

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 590/97.

Date of Decision : 05.12.1997.

P. K. A. Nair

Petitioner.

Shri S. Natrajan

Advocate for the
Petitioner.

versus

Union Of India & Others

Respondents.

Shri S. S. Karkera for
Shri P. M. Pradhan.

Advocate for the
respondents.

CORAM :

Hon'ble Shri B. S. Hegde, Member (J).

- (i) To be referred to the Reporter or not ? *✓*
- (ii) Whether it needs to be circulated to *✓*
other Benches of the Tribunal?

B. S. Hegde
(B. S. HEGDE)
MEMBER (J).

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CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO.: 590/97.

Dated this Friday, the 5th day of December, 1997.

CORAM : HON'BLE SHRI B. S. HEGDE, MEMBER (J).

P. K. A. Nair,
Transmission Executive-AIR,
Group 'C'.

Residing at -

A-9, IRE Emp. Co.Op. Hsg. Society,
Dr. Charat Singh Road,
Chakala, Andheri (East),
Mumbai - 400 095.

... Applicant

(By Advocate Shri S. Natrajan)

VERSUS

1. Union Of India through
The Secretary,
Ministry of Information and
Broadcasting,
Shastri Bhavan,
New Delhi - 110 001.

2. The Director General,
All India Radio,
Akashwani Bhavan,
Parliament Street,
New Delhi - 110 001.

3. Station Director,
All India Radio,
Broadcasting House,
Backbay Reclamation,
Mumbai - 400 020.

... Respondents.

4. Station Director,
Vividh Bharati Service,
All India Radio,
C.G.O. Building, 4th floor,
101, Maharshi Karve Road,
Mumbai - 400 020.

(By Advocate Shri S. S. Karkera for
Shri P. M. Pradhan).

: ORAL ORDER :

¶ PER.: SHRI B. S. HEGDE, MEMBER (J) ¶

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Heard Shri S. Natrajan for the applicant and Shri S. S. Karkera for Shri P. M. Pradhan, Counsel for the respondents.

2. The contention of the Learned Counsel for the applicant is that the applicant was initially working as a General Assistant (Junior Grade) till 1987. In the year 1983, the department changed the Recruitment Rules for Clerk Grade-I. He further submits that in the normal channel, the applicant is entitled to be promoted as General Assistant Senior Grade and Production Assistant in the Programme Cadre but the respondents submits that the applicant has given an option to the post of Clerk Grade-I, which was challenged by the applicant in O.A. No. 698/89. The Tribunal after hearing both the parties, while allowing the O.A. stated that the applicant is entitled to be promoted as General Assistants Senior Grade and Production Assistant in the Programme Cadre and that the applicant is entitled to protection of the channel of promotions available to them in terms of the Recruitment Rules of 1976 and they are to be considered for promotion thereunder from amongst the category to which they belong. Accordingly, the O.A. was disposed of. The respondents, thereafter issued a letter dated 03.05.1994 stating that in pursuance to the undertaking exercised by the applicant vide dated 29.04.1994, he is reverted to the post of General Assistant (Jr. Grade) w.e.f. 21.10.1987 (F.N.) i.e the date of promotion as Clerk Grade-I. Pursuant

to this order, it is submitted by the Learned Counsel for the applicant that the respondents have started recovering an amount of Rs. 812/-p.m. as difference of pay drawn by him, which has been stayed by the Tribunal vide its order dated 10.07.1997, which is continued till today.

3. The main thrust of argument on the part of the respondents is that, since the applicant has given an Undertaking/Option for Programme Cadre and that he is willing for reversion to the post of General Assistant held earlier and forgo the financial benefits availed by him after getting promotion as Clerk Grade-I, he cannot now say that the action taken by the respondents is illegal and arbitrary.

4. The applicant is not given any promotion in the normal channel since 1987. It is not disputed that the applicant has been working in the post of Clerk Grade-I from 1987 to 1994, i.e. till the respondents promoted him in the normal channel in the year 1994. I am unable to find any supporting document stating that the applicant has been drawing the pay of General Assistant Sr. Grade since 1987, therefore, the recovery now being made by the respondents is not in accordance with the rules. Since the applicant discharged the functions of Clerk Grade-I, he is eligible to draw the salary of the said post. Pursuant to the decision of the Tribunal in O.A. No. 309, 634, 684 to 705/89, the respondents have given him promotion in the normal channel w.e.f. 1994 and

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not prior to that. Therefore, I am of the view that the recovery effected by the respondents is not in accordance with the rules and they are hereby restrained from recovering the difference between the salary drawn by the applicant as Upper Division Clerk and that of the salary of General Assistant (Junior Grade) during the period from 21.10.1987 to May 1994. It is not the contention of the respondents that the applicant has been drawing the salary of ~~Upper~~ Clerk Grade-I as well as General Assistant (Junior Grade) in the corresponding years.

5. In the light of the above, the O.A. is allowed. The respondents are directed not to recover ~~an~~ amount of Rs. 812/- p.m. from the salary of the applicant as shown in the annexure A-1 placed at page 11. The amount already recovered be refunded to the applicant within a period of two months from the date of receipt of this order.

6. The O.A. is disposed of with the above directions. No order as to costs.


(B. S. HEGDE)
MEMBER (J).