

CENTRAL ADMINISTRATIVE TRIBUNAL**PATNA BENCH, PATNA****OA No. 140 of 2006**Date of order : 20th January, 2009**C O R A M****Hon'ble Ms. Sadhna Srivastava, Member [Judicial]****Hon'ble Mr. Amit Kushari, Member[Admn.]**

1. Rajit Sinha, S/o Shri M.M.P. Sinha, r/o 103, Sharan Vihar Apartment, New Patliputra Colony, Patna.
2. Rajiw Ranjan Shrivastava, S/o Late N.P. Shrivastava, r/o 121 Triveni Apartment, East Boring Canal Road, Patna.
3. Siya Sharan Choudhary, s/o Shri Surajdeo Choudhary, r/o Chakaram, S.K. Nagar, Patna.

....Applicants.By Advocate : Shri S.K. Bariyar

Vs.

1. The Union of India through Secretary, Ministry of Information & Broadcasting, Shastri Bhawan, New Delhi-1.
2. Chief Executive Officer, Prasar Bharti, Prasar Bharati Secretariat, 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.

.....Respondents.By Advocate : Shri A.R. Pandey.**O R D E R [oral]**

Sadhna Srivastava, Member [J] : - The applicants [three in number] have filed an application seeking permission to join together to pursue the matter jointly.



Since the reliefs claimed by them are common, they are permitted to join together in this application.

2. By means of this O.A., the applicants have challenged the order dated 24.2.2006 [Annexure-A/2] whereby all the applicants were reverted from the post of Programme Executive to the substantive post of Transmission Executive.

3. The applicants claim that they were selected as Transmission Executive on regular basis, and subsequently they were promoted to the post of Programme Executive by order dated 25.2.2005 purely on adhoc basis, after being found fit for such promotion by the Departmental Promotion Committee. They claim that vide order dated 24.2.2006 issued by the respondents, they have been reverted to the post of Transmission Executive for which no notice or opportunity was given to them. The aforesaid order has been challenged mainly on the ground that certain officials junior to them who were similarly promoted as Programme Executive have been allowed to continue on the post, whereas the applicants have been reverted.

4. It is further submitted that during the pendency of the OA, the respondents have passed an order dated 1st March, 2006 which is on record as Annexure-A/ filed with MA 163 of 06, restoring the status of the applicants as Programme Executive but without any financial emoluments of the post of Programme Executive. Thus, the learned counsel for the applicant submits that



vide order dated 1st March, 2006, the reversion order of the applicants dated 24.02.06 have already been withdrawn by the respondents, and therefore, applicants are not pressing the relief relating to quashing of the order dated 24.2.2006. At this stage, their limited prayer is that the order dated 01.03.06 whereby the financial benefits for the post of Programme Executive has been denied by the respondents should be quashed..

5. Admittedly, all the applicants are presently working as Programme Executive on the basis of interim order dated 2.3.06, and they are aggrieved only by the order of denial of financial benefits

6. The learned counsel for the applicant submitted that a similar matter has already decided by this Bench. He has filed a copy of the order dated 15.1.2006 passed in O.A. No. 141 of 2006 [Circuit Court, Ranchi]. The learned counsel for the respondents concedes that the case of these applicants are similar to those of the applicants of OA 159 of 06 and OA 141 of 06.⁷

7. We have heard the learned counsel for the parties. Now the question that remains for adjudication is whether the applicants are entitled for the pay of Programme Executive.

8. We have perused the order dated 1.3.2006 whereby the order of reversion has been taken back, and all the applicants have been permitted to work as Programme Executive, denying the financial benefits to them.

9. The learned counsel for the applicants state that at present both the



applicants are working as Programme Executive but they are getting the pay scale of Transmission Executive . In the case of **Secretary cum Chief Engineer, Chandigarh vs. Hari Om Sharma and others, reported in 1998 SCC [L&S] 1273**, it was held that while promoting a person on stop gap arrangement cannot be denied pay for the same on the ground that the employee had given an undertaking that he would not claim salary of higher post or any other benefits. Similarly, in **Selvaraj vs. Government of Island Port of Blair and Others, reported in Judgment Today, 1998 [4] SC page 500**, the Apex Court held that if the petitioner was posted against a higher post, he should have been paid the salary in higher pay scale for that period, therefore, the respondents were directed to make available the difference of salary in higher pay scale for the period when they were actually made to work on higher post. The same view has been taken by the Apex Court in **Judhistir Mohanty vs. State of Orissa, 1996 SCSR Vol. 25 page 508.**

10. In the later Judgment reported in 2002, SCC [L&S], the Hon'ble Supreme Court has reiterated the same principle in the case of **Dwarika Prasad Tiwary vs. M.P. State Road Transport Corporation and another**, wherein it was held as follows :- “ for the period for which the applicant has discharged his duties attached to higher post, he should be paid the emoluments as attached to the higher post.”

11. In view of the above settled position of law, the O.A. is allowed



partly to the extent that the respondents shall 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 statements. This should be done within a period of three months from the date of receipt of a copy of this order. There shall, however, be no order as to the costs.

[Amit Kushari] M [A]

/cbs/

[Sadhna Srivastava] M [J]

PT allowed on 13-2-09