

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

O.A No.2510/2017

With

O.A No.2985/2017

O.A No.2986/2017

O.A No.2987/2017

Reserved on: 23.08.2018

Pronounced on: 05.09.2018

**HON'BLE MR. V. AJAY KUMAR, MEMBER (J)
HON'BLE MR. A.K. BISHNOI, MEMBER (A)**

OA No.2510/2017

Rattan Lal, Helper (Technical) Group 'C'

Aged about 59 years

S/o Shri Daru Lal

R/o D-44, Gali No.4, Pappu Colony,
Shalimar Garden,

Ghaziabad, UP. .. Applicant

(By Advocate: Shri M.K. Bhardwaj)

Versus

1. Union of India
Through its Secretary,
Ministry of Information and Broadcasting,
Shastri Bhawan, New Delhi.
2. Prasar Bharti,
Through its Chief Executive Officer,
2nd Floor, PTI Building,
Parliament Street, New Delhi.
3. The Director General
All India Radio
Akashvani Bhawan,
Sansad Marg, New Delhi.
4. The Addl. Director General (P),
Prasar Bharti,
India's Public Sector Broadcast,
Doordarshan Kendra, Doordarshan Bhawan,
Copernicus Marg, New Delhi.

5. The Pay & Accounts Office,
 Through Pay & Accounts Officer,
 All India Radio,
 Akashwani Bhawan,
 Parliament Street,
 New Delhi. .. Respondents

(By Advocate: Shri D.S. Mahendru with Shri Rajeev Sharma)

OA No.2985/2017

Rattan Lal, Helper (Technical) Group 'C'
 Aged about 60 years
 S/o Late Shri Kalu Ram
 R/o H.No.126, Village Aali,
 Sarita Vihar,
 New Delhi-110076. .. Applicant

(By Advocate: Shri M.K. Bhardwaj)

Versus

1. Union of India
 Through its Secretary,
 Ministry of Information and Broadcasting,
 Shastri Bhawan, New Delhi.
2. Prasar Bharti,
 Through its Chief Executive Officer,
 2nd Floor, PTI Building,
 Parliament Street, New Delhi.
3. The Director General
 All India Radio
 Akashvani Bhawan,
 Sansad Marg, New Delhi.
4. The Addl. Director General (P),
 Prasar Bharti,
 India's Public Sector Broadcast,
 Doordarshan Kendra, Doordarshan Bhawan,
 Copernicus Marg, New Delhi.
5. The Pay & Accounts Office,
 Through Pay & Accounts Officer,

All India Radio,
Akashwani Bhawan,
Parliament Street, New Delhi.

.. Respondents

(By Advocate: Shri Rajeev Sharma)

OA No.2986/2017

Bhagwan Dass, Helper (Technical) Group 'C'

Aged about 60 years

S/o Late Shri Ram Nath
R/o H.No.197, Gali Bandok Wali,
Ajmeri Gate,
New Delhi-110006.

.. Applicant

(By Advocate: Shri M.K. Bhardwaj)

Versus

1. Union of India
Through its Secretary,
Ministry of Information and Broadcasting,
Shastri Bhawan, New Delhi.
2. Prasar Bharti,
Through its Chief Executive Officer,
2nd Floor, PTI Building,
Parliament Street, New Delhi.
3. The Director General
All India Radio
Akashvani Bhawan,
Sansad Marg, New Delhi.
4. The Addl. Director General (P),
Prasar Bharti,
India's Public Sector Broadcast,
Doordarshan Kendra, Doordarshan Bhawan,
Copernicus Marg, New Delhi.
5. The Pay & Accounts Office,
Through Pay & Accounts Officer,
All India Radio,
Akashwani Bhawan,
Parliament Street, New Delhi.

.. Respondents

(By Advocate: Shri Rajeev Sharma)

OA No.2987/2017

Rajender Panigrahi, Helper (Technical) Group 'C'

Aged about 60 years

S/o K.C. Panigrahi,

R/o H.No.RZ1-24, Mahabir Enclave,

Palam, New Delhi-110045.

.. Applicant

(By Advocate: Shri M.K. Bhardwaj)

Versus

1. Union of India
Through its Secretary,
Ministry of Information and Broadcasting,
Shastri Bhawan, New Delhi.
2. Prasar Bharti,
Through its Chief Executive Officer,
2nd Floor, PTI Building,
Parliament Street,
New Delhi.
3. The Director General
All India Radio
Akashvani Bhawan,
Sansad Marg, New Delhi.
4. The Addl. Director General (P),
Prasar Bharti,
India's Public Sector Broadcast,
Doordarshan Kendra,
Doordarshan Bhawan,
Copernicus Marg, New Delhi.
5. The Pay & Accounts Office,
Through Pay & Accounts Officer,
All India Radio,
Akashvani Bhawan,
Parliament Street, New Delhi. .. Respondents

(By Advocate: Shri Rajeev Sharma)

ORDER**By Mr. V. Ajay Kumar, Member (J)**

Since the common issue of law and facts are involved, all the OAs. are disposed of by way of this common order. However, the facts in O.A. No.2510/2017 are considered for the purpose of disposal of the batch.

2. The applicant along with others filed O.A. No.1949/2012 – Rishi Raj and Others vs. Secretary, Ministry of I & B, New Delhi and Others, and the said O.A. was allowed vide order dated 03.04.2014 (Annexure A-2). The relevant paragraphs of the said judgment read as under:

“The issue in this case is whether on first financial upgradation under the ACP Scheme the applicants should get the pay scale of Rs.4500-7000, which is the pay scale of Technician or the pay scale of Rs. 3050-5490, which is the pay scale of LDC. The respondents have granted them the latter. Aggrieved by the decision of the respondents, they have filed this O.A. before us. The applicants are also seeking direction to the respondents to re-designate them as Broadcast Assistants and give all consequential benefits from the due date.

2. The applicants are presently working as Helpers with the respondents. It is not disputed that when they were recruited the minimum prescribed qualification for them was 8th pass with working knowledge of electrical and mechanical machines. This was more than the qualification required for general Group-D posts, which was only 8th pass. It is not disputed that the Recruitment Rules for the post of LDC provide 5% promotion quota for educationally qualified Group-D staff having five years of regular service as such. This is hedged by the condition of passing Limited Departmental exam. Further, the helpers are also eligible for promotion to the post of Technician after completing 11 years of service as such. 20% quota is ear-marked for promotion. This is again subject to passing departmental test conducted by the Director General, All India Radio. Thus, indisputably the helpers are eligible for promotion to both the posts,

namely, LDC as well as Technician subject to passing of departmental exam. The contention of the respondents is that the post of LDC comes earlier and therefore the applicants have been given the scale of LDC as first financial upgradation under the ACP Scheme. On the other hand, the applicants have contended that they have been unfairly treated by the respondents as they are technically qualified personnel and are eligible for promotion to technical post of Technician in their cadre. Consequently, they should have been given the pay scale of Technician only as first financial upgradation under the ACP Scheme.

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4. On the basis of above analysis, we allow this O.A. and direct the respondents to grant the scale of Technician i.e. Rs. 4500-7000 to the applicants from the due date. This will be done within a period of eight weeks from the date of receipt of a certified copy of this order. The applicants will also be entitled for grant of arrears as a result of re-fixation of their pay. The respondents are also directed to take a decision on the recommendations of cadre review Committee expeditiously, in so far as the applicants are concerned. No costs.”

3. The respondents, in compliance of the aforesaid orders of this Tribunal, fixed the pay of the applicant vide Annexure A-3 order dated 18.06.2014.

4. However, the Hon'ble High Court of Delhi in WP(C) No.5597/2015 filed against the orders of this Tribunal in the aforesaid O.A. No.1949/2012 vide its interim order dated 27.05.2015 granted a conditional stay and the relevant paragraph of the same reads as under:

“List the matter for final hearing on 29th October, 2015. In the meanwhile, save and except to the extent that partial implementation of the order has already taken place, without disturbing the same, rest of the implementation of the order shall remain stayed till further orders”.

The said WPC is still pending on the file of the Hon'ble High Court of Delhi.

5. The respondents vide the impugned Annexure A-1 Order dated 28/29.03.2017 fixed the provisional pension of the applicant as per Rule 64 of the CCS Pension Rules, 1972 in the pay scale fixed prior to the implementation of the orders of this Tribunal in O.A. No.1949/2012 dated 03.04.2014, i.e. prior to passing of the Annexure A-3 order dated 18.06.2014, instead of fixing the regular pension of the applicant as per the last pay drawn in terms of the Annexure A-3 order dated 18.06.2014. The applicant on attaining the age of superannuation retired from service on 31.12.2017.

6. Heard Shri M.K. Bhardwaj, the learned counsel for the applicant and Shri D.S. Mahendru and Shri Rajeev Sharma, the learned counsel appearing for the respondents, and perused the pleadings on record.

7. It is seen that the respondents complied with the orders dated 03.04.2014 of this Tribunal in O.A. No.1949/2012, by passing Annexure A-3 order dated 18.06.2014. The Hon'ble High Court in WP(C) No.5597/2015 filed against the orders dated 03.04.2014 of this Tribunal in O.A. No.1949/2012, noticing that the respondents have already complied with the orders passed in the O.A., saved the said partial implementation but stayed rest of the implementation of the said order.

8. Shri M.K. Bhardwaj, the learned counsel appearing for the applicant, submits that the meaning of the interim orders of the Hon'ble High Court is that in respect of the persons, such as the applicant, for whom the respondents have implemented the orders in the O.A., there was no stay, though the said implementation is subject to the final result of the writ petition. He further submits that what is stayed by the Hon'ble High Court was in respect of the persons, in whose cases the respondents have not complied with the orders of this Tribunal, as on the date of passing of the said stay order by the Hon'ble High Court.

9. On the other hand, Shri Rajeev Sharma, the learned counsel appearing for the respondents, would submit that the meaning of the interim orders of the Hon'ble High Court was that so far as fixation of pay scale for payment of salary was not stayed, but rest of the implementation, i.e. in respect of the fixation of the provisional pension, is stayed and hence, their action is in accordance with the orders of the Hon'ble High Court.

10. In view of the said rival submissions in respect of the interpretation of the stay orders of the Hon'ble High Court and in view of the admitted fact that the whole issue is now seized of by the Hon'ble High Court, we are of the considered view that the instant OAs can be disposed of, by granting liberty to the applicants

to approach the Hon'ble High Court by way of appropriate applications in the pending writ petition.

11. In the circumstances, all the OAs are disposed of with the liberty as observed above. However, the interim orders passed shall be in force for a period of 60 days from today, or till the Hon'ble High Court considers the applications of the applicants, whichever is earlier. No costs.

(A.K. BISHNOI)
MEMBER (A)

(V. AJAY KUMAR)
MEMBER (J)

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