

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW BOMBAY BENCH, NEW BOMBAY.

Tr. Application No.383/86.

Shri N.B.Upadhye,  
1/75 Ramkrishna Hsg. Society,  
310, Ghorpadi Peth,  
Pune 411 002.

... Applicant

V/s.

1. The Union of India,  
through the Secretary,  
to the Govt., of Ministry  
of Information & Broadcasting,  
New Delhi.

2. The Director General,  
All India Radio,  
Broad-Casting House,  
New Delhi.

... Respondents

Coram: Hon'ble Vice-Chairman, Shri B.C.Gadgil,  
Hon'ble Member(A), Shri J.G.Rajadhyaksha.

Appearances:

Shri C.D.Dharne,  
Advocate for the  
applicant and  
Shri J.D.Desai  
(for Mr.M.I.Sethna)  
for the respondents.

JUDGMENT:

¶ Per Shri J.G.Rajadhyaksha, Member(A) ¶ Dated: 4.9.1987

The applicant had filed Regular Civil Suit  
No.232 of 1979 in the Court of the 5th Joint Civil Judge  
Sr. Division, Pune. That suit has been transferred to  
this Tribunal for disposal and is now Transferred  
Application No.383/86.

2. The applicant had actually filed the suit for one  
main relief viz. that the respondents should not be entitled  
to degrade the applicant from the post of "Drama Voice  
'B High' Grade" to that of "Compere/Announcer" and for the  
further incidental declaration that applicant was serving  
as "Drama Voice 'B High' Grade" from 1.4.1962. The other

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reliefs were incidental reliefs such as fixation of pay in that appropriate grade, costs and other orders that the Court might be pleased to pass.

3. Before we proceed to deal with the facts, we might usefully understand the structure, in the Organisation, of employment at this level. We find that the AIR have been employing artistes under the common nomenclature "Staff artist". This has been further categorised into "musicians, announcers, comperes, drama voices etc". The appointments were made on contract on fixed consolidated monthly fees as determined by the Station Director, AIR until running fee scales came to be introduced w.e.f. 1.10.1964, and these were shown categorywise for the various staff artists. From the agreements of employment, assignment of duties and entries in Service Books, it is possible to find out if a staff artist was put into any specific category ab initio or after some years of service, and what was the running fee scale into which he was placed. On reorganisation and restructuring, the scales came to be rationalised and revised/new scales were indicated against various categories and their respective old fee scales.

4. The applicant joined service in 1953 and claims to have been auditioned as Drama Voice at the All India Radio Station, Pune, in October, 1953, and awarded 'B High' Grade and appointed as "Drama Voice 'B' <sup>High</sup> Grade ab initio. He was on regular contracts w.e.f. 1.4.1955 and these contracts were renewed from time to time. In 1962 there was a change in the contract, inasmuch, as the applicant was designated as "Staff Artist, Children's Programme" instead of his earlier designation viz. 'Voice in plays and features and effectsman'. His attempts to get the matter set right through representation and appeals to the Departmental authorities

were defeated on many occasions and therefore he filed this suit. It is his claim that since he was appointed Drama Voice, he should have been placed as such in the proper scales & these should have been revised properly to give him senior scale.

5. The respondents had filed their written statement, in which it was their contention that applicant was appointed as a 'Staff Artist', initially on monthly contracts from 1953, the contracts were renewed from time to time, his monthly fees were also increased from time to time. His first service contract was made w.e.f. 16.11.1954 to 31.3.1955, was thereafter renewed for one or more years. Subsequently, he was shown to work in "Childrens' programme" instead of "Voice in plays and features and effect<sup>s</sup>man". In 1977 his designation was shown as 'Compere' in a running fee scale of Rs.133-7-175-10-265-15-340. These contracts were also renewed from time to time. It is their contention, further that the applicant was awarded "B Plus" grade in the audition tests and not 'B High' Grade" as claimed by him and that basically he was a 'Staff Artist' - though on occasions he did participate in 'Drama Voice' in All India Radio-and, therefore, he was placed in the 'Compere' category and his fee scale determined accordingly even on revision of the grades. They also claimed further that the applicant had, by his contracts, agreed to render any service that was required of him and, therefore, he had no right to claim that he was 'Drama Voice B High Grade' and therefore no right to equation of pay such as he was claiming in his original plaint viz. he be equated to the senior scale in this category.

6. The learned advocate Mr.Dharne for the applicant traced the history of the applicant's service and stated that applicant was appointed as "Drama Voice 'B High' Grade" all along. In 1953, applicant was the only 'Staff Artist'

and therefore, he was the only "Drama Voice 'B High' Grade". Later, the 'Staff Artist' were given regular benefits of a running scale and they became Civil Servants, though their contracts were renewed from time to time. He further argued that applicant's designation was changed suddenly to 'Staff Artist' Childrens' Programme and later to 'Compere' without any notice and as 'Compere' he was put in the Scale of 133-340, his pay being fixed at Rs.195/. It is his claim that the pay should have been fixed at Rs.215<sup>2</sup> which is the commencement of the scale in the senior scale of "Drama Voice" category for Drama Voice B High.

7. The reply of the respondents was that, initially, applicant was on monthly contracts as staff artist. He had accepted and signed all the contracts that were entered into between the All India Radio and him. In fact the offer dt. 31.3.1955 was for job as staff artist (voice in plays and effects man) which applicant has accepted. All further contracts are as 'Staff Artist'. It would not be correct to compare the 'Staff Artist' in Bombay and 'Staff Artist' elsewhere, and therefore, the applicant who was working in Pune, perhaps could not be described as 'Drama Voice' at all for want of such a post in Pune Station of AIR. In the Contract dt. 31.3.1960 he is mentioned as "Shri N.B.Upadhye (Childrens' Programme) of AIR Pune - hereinafter called staff artist<sup>etc</sup>". Endorsement dt. 19.6.1968 contains a clause to the effect that this staff artist (applicant) will be designated as 'compere' in scale 133-340. He was a 'Staff Artist' and though his services were occasionally employed for participation in Drama as 'Drama Voice' he never was appointed as such.


8. So far as the applicant's claim is concerned, Mr. Dharne further argues that all representations of applicant had not been dealt with properly. In fact one letter shows that the All India Radio i.e. Government had found it not possible to 'restore' the applicant to the 'Drama Voice' category and they maintained him only as 'Staff Artist'. He argued that "Voice in plays and effectsman" was in fact 'Drama Voice'. He further contends by referring to the Service Book of the applicant that it contained an entry of 'Grade' and showed him as 'B High' Grade Drama Voice and, therefore, it was incumbent upon the respondents to treat him as 'Drama Voice'. In reply, it has been argued that the 'B High' grade awarded to the applicant and shown on the first page of the Service Book was only as a result of audition test and it was not a service condition. By referring to the entry in the Service Book on all further pages, the respondents have contended that applicant was initially appointed as 'Staff Artist' and never as a drama voice and he continued to be 'Staff Artist' until he was described as 'Compere' whose scale is equivalent to that of the junior grade viz. 133-340 in accordance with his initial appointment and the actual job being done by him. He never was appointed as 'Drama Voice' is their contention as borne out from the Service Book.

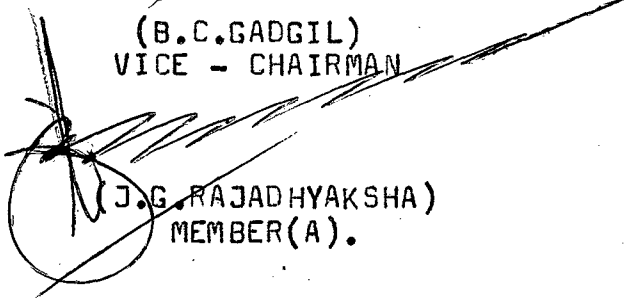
9. So far as Mr. Dharne's contention that guidelines issued by the Ministry of Information & Broadcasting had been violated, Mr. Desai's reply was that the guidelines would come into effect only for the purposes of equating 'Staff Artist' on re-organisation of the scales or restructuring of the system of employing artists and there was nothing at all to indicate that the respondents had violated the guidelines issued by the Government.

10. After hearing the contentions of both the learned advocates and perusing the papers we find that the point required to be decided is whether the applicant was at all appointed as 'Drama Voice' 'B High' Grade. Our reading of the Service Book is that this description 'B High Grade in drama' comes on the first page of the Service Book under the heading 'Grade' immediately below the identification marks of the applicant. It does not anywhere indicate that this was in any way related to the scale of pay to be awarded to the applicant. Further, the close reading of the Service Book shows that the appointment and designation as well as the pay scales given to the applicant have always been 'Staff Artist' in fact staff artist Children's Programme by contract for the period 1.4.1949 to 31.3.1962 until they were changed to 'Compere' w.e.f. 1.10.1964. This seems to have been necessitated, because of the reorganisation and restructuring of scales. Mr.Dharne had urged before us that another Artist viz. Shri P.D.Joshi had been given the Senior Time Scale, though he was 'Drama Voice' B. We have perused that Service Book also and we have found that while Mr.Joshi started as 'Staff Artist' he has been appointed as 'Drama Voice' B, as far back as 1953. Further, we find that Mr.Joshi was appointed as 'Drama Voice' 'A' on or about 1.10.1964. In view of that entry, there can be no justification for contending that Mr.Joshi was given any different treatment, though in fact he was equal in rank to the applicant. In fact, we find from the Service Book that while the applicant entered service on monthly contract some time in 1953, Mr.Joshi had entered service in 1950. Therefore, considering all aspects, we are convinced that applicant was never appointed as 'Drama Voice' whether B plus or B High.

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The indication in the Service Book that he was auditioned and given 'B High' grade does not necessarily mean that he was appointed as 'Drama Voice' 'B High' grade. In the result, we cannot persuade ourselves to accept the contention that the applicant was 'Drama Voice' 'B High' grade and, therefore, instead of being equated to the junior scale he should have been given the senior scale. In fact we have seen all the contracts, we have also seen that "Voice in plays and features and effectsman" was the description of the duties assigned to the applicant and was not a designation conferred upon him. Considering all these aspects, we find that the applicant has no case. We therefore, dismiss the application. We however, pass no order as to costs.

  
(B.C.GADGIL)  
VICE - CHAIRMAN

  
(J.G. RAJADHYAKSHA)  
MEMBER(A).