

( RULE - 4 )

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

ORDER SHEET

Original Application No. \_\_\_\_\_/

Misc. Petition No. 51/03

Contempt Petition No. \_\_\_\_\_/

Review Application No. 2/03 (12/02)

Applicant (s) H. O. I. Pores.

- Vs. -

Respondent (s) A. K. Roy

Advocate for the applicant (s) Mr. A. Deb Roy

Advocate for the respondent (s) Mr. J. L. Sarkar

Notes of the Registry

Date

Order of the Tribunal

This Review application has been filed by the counsel for Union of India Pores praying for Review in Judgment and order dated 20.12.02 passed by this Honorable Tribunal in O.A. 12/02.

12.5.2003

Heard Mr. A. Deb Roy, learned Sr. C.G.S.C. for the applicant.

Issue notice.

List again on 16.6.2003 for admission alongwith M.P. 51/2003.

  
Vice-Chairman

Laid before the Hon'ble Court for further orders.

mb

16.6.03

Judgment of O.A. 12/02 is not submitted with the application.

Section Officer  
30/4/03

PS

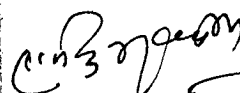
Stk's not taken

20/5

pg

Let the applicant file copy of the judgment and order dated 20.12.2002 passed by this Tribunal in O.A.12/2002.

List again on 17.6.2003.

  
Member

  
Vice-Chairman

17.6.2003 Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.

The Hon'ble Mr. R.K. Upadhyaya, Member (A).

Put up again on 25.7.2003 for further orders.

  
Member

  
Vice-Chairman

mb

25.7.2003 Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.

The Hon'ble Mr. N.D. Dayal, Administrative Member.

List again on 29.7.2003 on the prayer of Mr. A. Deb Roy, learned Sr. S.G.S.C.

  
Member

  
Vice-Chairman

mb

29.7.2003 Pass over on the prayer of Mr. A. Deb Roy, learned Sr. C.G.S.C. for the applicant U.O.I. & Ors.

List on 30.7.2003 for orders.

  
Member

  
Vice-Chairman

28.7.03

An affidavit filed mb  
by Sri A.K. Roy, Respondent  
in Review petition through  
his counsel.



30.7.2003 Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.  
The Hon'ble Mr. N.D. Dayal, Administrative Member.

Heard Mr. A. Deb Roy, learned Sr. C.G.S.C. for the Review Applicant and also Mr. J.L Sarkar, learned counsel for the opposite party.

This is an application under section 22 (3) (f) of the Administrative Tribunals Act, 1985 for review of the judgment and order dated 20.12.2002 passed in O.A. No. 12/2002. In this application the applicant basically has assailed the legality of the order and contended that the judgment and order passed on 20.12.2002 by this Tribunal is erroneous. The power of review is not meant for a re-hearing. The review of a judgment and order is permissible under section 22 (3) (f) of the Administrative Tribunals Act, 1985 in terms of section 114 of the Civil Procedure Code read with order XLVII Rule 1 of the said code. The Tribunal can review its order from discovery of new and important matter or evidence which after exercise of due diligence was not within one's knowledge or could not be produced when the order was passed or on account of mistake or error apparent on the face of the record, or any other sufficient grounds. Sufficient <sup>means analogous</sup> ground is to the situations mentioned above. The power of review is not meant to be exercised to correct erroneous decision. Any attempt to correct a judgment and order except on the grounds mentioned above would amount to an abuse of the power. No grounds are made out by the applicant for us to exercise the review jurisdiction as contemplated in section 22 (3) (f) of the Act.

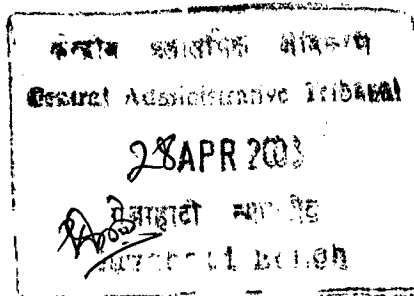
In the circumstances, the Review Application is liable to be dismissed and thus dismissed.

Member

Vice-Chairman

1.8.2003

Copy of the order  
has been sent to the  
Office for review  
the same to the H/Os  
for the parties. 4/6



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH ::: GUWAHATI.

R.A. NO. 2 OF 2003  
IN O.A. NO. 12 OF 2002

In the matter of :

Judgment and order dated 20.12.02  
passed in O.A. No. 12/2002.

- And -

In the matter of :

An application under section  
22(3)(f) of the Administrative-  
Tribunal Act, 1985 for review  
of the Judgment and order dated  
20.12.2002 passed in O.A. No.  
12/2002.

- And -

In the matter of :

1. Union of India  
through the Secretary to  
the Govt. of India,  
Ministry of Information &  
Broadcasting, Shastri -  
Bhawan, New Delhi - 110 001.

Contd.....

2. The Director General,  
All India Radio  
Directorate General, Parliament -  
Street, Shastri Bhawan, New Delhi-1.
3. Chief Executive Officer,  
Prasar Bharati, Akashwani Bhawan,  
Parliament Street, New Delhi-1.
4. Station Director,  
All India Radio, Kailashahar,  
North Tripura-799279.

..... Respondents  
Applicants.

- Versus -

Shri Anup Kumar Roy  
Son of Late Hrishikesh Saha  
resident of Bilpar, Silchar,  
Cachar, Assam - 788001.

..... Opposite Party  
Applicant.

The humble Review Application of the above named -

MOST RESPECTFULLY SHEWETH :

1. That the opposite party as applicant filed the O.A. No. 12/2002 before the Hon'ble Tribunal praying (i) to grant pay in the scale of Rs. 550-900/- w.e.f. 1.1.1998 and Rs. 2000-3200/- w.e.f. 1.1.1986 as Transmission Executive, (ii) to pay in the

scale of Rs. 7500 - 12000/- w.e.f. 1.1.1996 as Programme Executive, (iii) to set aside and quash a portion of the circular dated 25.2.1999, (iv) the benefits w.e.f. 1.1.1996 under the circular dated 25.2.1999 cannot be denied to the applicant and (v) as a result of re-fixation of pay, the pension and other retiring benefits be refixed and differences be paid with arrears.

2. That the respondents/applicants contested the O.A. by filing written statement and advancing oral argument in the case.

3. That after hearing both sides the Hon'ble Tribunal partly allowed the application by its Judgment and order dated 20.12.2002 with a direction that the respondents should act in terms of clause (iv) of para and to fix the pay of the applicant notionally for the period mentioned in clause (iii) of para 2. The respondents need not pay arrears for the period. the direction is issued only for refixation of the pay notionally and to pay his pension in terms of the clause.

That being highly aggrieved by and dis-satisfied with the aforesaid Judgment and order dated 20.12.2002 the respondents/applicants prefer this Review Application on the following amongst other grounds -

- GROUNDS -

1. For that the O.A. has been partly allowed and the respondents have been directed to act in terms of circle No. 310/173/97-B(D) dated 25.2.1999.

2. For that the circle dated 25.2.1999 has been quashed by the Hon'ble Tribunal, Bangalore by its Judgment and order dated 12.9.2002 passed in O.A. No. 1917/2000.

Copy of the Judgment and order dated 12.9.2002 is annexed hereto and marked as Annexure - A.

3. For that the upgraded pay scales would be effective from 1.1.1996, the payment of salaries of the employees, as per the upgraded pay scales will come into force only from 1.3.1999. This, however, is subject to the first condition that, it would be for those currently in service and not to others.

4. For that the opposite party/applicant had retired on superannuation on 30.4.1996 i.e. after the date on which the adopted recommendations of the 5th Central Pay Commission were given effect to, he was not in service on 25.2.1999 when the circular was issued specifically limiting the benefits to those who are still serving.

5. For that being the case the opposite party/applicant would be entitled only to have his emoluments worked out at the time of his retirement in the replacement scale of the scale in which he was drawing his pay under the 4th Central Pay Commission's level and not at the newly upgraded scale of Rs. 7500-12000/- which he is claiming now.

6. For that the old scale along with the conditions for entitlement to get the same were not at all in force when the opposite party/applicant was still in service. He cannot therefore claim this.

7. For that the benefit of the placed/upgraded scales would be subject to the fulfilment of the conditions prescribed by the Circular of 25.2.1999 and as he does not fulfil the same, he cannot avail himself of its benefits. The case of the applicant falls outside the purview of the circular.

8. For that the Hon'ble Tribunal misread and misinterpreted the Judgment and order passed by the Hon'ble Principal Bench, Delhi in O.A. No. 2579/99. The Hon'ble Tribunal failed to appreciate that the upgraded scale was not allowed by the Hon'ble Principal Bench to those who were not in service as on 25.2.1999. But this Hon'ble Tribunal has partly allowed the application ignoring the fact that the opposite party/applicant has already retired on 31.7.1997, and was not in service on 25.2.1999. The circular dated 25.2.1999 was issued specifically limiting the benefits to those who are still in service. Besides, the Hon'ble Tribunal Bangalore quashed the circular dated 25.2.1999 by its order dated 12.9.2000.

9. For that there is an apparent error in the Judgment resulting in issuance of the direction for fixing the pay of the opposite party/applicant in terms of circular dated 25.2.1999 and as such it is a fit case to review the impugned Judgment.

Contd.....



10. For that at any rate the impugned Judgment is liable to be reviewed.

It is therefore, respectfully prayed that the Hon'ble Tribunal may be pleased to admit the Review Application, call for the records of the O.A. 12/2002 and upon hearing the parties the cause or causes that may be shown and on perusal of the records, be pleased to set aside the Judgment and order dated 20.12.2002 passed in O.A. 12/2002 on a review of the same and be pleased to decide the O.A. 12/2002 in accordance with law.

And for this act of kindness the respondents/applicants as in duly bound shall ever pray.

C E R T I F I C A T E

Certified that the above grounds are good grounds of review and I undertake to support them at the time of hearing.

Affidavit.....

A F F I D A V I T

I, Shri H. Thangluai son of Chhanga  
aged about 58 years presently working as Station  
Director, AIR, Guwahati do hereby ~~sakam~~ solemnly affirmed  
as follows :

1. That I am the petitioner in the accompanying petition  
as such I am acquainted facts and circumstances of  
the case.
2. That the statements made in paragraph 1, 3 to 10  
are true to my knowledge and those made in paragraph  
2 being matter of records are true to my  
information derived therefrom and the rest are humble  
submission before this Hon'ble Court.

And I sign this Affidavit on this 24 th day of  
March, 2003.

Identified by clerks.

Deponent

*H. Thangluai*

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Annex. A - 21

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CENTRAL ADMINISTRATIVE TRIBUNAL,

BANGALORE BENCH: BANGALORE

ORIGINAL APPLICATION NO. 1917/2000

DATED THIS THE TWELFTH DAY OF SEPTEMBER, 2002

SHRI JUSTICE B.S. RAIKOTE, VICE CHAIRMAN

SHRI V. SRIKANTAN, MEMBER (A)

Shri K.S. Ravanna  
S/o Soogappa  
Senior Announcer  
All India Radio  
Yadavagiri, Mysore - 20  
(r/o. MIS - J, 76, KRB Colony,  
Kalyangiri Nagar  
Mysore-19.

Applicant

(By Advocate Shri M. Narayanswamy)

Vs.

1. The Government of India  
rep. by its Secretary,  
Ministry of Information and  
Broadcasting, Shastri Bhawan,  
Dr. Rajendra Prasad Road,  
New Delhi.
2. The Director General,  
All India Radio,  
Akashvani Bhavan,  
Parliament Street,  
New Delhi - 1.

Respondents

( By Shri S. Sugumaran, A.C.G.S.C. )

O R D E R

SHRI JUSTICE B.S. RAIKOTE, VICE CHAIRMAN :

This application is filed for a declaration that the grant of higher scale of pay to Subordinate Engineering and Combined Programme Staff vide Annexure - A1 is illegal, discriminatory and violative of Article 16(1) of the Constitution or in the alter-

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native the applicant prays that the respondents may be directed to grant a higher scale of pay to the applicant commensurate with the pay scale granted to the Senior Engineering Assistants granted vide Annexure A1 dated 25.2.99 with all the consequential benefits.

2. The applicant contend that All India Radio and Doordarshan are under the administrative control of Ministry of Information and Broadcasting. There are various categories of cadres in the organisation both in AIR as well as Doordarshan. He also contended that the pay parity between the Announcers, Transmission Executives and the Engineering Assistant is being maintained since last more than 30 years. As the things stood thus, the Government of India established Prasar Bharti Broadcasting Corporation of India (here in after shortly referred to as Prasar Bharti) in the month of September, 1997 and the staff of AIR and Doordarshan was brought under the purview of the said Prasar Bharti. But such staff are still continued as Government servants. Even as on today, none of the staff either under the Doordarshan or AIR has been extended options and willingness for their absorption in Prasar Bharti. In fact the Prasar Bharti though came into existence in the month of September, 1997, it has no staff of its own till this day and all the staff working in Prasar Bharti are on deputation or deemed deputation by maintaining the status as Government servants. He further contended that the Fifth Pay Commission considered the question of revision of scales of pay regarding both the organisations and recommended the higher scales of pay to only certain categories of posts and

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accordingly, the Government of India implemented the recommendations of the Fifth Pay Commission from 1.1.1996 by extending the benefits of the Fifth Pay Commission to all the Government staff. But on the basis that, the Engineering and Programme Staff were agitating for still a higher scale of pay than the one recommended by the Fifth Pay Commission, the Government of India issued Annexure A-1 dated 25.2.1999 by providing still a higher pay scale than the one recommended by the Fifth Pay Commission to categories of posts i.e. Engineering and Programme Staff and combined category of Programme staff at present serving under the Prasar Bharti.

3. Excepting those two categories of posts, the benefit provided vide Annexure A-1 is not extended to all other Government employees who are either on deputation or deemed deputation to Prasar Bharti. Extending the benefit of higher scale than the pay scale recommended by the Fifth Pay Commission to those two categories of posts is highly discriminatory and violative of Article 14 & 16 of the Constitution, even otherwise such pay scale may be extended to the applicant also. He further contended that the benefit extended to those 2 categories of posts is only for their tenure as long as they are serving under the Prasar Bharti. The moment they decide to come back to the Government, they have to refund the entire amount and to that extent an undertaking has been taken from them. It is also further provided vide Annexure A-1 that fresh recruits who given after the issuance of this order would not be entitled to this pay scale. But such recruits would be governed by the pay scale

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recommended by the Fifth Pay Commission and all the further promotions of the existing incumbents shall be made in the up-graded scales only. Thus, Annexure A-1 creates a discriminatory situation not only between the two existing categories of the posts and also the persons recruited and appointed subsequent to Annexure A-1. It also discriminates the other deputations in Prasar Bharti including the applicant. Therefore, Annexure A-1 is liable to be quashed as it is violative of Articles 14 & 16 of the Constitution or the same benefit is required to be extended to all the Government servants who are on deputation or deemed deputation to Prasar Bharti and to deny the same is discriminatory.

4. The learned counsel for the applicant reiterated and highlighted what has been stated in the O.A. and contended that Annexure A-1 is liable to be quashed.

5. By filing the reply statement, the respondents have denied the case of the applicant. They have stated that the Engineering Assistants and Senior Engineering Assistants were agitating for further higher scale before the various Tribunals and ultimately the matter was referred to the Fifth Pay Commission to resolve the impasse. The Fifth Pay Commission finding that the post of Transmission Executives are equivalent to the posts of Engineering Assistants observed that the Central Government may consider revisions of pay scales to the Transmission Executives also with the retrospective effect. The Fifth Pay Commission vide para 73.16 of its report recommended the same scale of pay for both

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the posts of Engineering Assistants and Sound Recordists which was equivalent to pre-revised scale of pay of Rs. 1600-2000 (revised Rs. 5000-8000) on the ground that similar pay scale has been given for posts of all the departments where Diploma in Engineering is the entry qualification. Thus, the Commission resolved the issue by protecting the pay of the Engineering Assistants. The Fifth Pay Commission considered the pay scales level by level for the purpose of equation. Accordingly the benefit of upgraded pay scales were granted to Transmission Executives and Engineering Assistants in the AIR and Doordarshan on the basis of the directions of various judgments of Hon'ble Supreme Court and Tribunals and also on the basis of the recommendation of the Fifth Pay Commission.

6. However, the Announcers in AIR have prayed for grant of still higher pay scales over and above the recommendation of the Fifth Pay Commission. They have also stated that it is for the Pay Commission to go into the issue of equation of posts and duties etc., and not for the Tribunals. The Announcers cadre is different from Engineering/Programme cadres in both AIR as well as Doordarshan. Neither the pay scales nor the duties and responsibilities of these 2 cadres are similar and also cannot be compared with each other. They have also stated that the applicant having the benefit of Fifth Pay Commission is not entitled for claiming higher pay. If higher benefit is granted that would amount to giving 2 benefits simultaneously. One availing the benefit of ACP Scheme and the other getting the financial upgradation higher than the pay scale over and above the recommenda-

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tions of the Pay Commission. Hence, the applicant is not entitled to the benefit of Annexure A-1 date 25.2.1999. He cannot also contend that the same was arbitrary and discriminatory. They have also contended that in the case of Announcers, right from the Grade (IV) there are promotional avenues upto Grade-I whereas the Engineering staff has not promotional avenues. Therefore, providing an extra benefit vide Annexure A-1 would not be discriminatory. The Announcers are also Government servants in pursuance of the judgement of the Hon'ble Supreme Court but they are not entitled to get any parity with the Engineering Assistants and other staff. The respondents have also stated that the service conditions of the Prasar Bharti are yet to be finalised. Therefore, the employees are governed by the rules of the Government since the staff assigned to Prasar Bharti is considered to be on deputation or on deemed deputation basis. At any rate they submitted that the competent authority has rejected the demand of the applicant (Announcer). Under these circumstances, the applicant do not have any case and as such the application is liable to be dismissed. They have also contended that there is a delay of 8 months and the applicant has not explained the delay in the M.A. properly as such M.A.594/2000 is also liable to be rejected.

7. Heard perused the records.

8. Before advertng to the merits of the case we think it appropriate to consider the M.A.594/2000 for condonation of delay since the delay question was kept open vide the proceedings of



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this Tribunal dated 18.6.2002.

9. In support of the M.A. the applicant submitted that they are challenging the validity of the order dated 25.2.1999 issued by the Government of India extending higher scale of pay only to certain categories of posts like Subordinate Engineering and Combined Programme Staff excluding other categories of posts including the category of Performing Artists and Announcer, to which the applicant belong. Infact the Association of Performing Artists to which he belongs made repeated representation in the matter but without success. They expected that a similar order like Annexure A-1 would be issued even in their case but the Government of India did not issue similar order. It is only in these circumstances to avoid further delay, they have filed this G.A. on 11.12.2000. There is a delay of 9 months in filing this G.A.

10. The respondents have filed objection statement only stating that the said delay of 9 months in preferring this case by the applicant and the reasons assigned by the applicant in the condonation application is not tenable. But in our considered opinion, the applicant has made out sufficient cause for condonation of delay. The applicant was agitating for higher pay scale more than what the Fifth Pay Commission had recommended to the persons similarly situated like the Transmission Executive, Programme staff who were also making such representation and in case of Transmission Executives and Programme Staff for whom Annexure A-1 dated 25.2.1999 was issued. The applicant was also hoping that

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the said benefits would be extended to them also. But when they found that the Government refused to extend the benefit of Annexure A-1 they approached this Tribunal. He has also contended that granting of higher pay scale, more than what the Fifth Pay Commission has recommended to the Transmission Executive/Programme staff would be discriminatory and violative of Articles 14 & 16 of the Constitution. In order to avoid such discrimination, the Government should have provided similar higher pay scale to the applicant also but they have not done so. After waiting for some time after Annexure A-1 dated 25.2.1999 was issued the applicant has filed this application without any further delay. In the circumstances there is delay of about 8 months. In our opinion the said explanation is quite reasonable. The applicants have shown sufficient cause for condonation of delay. Since the Fundamental right guaranteed under Article 14 is violated we think it appropriate that justice would be met if we condone the delay of 8 months in filing this application. Accordingly, we condone the delay of 8 months in filing this application.

9. Coming to the merits of this case, we find that Annexure A-1 is the one seriously assailed as violating Article 16(1) of the Constitution. From reading of Annexure A-1 we find that Subordinate Engineering and Programme cadres who were agitating for the grant of higher pay scales than what the Fifth Pay Commission it was recommended and accordingly upgraded pay scale was provided to the Subordinate Engineering and Programme cadres but not to the Government employees currently in service under Prasar Bharti. In other words, Annexure A-1 grants higher pay than what the

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Fifth Pay Commission had recommended as long as they remain as deputations to Prasar Bharti. The moment they are not absorbed in Prasar Bharti and they are reverted back to the Government, they will have to refund the benefits availed by them and they should give an undertaking in the form appended to Annexure A-1 to refund such benefits received. We think it appropriate to extract relevant paragraphs as under:-

2(1) : The upgraded scales will be allowed not as Govt. employees per se but as government employees currently in service of Prasar Bharti (Broadcasting Corporation of India). As and when the employees presently working in All India Radio and Doordarshan are asked to exercise their option, those employees who do not opt for Prasar Bharti will revert as Government servants and will no longer be entitled to above scales. They will also have to refund all benefits availed of by them as a result of the grant of higher scales of pay. They will be liable to recovery of all such benefits. An undertaking in the proforma given at Annexure - II to this effect has to be submitted by each and every employee concerned before availing the benefit of upgraded scales of pay. This is in accordance with their agreement with the Government to avail these upgraded scales on this condition only.

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4. The benefit of the upgraded pay scales will be available to existing incumbents only and those new recruits who

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join after issuance of these orders will not be entitled to these scales, but will be governed by pay scales recommended by the Vth Pay Commission. However, all promotions of existing incumbents shall be made in upgraded scales only."

From reading of the above paragraphs of Annexure A-1. We find that higher pay scale than those recommended by the Fifth Pay Commission was granted to the Subordinate Engineering and Programme cadres to only those persons who are currently working under Prasar Bharti. The moment such persons refuse to get absorbed in Prasar Bharti and revert back to Government they have to refund the entire benefit according to the undertaking appended to Annexure A-1.

10. It is brought to our notice that all the staff deputed to Prasar Bharti is not being extended with the benefit vide Annexure A-1 but this benefit is extended to only those categories of posts working as deputationists under Prasar Bharti. This benefit of Annexure A-1 should have been extended in fairness to all the staff of Prasar Bharti and the Government for the reasons best known by them has not done so. This Annexure A-1 is passed only because these two categories of persons were agitating the matter before the Government. The pay scale higher, than the one recommended by the Fifth Pay Commission is accepted by the Government of India vide Annexure A-1 only to the existing incumbents. The benefit now provided by Annexure A-1 is given with retrospective effect i.e. from 1.1.96. The benefit now provided by Annexure A-1 is also not extended to such persons who is recruit-

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ed after the issuance of Annexure A-1. The persons in Subordinate Engineering and Programme cadre also have not got promotional avenues like the applicant who is Announcer and Programme Artists. Therefore, the contention of the respondents that the benefit of Annexure A-1 was extended only because they do not have any promotional avenues cannot be correct. Even otherwise, why such benefits should be granted to only 2 categories of posts, and why not to others who have gone on deputation to Prasar Bharti. In fact when BSNL was constituted Rs.1000/- was given as an incentive to everyone who opted for absorption in the BSNL. Similar principle should have been adopted by the Government of India in the case of Prasar Bharti also. But granting of higher pay scale higher than what is granted by the Fifth Pay Commission only to 2 categories of posts mentioned in Annexure A-1 is highly discriminatory. It is not the case of the respondents that the pay scale of these 2 categories is refixed on the basis of their nature of duties etc. The fact remains that the persons subsequently recruited to the same post after issuance of this Annexure A-1 would not be entitled to this pay scale. Thus, only few persons who are on deputation to Prasar Bharti have been chosen for confirmation of financial benefits by prescribing a higher pay scale, as against all others who are also Government servants and gone on deputation to the Prasar Bharti. From the preamble portion of Annexure A-1 it appears that Annexure A-1 order has been issued only under pressure because the persons of categories of posts mentioned in Annexure A-1 were agitating. Moreover the very fact that if they seek reversion to the Government, they must refund the entire amount as per the undertaking

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given in Annexure A-II would itself indicate that Annexure A-1 does not prescribe any common pay scale to the category as such but it seeks to confer financial benefits only to the agitating incumbents. The same financial benefit is denied to those who opt to remain in Government service and also to those who are recruited subsequent to the issuance of Annexure A-1. This situation in our considered opinion is highly discriminatory. We find no nexus between classification (classifying these two categories as different from other cadres) and the object sought to be achieved. Even if Annexure A-1 is taken as an incentive, the same incentive could be extended to others also as has been done by the BSNL. Extending the benefit only to those cadres as against others would be again highly discriminatory. In this view of the matter we find that Annexure A-1 is liable to be quashed under Articles 14 & 16 of the Constitution. If we are to direct to extending the benefit as found in Annexure A-1 to other categories, it would definitely have financial impact on the Government Treasury. Therefore, we think it appropriate instead of granting such relief (as asked for by the applicant), simply quash Annexure A-1. Though as per the undertaking given by the two categories of persons mentioned in Annexure A-1 they are required to refund the amount including the arrears received by them w.e.f. 1.1.1994, in case they do not opt for absorption, to direct such persons to refund all the payment including the arrears received on the basis on Annexure A-1 at this juncture of time. It is also brought to our notice that many of the persons who received the benefit have also been retired. Directing all these persons to refund the amount would also cause a great

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hardship to such persons retired. In the circumstances we think it appropriate only to simply quash Annexure A-1 dated 25.2.1999. According we pass the order as under :

O R D E R

The application is allowed and the impugned order issued vide Annexure A-1 dated 25.2.1999 is hereby quashed. In the circumstances without costs.

Sd/-  
(V. SRIKANTAN)  
MEMBER (A)

Sd/-  
(B.S. RAIKOTE)  
VICE CHAIRMAN

24  
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:: GUWAHATI BENCH

JUL 2003 GUWAHATI

Guwahati Bench

R.A. No. 2/2003

IN

O.A. No. 12/2002.

Union of India

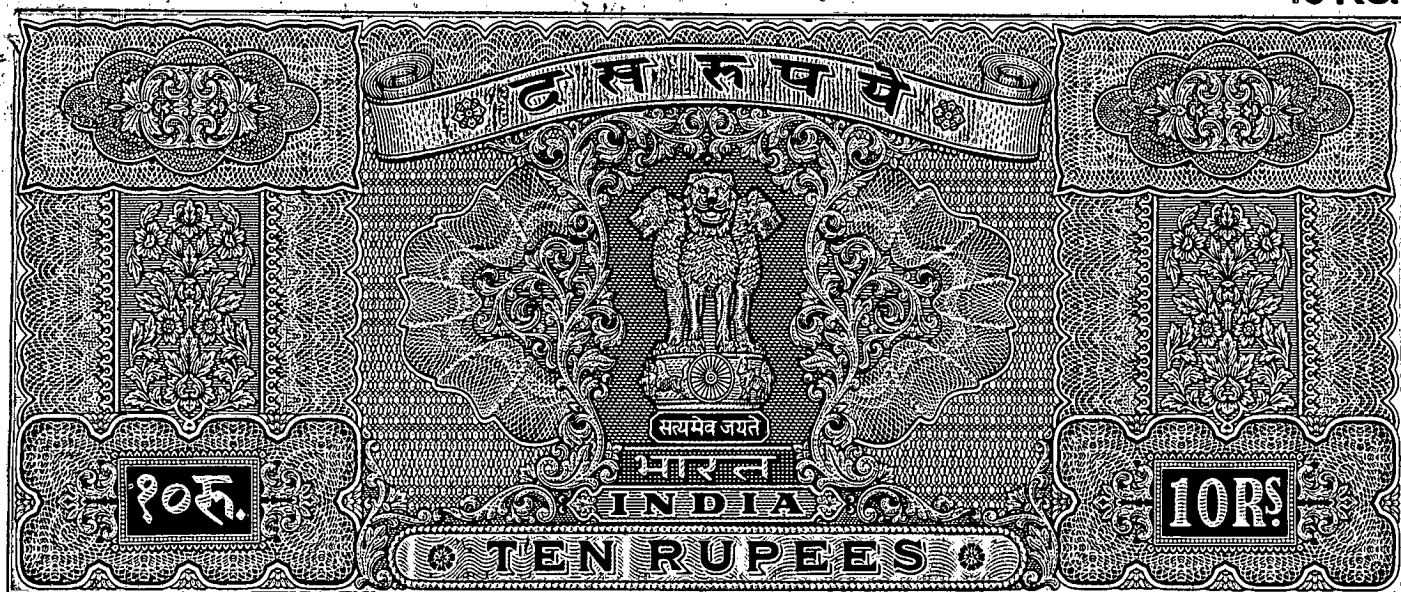
Vs.

Sri A.K. Rozy

The counsel for the respondent in the above Review application files an affidavit sworn in by the respondent in the review application.

  
( J.L. SARKAR )  
ADVOCATE





IN THE COURT OF JUDICIAL MAGISTRATE 1ST CLASS  
AT SILCHAR: CACHAR.

AFFIDAVIT

I, Anup Kumar Roy, son of late Hrishikesh Saha, aged about 51 years, resident of Bilpar, Silchar-1, Cachar, Assam, by religion- Hindu, do hereby solemnly affirm and state as follows :-

1. The Union of India represented by the Secretary, Ministry of Information & Broadcasting and others have filed a review petition in OA No.12 of 2002 before the Honourable Central Administrative Tribunal, Guwahati Bench.
2. In the said review petition the Union of India and others have stated that circular dated 25-2-1999 has been quashed by the Honourable Tribunal, Bangalore Bench by its judgement and Order dated 12-9-2002.
3. It is stated that in practice the petitioners/authorities are still acting on the above circular dated 25-2-1999 and the employees of the petitioner department...P/2

*[Signature]*  
Judl. Magstr. 1st Class,  
Silchar, Cachar

*Anup Kumar Roy  
Filed with  
The Sarda in  
23/7/2003. Guwahati Bench.*

Group Dr. Ray.

for 2

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are still getting the benefits of the said circular.

4. The statements made in paragraphs 1 to 3 are true to my knowledge and belief.

And I sign this affidavit on this 22nd day of July, 2003 at Silchar.

Identified by, me:

*[Signature]*  
Advocate. 22/7/03

*[Signature]*

Deponent.



I solemnly affirmed and declared before me by the Deponent who is identified by Sri Rupendra Mohan Das Advocate on this the 22nd day of July, 2003 at Silchar.

*[Signature]*  
22/7/03.  
Magistrate, Silchar.  
Judl. Magist. 1st Class.  
Silchar, Cachar