

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

CA 1154/96

MUMBAI? THIS THE 4th DAY OF JUNE, 2001

HON'BLE SHRI S.L.JAIN, Member (J)

HON'BLE SHRI GOVINDAN S.TAMPI, Member (A)

1. Bhargav Bhagwan Apte,
Working as Announcer,
Central Railway, MBCST,
Under DRM(C)/MBCST, Mumbai. Applicant.
2. Shri Bhaskar Laxman Dehade,
Announcer, Under DRM(C)/C.Rly.,
MBCST, Mumbai. -do-
3. Shri Pralhad Natu Gosavi,
Announcer, Under DRM(C)/C.Rly.,
MBCST, Mumbai. -do-
4. Shri Dilip Pandurang Shelar,
Announcer, Under DRM(C)/MBCST,
C.Rly., Mumbai. -do-
5. Ravindra Namdeo Tarelkar,
Announcer, Under DRM(C)/MBCST,
C.Rly., Mumbai. -do-
6. Manoj Vithal Khanolkar,
Announcer, Under DRM(C)/MBCST,
C.Rly., Mumbai. -do-
7. Chandrakant Bhimrao Ghodke,
Announcer, Under DRM(C)/MBCST,
C.Rly., Mumbai. -do-
8. Dilip Raghunathsingh Pardeshi,
Announcer, Under DRM(C)/MBCST.,
C.Rly., Mumbai. -do-
9. Bhimrao Namdeo Patait,
Announcer, Under DRM(C)/MBCST,
C.Rly., Mumbai. -do-
10. Sunil Yashvant Shriram,
Announcer, Under DRM(C)/MBCST,
C.Rly., Mumbai. -do-
11. Vellakutti Murlidharan,
Announcer, Under DRM(C)/MBCST,
C.Rly., Mumbai. -do-

12. Shri Anand Pandurang More,
Announcer, under D.R.M. (C)
C.Rly, MBCST.

...Applicant

(By Advocate Shri K.B.Talreja)

V E R S U S

The Union of India : Through

1. The General Manager, Central Railway
MBCST/Mumbai - 1.
2. Chief Commercial Manager (C)
Central Railway, Mumbai CST
Mumbai - 1.
3. The Divisional Railway Manager
Central Railway, Mumbai, CST
Mumbai.

...Respondents

(By Advocate Shri S.C.Dhawan)

O R D E R

By Hon'ble Shri Govindan S. Tampi, Member (A)

Shri B.B.Apte and 11 other applicants have come before us
seeking the following reliefs :-

- a) direction to the respondents to pay the same
scale of pay to all the announcers, engaged in the
similar nature of duties and responsibilities from the
date of their working as Announcers ;
- b) grant the difference in pay from the year 1992,
from when they were working continuously along with
arrears and interest ;
- c) Award cost and ;
- d) other allied reliefs ;

2. Heard S/Shri K.B.Talreja and S.C.Dhawan, learned counsel respectively for the applicants and the respondents and perused the documents placed on record.

3. The basic plea in this OA is that 'equal pay for equal work' principle has not been applied in the case of the applicants. Facts in brief are that the applicants who were holding class IV (Group D) posts as Khallasis and Gangmen/Pointsmen in the pay scales of Rs. 750-940/-, 775-1025/- and 800-1150/- respectively, responded to the Notification dated 11-11-1991 for the post of Announcers and were selected and empannelled on 11/12-2-1992. They were also trained for the special requirement of the job. According to them, though the Announcers' grade was Rs. 950-1500/-, they were placed only in the grade of Rs. 750-940/-. This was contrary to the direction issued the respondent's letter No. BB/C/306/PO/Ann dated 23-2-1996, extending the benefit of the grade of Rs. 950-1500/-, on ad hoc basis to the announcers working in the grade of Rs. 750-1500/-. The applicants had opted in August, 1994 for permanent absorption in commercial Deptt. which was ordered in January 1995. According to the applicants, duties and responsibilities of the announcers are the same, whether they were selected from Group 'C' or Group 'D' and, therefore, keeping them in different scales was discrimination and against the principle of "equal pay for equal work". As the post of Announcers was supposed to be in the grade of Rs. 950-1500/-, the applicants being paid in the lower grade was wrong and this deserved to be modified and justice rendered to them. The above pleas were fervently urged by Shri K.B.Talreja, who drew

our special attention to annexures 5,6 &7, which he felt would prove his case. He also pointed out that the applicants had come to the Tribunal only after finding that the respondents were not responsive to their genuine pleas and prayed for our immediate interference in the matter.

4. In their reply, the respondents urge that the applicants' prayer was hit by limitation as the alleged cause of action arose in February 1995, while the OA has been filed only in November 1996. It was true that the applicants were selected as Announcers in pursuance of the notification dated 11-11-1991 and were performing the job, in addition to their own duties. They were entitled for getting the special pay of Rs. 50/- p.m. and nothing more. That being the case, the applicants cannot justifiably take the plea that the minimum pay scale for Announcers stood at Rs. 950-1500/-, still they were given only a lower scale. It was in fact only by way of a concession that those in the lower grade also were permitted to work as Announcers. Still on 20-3-1996, it was decided to grant those in the lower pay scale also the benefit of the higher scale of Rs. 950-1500/subject to their undergoing the test, but the applicants declined to do it. Respondents reiterate that the only benefit accruing to the job of the announcer was special pay of Rs. 50/- p.m. Principle of "equal pay for equal work" would not be applicable in this case, as the post of announcer was an ex-cadre post. There was no minimum grade for the post of announcer like Rs. 950-1500/- and, therefore, the applicants cannot have any grievance; more so as they had declined to take the screening, which the respondents desired the applicants to do to grant them

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the higher grade of Rs. 950-1500/- as a special dispensation. Application in the circumstances should fail, according to Shri S.C.Dhawan, learned counsel for the respondents.

5. In his rebuttal, Shri Talreja reiterates the case for the applicants and states that the Deptt's Circular advising the applicants for the screening for the higher grade was not received by them and that even if it was so received, they were not bound to accept it, as they had been screened and tested earlier in 1991 and no repeat test for the job they were performing was called for. Learned counsel indicated that as laid down by a few decisions of the apex Court and Tribunal, "equal pay for equal work" was their vested right. He referred in this connection to the decisions in the cases Doordarshan Cameraman's Welfare Association Vs. UOI & Anr. (1990 (14) SC. SLJ.389); State of Himachal Pradesh Vs. HP State Recognized and Aided Schools Management & Ors. (1995 (21) SC.SLJ.61) and Y.G.Sharma Vs. UOI & Ors. (1991 (2) ATJ.123) all upholding the principle of "equal pay for equal work". Benefit flowing from the above decisions should be applied in this case of the applicants, and their pleas accepted, urges Shri Talreja.

6. We have carefully considered the dispute on hand, the rival contentions and closely perused the documents placed before us. Though the pleadings raised by the applicant as well as the rebuttal by the respondents talk about promotion of Group 'D' staff in to Commercial Department, the crux of the dispute is the principle of "equal pay for equal work". While the applicants plead that as they were performing the jobs of Announcers which

employees belonging to other grades also were performing, it is incumbent to the respondents to grant them higher scale so that there is no descrimination, the respondents hotly contest the above. It is seen that by Notification dated 11-11-1991, applications were invited for filling up the 20 vacancies of announcers at the various stations in Bombay Division. The Notification specifically indicated that the selected candidate will carry a special pay of Rs.50/- per month in addition to their pay, which will not count for any other purpose. It is also stated that the selected candidates will carry their grade and pay they were having in their respective parent cadre and that their lein and seniority will be maintained in their respective cadres and parent department and they will continue to draw all seniority promotions in the parent cadre by virtue of proforma promotion in their parent cadre during the period they continue to work as announcers and will be permitted to go back only on completion of one year tenure. Employees from different categories like Gangman, Khallasi, Pointsman etc. who were in the grades of Rs. 750-940/or 775-1025/- or 800-1150/- were taken for the above posts including the applicants. It was evident therefore what was common and equal amongst all was the fact of their holding the post of Announcers, which was an ex-cadre post on receipt of Rs. 50/- per moth as special pay without any other benefit. Obviously, therefore, for the work as Announcers which has been held by them, all were getting the special pay of Rs. 50/-. It is evident, therefore, that there has not been any discrimination in respect of the same amongst the employees. However, the applicants alleged that amongst persons of the same grade some have been given the higher grade of 950-1400/-,

which was the basic grade for Announcers which had been denied to the applicants. It is in this context that the letter No. BB.C.306.PD/ANN dated 23-2-1996 (Annexure A-5) becomes relevant. The same is reproduced as below :-

"The post of Announcer is an Ex-Cadre post and is operated by Screening Volunteering staff drafted from eligible grades ranging from 950-1500/- (RPS) onwards.

The selected staff is paid Rs. 50/- P.M. as a special pay in addition to their substantive pay in the grade they carry.

However, in view of acute vacancy position of Announcers, then in 1991, the scope of eligibility grade was, as a one time concession lowered to accommodate employees in grade Rs. 750-940/- (RPS) by CPO MB to fill up vacancies then.

However, as recent measure, the administration has extended the benefit of offering grade Rs. 950-1500 (RPS) on ad-hoc basis to such Announcers working in grade Rs. 750-1500/- (RPS)."

Perusal of the above makes it clear that as a rule, the post of Announcer is being filled by screening volunteering staff from eligible grades from 950-1500/and onwards. But in 1991 an one time concession was granted to accommodate employees in the grade of 750-940/- also for the post. This only means that employees in the cadre of 950-1500/- onwards (group C) are generally to be considered for the post of announcer on screening. It does not, however, mean that the post of Announcer carries a minimum pay of Rs. 950-1500/-. Therefore, the applicants' claim that they have been denied the grade of 950-1500 though they were also performing the job of Announcers was not correct. The letter dated 22-3-1996 also mentions that they administration had extended the benefits of offering grade of Rs. 950-1500/- on ad hoc basis to those announcers working in Rs. 750-1500/grade. This also refers only to one time concession, the Department had, before grant of the same called for the

option of the individual in terms of their letter dated 11-11-1996 stating that the Announcers working in Group 'D' also should submit the application for fresh screening and they will be posted as Announcers in the grade of Rs. 950-1500/- on purely ad hoc basis since it was an ex-cadre post carrying the special pay of Rs. 50/- only. It is indicated by the respondents that the applicants did not submit fresh application and could not, therefore, have been considered. The plea by the applicants that they were not aware of the notification is not justified as it is found from their own letter that they are not willing to be tested again as they have been tested earlier. This means that they were aware of the circular, but chose to give it a go by. They cannot, therefore, come before the Tribunal and seek its intervention in support of their case. Admittedly as they were working in the junior grade, but were to be considered for the grant of higher grade as a concession and as one time measure subject to a normal screening, they could not have taken a step that they would only reap the benefits out of arrangement but were not prepared to undergo the rigours of a normal test. The applicants are literally blowing hot and cold and the same cannot be counteanced.

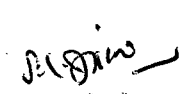
7. The decisions cited by the applicant relate to the concept of equal pay for equal work and they are strictly not relevant as there is no inequality as all Announcers irrespective of the respective jobs they hold are paid the same amount of special allowance for the announcers' work. Obviously the principle of equality is maintained. Nothing further turns on it. In view of the specific directions of the Hon'ble Supreme Court in the

case of UOI & Anr. Vs. P.V. Hariharan and Ors. (1997
(1) SCSLJ 598), wherein the Court has held that unless
the clear case of hostile descrimination is made out, the
Tribunals should not interfere in the matter relating to
fixation of their scales, we are not called upon to go in
to the aspect of the concept of equal pay for equal work,
which the Hon'ble Apex Court left to be the domain of
expert bodies like Pay Commission etc. And it is not for
the Court or the Tribunal to tread into that turf.

8. The respondents have raised a preliminary objection
with regard to the aspect of limitation. The pay scale
is a recurring cause of action. Hence we have decided
the matter on merit. Still as the matter has been
decided against the applicants on merits, the objection
or its rejection does not amount to much.

9. In view of the above, the application being devoid of
any merit is dismissed. No order for costs.


(Govindan S. Tampi)
Member (A)


(S.L. Jain)
Member (J)

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