counter has been filed, this part has to be verified by the respondents and if so, the applicant is entitled to the upgradation on completion of 24 years of service to be placed in 6,500 – 10,500/- or from 09-08-1999 whichever is later. As regards (b), in case others similarly situated had been granted the upgradation, there does not seem any good ground to deny the same to the applicant.

8. The OA is, therefore, disposed of with the direction to the respondents to afford the applicant the benefit of second ACP by placing him in the pay scale of Rs 6,500 – 10,500 in the event of existence of any one or both of the following and in that case the applicant shall be paid the difference in pay and allowances for the period from completion of 24 years of service or from 09-08-1999 whichever is later till the date of superannuation, with annual increment duly added at the end of each year and the pension and terminal benefits of the applicant shall also be duly worked out, amendment to PPO got issued and the difference paid to him. In addition, the applicant shall be entitled to the higher rate of pension :-

(a) On verification of the recruitment rules, if the post of Staff Artist Gr. A is not a promotional post with B High Grade as the feeder grade.

(b) If others similarly situated have been granted as alleged by the applicant vide para 4(6) of the application read with Annexure A-4.

9. In case the post of Grade A is a promotional post for feeder Grade B high and if qualifying in the audition test for Grade A is a pre-requisite for such promotion and if no individual who had not been through with Grade A MAB test

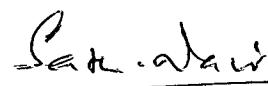
had been granted the higher pay scale of Rs 6,500 – 10,500/- the applicant be suitably informed.

10. The above directions shall be complied with, within a period of three months from the date of communication of this order. No costs.

(Dated, the 5th March, 2008)



(Dr. K B S RAJAN)
JUDICIAL MEMBER



(SATHI NAIR)
VICE CHAIRMAN

cvr.