

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

**O.A No.3963/2015
with
O.A. No.958/2016**

**Reserved On:14.03.2017
Pronounced On:16.03.2017**

Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Mr. P.K. Basu, Member (A)

OA No.3963/2015

1. Dr. Sunetra Sen Narayan
Age 52 years
W/o Dr. R. Badri Narayan
Associate Professor (Publications),
Indian Institute of Mass Communication,
New Delhi.
 2. Smt. Shashwat Goswami
Age 46 years
W/o Chandan Kumar Sharma
Associate Professor (RTV),
Indian Institute of Mass Communication,
New Delhi.
 3. Dr. Anand Pradhan
Age 47 years
S/o Shri Mohan Pradhan
Associate Professor (Feature Communication/
Writing),
Indian Institute of Mass Communication,
New Delhi.
- ...Applicants

(By Advocate: Shri Anshumaan Sahni)

Versus

1. Indian Institute of Mass Communication (IIMC)
Through Director General,
Ministry of Information & Broadcasting,
JNU New Campus, Aruna Asif Ali Road,
New Delhi-110067.
2. Ministry of Information and Broadcasting
Through Secretary,

A-Wing, Shastri Bhawan,
New Delhi-110001.

3. Ministry of Finance
Through Secretary,
Department of Expenditure,
North Block, New Delhi-110001. ..Respondents

(By Advocate:Dr. Ch. Shamsuddin Khan and Mr. Rajeev Sharma)

OA No.958/2016

Swapan Brahmachari
S/o R. Brahmachari
Age 68 years
Associate Professor (Layout & Design),
Indian Institute of Mass Communication,
New Delhi.

R/o 134, Dakshinayan, Plot No.19,
Sector-4, Dwarka, New Delhi-110078. ...Applicant

(By Advocate: Shri Anshumaan Sahni)

Versus

1. Indian Institute of Mass Communication (IIMC),
Ministry of Information & Broadcasting,
JNU New Campus, Aruna Asif Ali Road,
New Delhi-110067 Through Chairman.
2. Ministry of Information and Broadcasting,
A-Wing, Shastri Bhawan,
New Delhi-110001 Through Chairman.
3. Ministry of Finance,
Department of Expenditure,
North Block, New Delhi-110001 Through
Chairman ..Respondents

(By Advocate:Dr. Ch. Shamsuddin Khan and Mr. Rajeev Sharma)

ORDER

By Hon'ble Mr. P.K. Basu, Member (A)

Original Application (OA) No.3963/2015 and OA No.958/2016
were heard together since the issue is same and they are being
disposed of by this common order.

2. The applicants in both the OA Nos.3963/2015 and 958/2016 were appointed as Associate Professors in 2007-08 in the pay scale of Rs.12,000-18,300 against an advertisement No.1/1840.1/ADRP/2006 & 07 issued by Indian Institute of Mass Communication (IIMC) (respondent No.1). The post of Associate Professor was shown to be carrying the pay scale of Rs.12000-18300.

3. According to Bye-Laws of the IIMC (Appendix-I), Associate Professor in the 5th CPC pay scale of Rs.12000-18300 are shown in the pay scale of PB-4 Rs.37400-6700 Grade Pay of Rs.9,000/- after 6th CPC. The applicants pay was accordingly fixed.

4. Vide letter dated 26.08.2010, the Ministry of Human Resource Development (MHRD) communicated to the University Grants Commission (UGC) regarding the scheme of revision of pay of teachers and equivalent cadres in universities/colleges following the 6th CPC. We reproduce sub-para (ii) of the communication below as this is under dispute:-

“(ii) Entry pay of Readers, appointed on or after 1.1.2006 till issue of the University Grants Commission Regulations on Minimum Qualifications for Appointment of Teachers and Other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education, 2010, i.e., 30.06.2010, be fixed at Rs. 23,890 in PB-3 with an academic grade pay of Rs.8000. This will also apply to Lecturers (Selection Grade) promoted during the above period. Such Readers/ Lecturer (Selection Grade) after 3 years will

move to minimum of PB-4 with academic grade pay of Rs.9000.”

5. The applicants filed representations before the Director, IIMC after issuance of this letter stating as follows:-

“It is evident that the above mentioned clarification was required at colleges/institutes that had both Readers and Lecturer (Selection Grade) prior to the 6th Pay Commission. The 6th Pay Commission led to only three designations, namely, Assistant Professors, Associate Professors and Professors. IIMC has been following this system even before the 6th Pay Commission. The earlier notification dated 31st December 2008 had not addressed the issue of Entry level pay of Readers. Therefore the clarification has been issued to address the anomalies in the institutions that had both Readers and Lecturer (Selection Grade). It is therefore felt that this is being wrongly interpreted to apply at IIMC for Associate Professors. It is also not understood as to how a clause specifically addressing the Entry level pay of Readers is being invoked to fix the pay of directly recruited Associate Professors. In the light of the fact that this is grossly unfair to the affected individuals the alacrity with which it is being sought to be implemented is extremely upsetting and demoralizing. Principles of justice would suggest a more balanced view on the matter and a transparent process while keeping the faculty fully involved in it.”

6. This was followed-up by representation in 2013 itself and respondents replied to the applicants representation vide letters dated 28.02.2015, 09.09.2015 and 25.08.2015. We reproduce below the contents of letter dated 25.08.2015 for convenience:-

“2. Your request has been examined by the Ministry of I&B in consultation with the Ministry of Finance (Department of Expenditure) and IIMC has been advised as following:

“IIMC being a fully funded grantee organization, all its financial matters are being approved by the Government of India in accordance with the norms/approval of Ministry of Finance. Since the Institute adopted UGC system of pay scales in case of its faculty after approval from Ministry of Finance and on the basis of decisions taken by this Ministry, subsequent instructions issued by Ministry of HRD and the observations of Ministry of Finance on its applicability would be equally applicable to the Institute in so far as it relates to directly recruited Associate Professors appointed on or after 01.01.2008. Hence, the Institute is bound to follow the guidelines on fixation of pay issued by the M/o HRD's letter No.I-36/2009-U.II dated 26.08.2010.”

3. In view of above clarification, your pay scale is being revised accordingly w.e.f. 06.06.2008 and consequent excess salary paid amounting to Rs.11,25,406/- (Rupees Eleven Lakhs Twenty Five Thousand Four Hundred and Six only) calculated up to 31.07.2015 is recoverable from you. In pursuant to your undertaking dated 28.01.2009 wherein you have indicated that “any excess payment that may be found to have been made as a result of incorrect fixation of pay or any excess payment detected in the light of discrepancies noticed subsequently will be refunded by you to the Government either by adjustment against future payments due to you or otherwise”, you are requested to refund Rs.11,25,406/- to the Government.

4. You are also hereby given a option to refund the entire amount of Rs.11,25,406/- in 24 equated monthly instalments.

5. Your salary is also being revised w.e.f. 01.09.2015 as per clarification given by Ministry of I&B in para (2).”

7. Letters dated 09.09.2015 and 24.09.2015 relate primarily to amount of recovery that has to be made (Rs.11,25,406 + Rs.10351/- for applicant No.1) and determination of instalments.

8. The applicants, being aggrieved by these letters, have filed these OAs. For convenience, we quote below the prayer in OA 3963/2015:-

“(a) Quash/set aside the letter of respondent No.1 dated 25.08.2015 and 24.09.2015 which seeks to recover from the applicants moneys allegedly paid due to wrong fixation of pay;

(b) Quash/set aside the letter of respondent No.2 dated 17.07.2015 issued by MoI&B on the basis of which IIMC seeks to recover money from the applicants;

(c) Declare and hold the action of the respondents in recovering money to the tune of Rs.11,25,406; Rs.11,15,599; and 11,55,781 and any amount whatsoever from each of the applicant Nos. 1 to 3 respectively as illegal, arbitrary and contrary to law;

(d) Declare and hold the action of the respondents in re-fixing pay of applicants in accordance with MHRD Circular dated 26.08.2010 as illegal, arbitrary, contrary to law;

(e) Direct the respondents to return the money already recovered from the applicants with interest at 11% to date under the impugned letters;

(f) Allow costs in favour of the applicants; and

(g) Pass such other or further order(s) as may be deemed fit and proper in facts and circumstances of the present case”.

9. Learned counsel for the applicants drew our attention to letter dated 31.12.2008 issued by the MHRD to UGC regarding revision of pay of teachers etc. on the recommendations of 6th CPC. In this letter in para 2 (a)(viii) to (xiii), the following has been stated:-

“(viii) Posts of Associate Professor shall be in the Pay Band of Rs.37400-67000, with AGP of Rs.9000. Directly recruited Associate Professors shall be placed in the Pay Band of Rs.37400-67000 with an AGP of Rs.9000, at the appropriate stage in the Pay Band in terms of the conditions of appointment.

(ix) Incumbent Readers and Lecturers (Selection Grade) who have completed 3 years in the current pay scale of Rs.12000-18300 on 1.1.2006 shall be placed in Pay Band of Rs.37400-67000 with AGP Pay of Rs.9000 and shall be re-designated as Associate Professor.

(x) Incumbent Readers and Lecturers (Selection Grade) who had not completed three years in the pay scale of Rs. 12000-18300 on 1.1.2006 shall be placed at the appropriate stage in the Pay Band of Rs.15600-39100 with AGP of Rs.8000 till they complete 3 years of service in the grade of Lecturer (Selection Grade)/Reader, and thereafter shall be placed in the higher Pay Band of Rs.37400-67000 and accordingly re-designated as Associate Professor.

(xi) Readers/Lecturers (Selection Grade) in service at present shall continue to be designated as Lecturer (Selection Grade) or Readers, as the case may be, until they are placed in the Pay Band of Rs.37,400-67000 and re-designated as Associate Professor in the manner described in (x) above.

(xii) Assistant Professors completing 3 years of teaching in the AGP of Rs.8000 shall be eligible, subject to other conditions, that may be prescribed by the UGC and the University, to move to the Pay Band of Rs.37400-67000 with AGP of Rs.9000 and to be designated as Associate Professor.

(xiii) Associate Professor completing 3 years of service in the AGP of Rs.9000 and possessing a Ph.D degree in the relevant discipline shall be eligible to be appointed and designated as Professor, subject to other conditions of academic performance as laid down by the UGC and if any by the university. No teacher other than those with a Ph.D shall be promoted, appointed or designated as Professor. The Pay Band for the post of Professors shall be Rs.37400-67000 with AGP of Rs.10000.”

10. It is further stated that in its meeting held on 29.04.2009, the Executive Council of IIMC at Item No.5 approved the proposal for implementation of recommendations of 6th Central Pay Commission, as notified by Ministry of HRD for the academic staff of IIMC. In consequence thereof, Ministry of Information & Broadcasting issued an order dated 30.06.2009, in which Associate Professors (directly recruited) were shown in the Pay Band 4 of Rs.37400-67000 and Grade Pay of Rs.9000. Incumbent Associate Professors with 3 years of service in the pay scale of Rs.12000-18300 were also put in the same pay scale. Incumbent Associate Professors with less than 3 years of service would continue in the Pay Band of Rs.15600-39100 and Grade Pay of Rs.8000/- till they complete 3 years when they would be in Pay Band 4 Rs.37400-67000 and Grade Pay of Rs.9000/-.

11. The UGC vide its letter dated 09.02.2015 wrote to Ministry of Information & Broadcasting stating that the IIMC does not come under the purview of UGC. It further enclosed a copy of Clause 3.0 of schedule for clause 6.8.0 of UGC Regulations (Minimum Qualifications for Appointment and Measures for the Maintenance of Standards in Higher of Teachers and Other Academic Staff in Universities and Colleges Education), 2010. The Schedule for Clause 6.8.0 provides the same conditions as provided in para 2(a) (viii) to (xiii) of Ministry of HRD letter already quoted above. This letter dated 09.02.2015 of UGC was in response to letter dated 12.12.2014 by Ministry of Information

and Broadcasting to UGC seeking their advice and on how the pay of directly recruited Associate Professors of IIMC is to be fixed/governed in the light of new instructions dated 26.08.2010 of MHRD. The Ministry of Information and Broadcasting further clarified to IIMC vide letter dated 17.07.2015 as follows:

“I am directed to refer to IIMC’s letter No. I/1869 dated 11th September 2014 and 2nd January 2015 on the subject cited above and to say that the matter of re-fixation of pay of directly recruited Associate Professor of IIMC in accordance with the Ministry of HRD’s letter No.1-36/2009-U.II dated 26.08.2010, has been examined in this Ministry in consultation with the Ministry of Finance (Department of Expenditure).

2. In this regard, IIMC is advised that being a fully-funded grantee organization, all its financial matters are being approved by the Government of India in accordance with the norms/approval of Ministry of Finance. Since the Institute adopted UGC system of pay scales in case of its faculty after approval from Ministry of Finance and on the basis of decision taken by this Ministry, subsequent instructions issued by Ministry of HRD and the observations of Ministry of Finance on its applicability would be equally applicable to the Institute in so far as it relates to directly recruited Associate Professors appointed on or after 1.1.2006. Hence, the Institute is bound to follow the guidelines on fixation of pay issued by the M/o HRD’s letter No.I-36/2009-U.II dated 26.08.2010.”

12. The respondents in their reply have primarily taken the stand that the Ministry of HRD’s letter dated 26.08.2010 would also govern the case of the applicants’, who are directly recruited Associate Professors of IIMC. In other words, according to the respondents, the post of Associate Professor in IIMC is equivalent to the post of Reader in any higher education institution under the UGC. Both of them were drawing the same pay scale before implementation of 6th CPC, i.e., Rs.

12000-18300. It is further stated that IIMC does not come under the purview of UGC as per UGC's clarification dated 02.07.2014. It is stated that as IIMC is an autonomous body under the administrative control of Ministry of Information & Broadcasting and fully funded by the Government of India, the Ministry of I&B adopted the pay scale of UGC for IIMC faculty members and it has been applicable since 01.01.1986. It is, therefore, contented that any new guidelines of Ministry of HRD including letter of Min. of HRD dated 26.08.2010 are equally applicable to the faculty members of IIMC.

13. The question before us is whether the UGC letters/Notifications and Ministry of HRD letters/Notifications apply to IIMC? Secondly, whether the sub-para (ii) of letter dated 26.08.2010 of Ministry of HRD applies to the applicants at all.

14. From the reply of the applicants as well as contents of letter dated 17.07.2015, the first question is clearly answered, i.e., the institute have adopted UGC system of pay scale after approval from Ministry of Finance and, therefore, all subsequent instructions issued by the Ministry of HRD would be equally applicable to the Institute insofar as it relates to directly recruited Associate Professors appointed on or after 01.01.2006. Therefore, IIMC has to follow HRD's letter dated 26.08.2010.

15. The question now, therefore, remains whether sub-para (ii) of letter dated 26.08.2010 actually applies to the applicants, who are

directly recruited Associate Professors after 01.01.2006. As would be seen the UGC's clause 6.8.0 provides clearly that directly recruited Associate Professors would be in Pay Band-4 of Rs.37400-6700 with Grade Pay of Rs.9000/-. Incumbent Readers and Lecturers (Selection Grade) who have completed 3 years service on 01.01.2006 shall be placed in Pay Band-4 of Rs.37400-67000 with Grade Pay of Rs.9000 and re-designated as Associate Professor. Readers and Lecturers (Selection Grade) who have not completed 3 years, will continue in the Pay Band of Rs.15600-39100 with Grade Pay of Rs.8000/- and on completion of 3 years, would be eligible for higher PB-4 with Grade Pay of Rs.9000 and re-designated as Associate Professors. Readers/Lecturers (Selection Grade) in service shall continue to be designated as Readers/Lecturers (Selection Grade), as the case may be, until they are placed in PB-4 and re-designated as Associate Professor in the manner prescribed above. The same is repeated in letter dated 31.12.2008 (cited above).

16. Needless to say that when the post was advertised, it was advertised in PB-4 of Rs.37400-67000 with Grade Pay of Rs.9000 in accordance with the bye-laws and advertisement. It will be clear from all the letters/Notifications that directly recruited Associate Professors have been distinguished from Readers/Lecturers (Selection Grade) in accordance with these elaborate instructions. The respondents, therefore, cannot retract from the position now, and the Pay Grade/Grade Pay of the applicants, namely, PB-4 of Rs.37400-67000 and Grade Pay of Rs.9000 has to be maintained because sub-para (ii) of

letter dated 26.08.2010 clearly refers to Readers and Lecturers (Selection Grade) and not to Associate Professors who been recruited directly. The instructions are crystal clear and there is no scope of confusion in our opinion.

17. We, therefore, allow these OAs and quash orders dated 25.08.2015, 24.09.2015 and 17.07.2015 (in OA No.3963/2015) and dated 25.08.2015, 17.07.2015 and 30.01.2014 (in OA No.958/2016). In case the respondents have recovered any amount from the applicants in the 2 OAs, that shall be refunded forthwith. No costs.

Let a copy of this order be placed in both the OAs.

(P.K. BASU)
MEMBER (A)

(V. AJAY KUMAR)
MEMBER (J)

Rakesh