

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA No. 203 of 2006

Date of order : 10th July, 2007

C O R A M

Hon'ble Mr. Justice P.K.Sinha, Vice-Chairman

Hon'ble Mr. S.N.P.N.Sinha, Member[Admn.]

Mala Taterway, D/o Dr. B.N.Taterway, resident of Mohalla Sheopur,
 Mahendru, P.O. Mahendru, P.S. Sultanganj, District – Patna.

Applicant

Vrs.

1. Union of India through Secretary Ministry of Information & Broadcasting, Shastri Bhawan, New Delhi -1.
2. Chief Executive Officer, Prasar Bharti Secretariate, 2nd Floor, PTI Building, Parliament Street, New Delhi – 1.
3. The Director General, All India Radio, Akashwani Bhawan, Sansad Marg, New Delhi – 1.
4. The Station Director, All India Radio, Patna.
5. The Station Director, All India Radio, Ranchi.

Respondents.

Counsel for the applicant : Shri S.K.Bariar

Counsel for the respondents : Shri S.K.Tiwari, ASC

ORDER [ORAL]

Justice P.K.Sinha, Vice-Chairman : -

This matter was listed under the heading of 'hearing on stay', but since the pleadings are complete and both sides are ready to argue, full arguments have been heard in this application and, in the circumstances of the case, this application is being disposed of at this stage.

B.K.C.

2. Vice Annexure-A/1, the applicant and several others had been promoted, purely on adhoc basis, as Programme Executive to which post they joined. On completion of one year of such promotion, the respondents issued order at Annexure-A/2 by which those who were promoted as Programme Executive in All India Radio and Doordarshan purely on adhoc basis, vide order dated 25.2.2005 [Annexure-A/1] for one year, were reverted to their respective substantive post with effect from 24.2.2006.
3. Before proceeding further and as admitted by the ld. counsels, it may be mentioned that the matter of such promotion to the post of Programme Executive has been engaging various Benches of this Tribunal including this one in which a number of litigants are involved, and certain orders relating to this and seniority list have been passed.
4. To cut short the matter, the respondents thereafter issued order through message dated 1.3.2006 [Annexure-A/10] by which the Transmission Executives, Production Assistants and its equated categories who were promoted to the post of Programme Executive but reverted w.e.f. 24.2.2006 [AN] were ordered to hold charge of the post of Programme Executive but with the rider that they would do so "without financial emoluments".
5. The applicant in this case originally had come up for quashing of



Annexure-A/2 which is the reversion order as also for quashing of Annexure-A/10, but since the applicant has been again promoted and directed to hold charge of the post of Programme Executive, the ld. counsel submits that the ^{relief against the} order at Annexure-A/2 has become infructuous, hence is _§ not pressed. The ld. counsel for the applicant submits that he is pressing only that part of Annexure-A/10 by which the applicant has been ordered to hold the post of Programme Executive "without financial emoluments".

6. The ld. counsel for the applicant submits that if the applicant is doing the work of Programme Executive, by a number of decisions of the Central Administrative Tribunals as also of Hon'ble High Courts and Apex Court, financial emoluments of that post cannot be denied to ^{him.} _§

7. The ld. counsel for the respondents sticks to the written statement, submitting that since the applicant and similarly situated other employees were so promoted as Programme Executive purely on adhoc basis, they cannot claim regular post and they were rightly reverted back after completion of one year of adhoc appointment.

8. The ld. counsel for the respondents also points out two decisions of Lucknow Bench of the Central Administrative Tribunal, copies of which are annexed which, however, appear to be on interim relief, and relating to the seniority list.

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9. The same matter came up before this Tribunal in O.A. No. 141 of 2006 disposed of on 15.1.2006 in the case of Atmeshwar Jha & Ors. vs. Union of India & Ors. The prayer at the time of hearing was limited to that portion of the order [as at Annexure-A/10] by which the emoluments of the post were denied. This Tribunal took into consideration various decisions including in the case of Secretary cum Chief Engineer, Chandigarh vs. Hari Om sharma & Ors.; 1998 SCC [L&S] 1273, in the case of Selvaraj vs. Government of Island Port Blair & Ors. reported in Judgment Today, 1998 [4] SC page 500 and in the case of Judhistir Mohanti vs. State of Orissa; 1996 SCSR Vol. 25 page 508. This Tribunal held that the position was well settled that even ^{if} temporarily a person is asked to work ⁱⁿ a higher post, he cannot be denied the emoluments attached to that post. Holding so, this Tribunal in the aforesaid case allowed the application in part, directing the respondents to pay the applicant as per the scale of the higher post of Programme Executive from the date of their joining as Programme Executive, minus emoluments already paid.

10. We also hold the same view that if a person is asked to work on a higher post, even temporarily or on adhoc basis, he has to be paid the emoluments attached to that post.

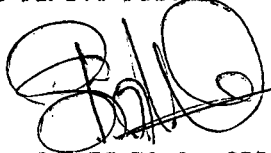


11. This application is, therefore, allowed in part. The respondents are directed to pay to the applicant the emoluments attached to the post of Programme Executive from the date of ^{her}~~he~~ joining the aforesaid post in compliance of order at Annexure-A/10, and to pay her the arrears within a period of three months of the receipt of a copy of this order, after adjusting the amount already paid.

12.

This application is, accordingly, disposed of. No costs


[S.N.P.N. Sinha] M[A]


[P.K. Sinha] VC

mps.