

Central Administrative Tribunal Lucknow Bench Lucknow

O.A.470/2007,

This, the ^{11th} 4 day of August, 2009

Hon'ble Ms. Sadhna Srivastava, Member (Judicial)

Hon'ble Dr. A. K. Mishra, Member (Administrative)

1. Smt. Anamika Srivastava aged about 44 years d/o late Sri R.K. Srivastava, R/o D-4, Radio Colony, Sector 8, Indiranagar, Lucknow.
2. Sri Krishna Deo Shukla aged about 39 years son of late Kapil Deo Shukla R/o 50, Yogendra Vihar, Khandepur, Naubasta, Kanpur.

Applicants

By Advocate: Sri A. Moin.

VERSUS

1. Union of India through Secretary, Ministry of Information and Broadcasting, Govt. of India, New Delhi.
2. Director (P&EA), Office of Director General, All India Radio, New Delhi.
3. Prasar Bharti Broadcasting Corporation of India through its Chief Executive Officer, New Delhi.
4. Director General, All India Radio, Akashwani Bhawan, Sansad Marg, New Delhi.
5. Director, All India Radio, Lucknow.

Respondents.

By Advocate : Sri Raj Singh for Poonam Sinha

ORDER (ORAL)

By Hon'ble Ms.Sadhna Srivastava, Member (J)

Applicants are aggrieved by orders dated 14.11.2006 and 11.5.2006 to the extent whereby the financial benefit/ emoluments for the post of Programme Executive have been denied to both the applicants.

2. The facts as appear from the pleadings are that both the applicants were initially appointed as Transmission Executive in the grade of R. 6500-10,500/- in the year 1992. They were promoted as Programme Executive in February, 2005 on adhoc basis. They were given financial emoluments of the said post. In the year 2006, their adhoc promotions were cancelled. Again vide orders dated 11.5. 2006 and 14.11.2006, they were given the charge of Programme Executive without any financial emoluments. The copy of orders dated 11.5.2006 and 14.11.2006 are on record as Annexure No.1 to the O.A. In pursuance of the said orders, both the applicants are continuing as Programme Executive in the same station to which they were posted on adhoc basis as Programme Executive and they are performing the duties of Programme Executive. As the financial benefits attached to the Programme Executive were denied to them,

they filed the present O.A. contending that as they are asked to perform the duties of Programme Executive on adhoc basis, they are entitled to the scale attached to the post of Programme Executive as long as they are asked to perform the functions of Programme Executive. The applicants have placed reliance on a judgment of Central Administrative Tribunal, Circuit Bench at Ranchi in O.A. No. 141/2006 (Patna- dated 15.1.2006), wherein similar issue has been dealt with and it was held that Transmission Executives, who were asked to perform the duties of Programme Executives, should be paid the scale attached to the post of Programme Executive. The same view has been taken by the Bangalore Bench of this Tribunal. It is contended that judgments passed by Circuit Bench at Ranchi as well as Bangalore Bench of this Tribunal had already been complied with by the respondents.

3. The respondents have filed counter reply and argued that it was only optional and there was no compulsion to the applicants to work as Programme Executive, they are simply allowed to discharge the duties of Programme Executive, though, they were reverted to their substantive post. Therefore, they are not entitled for the pay scale attached to the post of Programme Executive, as their substantive post is Transmission Executive. It is not disputed that applicants, who hold the substantive post of Transmission Executive were promoted on adhoc basis in February, 2005 as Programme Executive. Thereafter, they were reverted. Again in 2006, they were given the charge of Programme Executive but without financial emoluments. In other words, the applicants were asked to perform the duties of Programme Executive but without scale attached to the said post. In our considered view, it is unjustified. Similar view was taken by both Circuit Bench, Ranchi and Bangalore Bench of this Tribunal in O.A. No. 141/2006 (Patna- dated 15.1.2006) and O.A. No. 144/2006 (Bangalore Bench -dated 7.11.2006) respectively. The Bangalore Bench of this Tribunal made it clear in last paragraph of the judgment that the respondents would not be justified in directing the Transmission Executives/ Programme Assistants to discharge the duties of Programme Executive without payment of remuneration attached to the said post.

4. We are in agreement with the view taken by the Bangalore Bench and Ranchi Bench of this Tribunal.



5. In the result, O.A. is allowed. The respondents are directed to pay to the applicants as per the scale in higher post of Programme Executive from the date of their joining as Programme Executive, after adjusting the amounts already paid to them for the lower post of Transmission Executive along with due and drawn statement. This should be done within a period of 3 months from the date of receipt of copy of this order. There shall be no order as to costs.


(Dr. A.K. Mishra)
Member (A)


(Sadhna Srivastava)
Member (J)

HLS/-