

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA 413/99

Tuesday this the 31st day of July, 2001.

CORAM

HON'BLE MR. A.M.SIVADAS, JUDICIAL MEMBER
HON'BLE MR. G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

T.K.Gopinathan Nair
S/o Late N.Krishna Panicker
Station Engineer
Doordarshan Kendra, Panaji
Permanent Address: 'Sriniketh'
East Desom, Alwaye.

Applicant

[By advocate Mr.T.C.Govindaswamy]

Versus

1. Union of India represented by
The Secretary to the Government of India
Ministry of Information and Broadcasting
Sástri Bhavan, A-Wing, New Delhi.
2. The Chief Executive Officer
Prasar Bharathi (Broadcasting Corporation of India)
Doordarshan Bhavan, Mandi House
Copernicus Marg, New Delhi.
3. The Director General
All India Radio, Akashvani Bhavan
Parliament Street, New Delhi.
4. The Director General
Doordarshan, Doordarshan Bhavan
Mandi House, Copernicus Marg
New Delhi.

Respondents.

[By advocate Ms.Rajeswari A.,ACGSC]

The application having been heard on 31st July, 2001,
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.M.SIVADAS, JUDICIAL MEMBER

Applicant seeks to quash A-5 & A-7 to the extent they deny the benefit of arrears of pay consequent upon his promotion/appointment to the Junior Time Scale with effect from 16.1.91 and to direct respondents to grant him arrears of pay consequent upon his promotion/appointment in the Junior Time Scale for the period from 16.1.91 to 28.1.98 with interest at 18% per annum.

2. Applicant is working as Station Engineer in the Group 'A' Senior Time Scale of the Indian Broadcasting (Engineers) Service. He, as Senior Engineering Assistant, was due for his promotion as Assistant Engineer on and with effect from 24.8.82. He was promoted initially to the said post only with effect from 30.4.86. However, in the year 1987 his promotion as Assistant Engineer was given effect to from 24.8.82. The applicant thus became entitled to be promoted against the Junior Time Scale vacancies for the years 1986, 1987 and 1988. He was overlooked for reason that he was not having 3 years regular service as Assistant Engineer in 1986, 1987 and 1988. As per A-2 the applicant was promoted to Junior Time Scale of Indian Broadcasting (Engineers) Service. His promotion to Junior Time Scale was given effect to continuously from 16.1.91. In the meanwhile applicant was granted notional promotion with effect from 16.1.91 but arrears were granted to him only with effect from 29.1.98. Against A-5 he submitted a representation and A-7 is issued in response to his representation. As per A-7 his request for arrears from 16.1.91 to 28.1.98 has been rejected.

3. Respondents contend that as per O.M.No.22011/5/86 Estt.(D) dated 10.4.89 on review DPC, "if the officers placed junior to the officer concerned have been promoted, he should be promoted immediately and if there is no vacancy, the junior most person officiating in the higher grade should be reverted to accommodate him. On promotion, his pay should be fixed under FR 27 at the stage it would have reached, had he been promoted from the date the officer immediately below him was



promoted but no arrears would be admissible." His pay has been fixed in accordance with the existing rules and the guidelines issued by the Government.

4. Learned counsel appearing for the applicant submitted that this is not a case of "No Work, No Pay" and as there was no fault on the part of the applicant and the applicant's promotion was delayed only because of the act of the respondents, applicant is entitled to get pay from the date of his notional promotion with effect from 16.1.91. In support of this argument, he placed reliance in the ruling in P.Narayanan Nair & Others Vs. Chief General Manager, Telecom, Kerala Circle, Thiruvananthapuram & Others 1994 (1) SLJ (CAT) 415. In that decision, the OM No.22011/5/86(Estt.(D) dated 10.4.89 was not considered.

5. O.M.No.22011/5/86 Estt.(D) dated 10.4.89 clearly says that in cases like the one at hand, no arrears would be admissible. Impugned orders issued are perfectly in tune with the said O.M. Applicant has not challenged the said OM. As the impugned orders are in tune with the said OM and the said OM is not under challenge, the argument advanced by the learned counsel for applicant cannot be accepted.

6. We do not find any ground to grant the reliefs sought for.

7. Accordingly OA is dismissed.

Dated 31st July, 2001.



G.RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.M.SIVADAS
JUDICIAL MEMBER

aa.

-4-

Annexures referred to in this order:

- A-5 True copy of the office order No.6/51/91-S IV dated 3.11.98 issued by the fourth respondent.
- A-7 True copy of the office order No.6/51/91-S IV/348 dated 17.2.99 issued by fourth respondent.
- A-2 True copy of the order No.71/97-B(D) dated 30.9.97 issued by the 1st respondent.