

OA.No.170/01021/2016/CAT/Bangalore Bench

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH**

ORIGINAL APPLICATION NO.170/01021/2016

DATED THIS THE 18th DAY OF JUNE, 2018

HON'BLE DR.K.B.SURESH, MEMBER (J)

HON'BLE SHRI PRASANNA KUMAR PRADHAN, MEMBER (A)

H.S.Suresh Kumar
S/o.Late H.S.Narayana Rao
Aged 56 years, working as
Engineering Assistant
Doordarshan Kendra
Bengaluru-560 006.
Residing at No.126, 6th Cross
2nd Main, M S R Nagar
Bengaluru-560 064.

....Applicant

(By Advocate Sri A.R.Holla)

Vs.

1. Union of India
By Secretary
Ministry of Information and Broadcasting
Shastri Bhavan
New Delhi: 110 001.
2. The Director General
All India Radio
Akashavani Bhavan
Parliament Street
New Delhi-110 001.
3. The Chief Engineer (South Zone)
All India Radio and Television
Swami Vivekananda Salai
Chennai-600 005.
4. The Additional Director (E)
South Zone, AIR & TV
Swamy Sivananda Salai
Chennai-600 005.Respondents

(By Advocate Shri Vishnu Bhat)

ORDER

(PER HON'BLE SHRI PRASANNA KUMAR PRADHAN, MEMBER (ADMN))

The issue raised in the present OA mainly pertains to the date from which actual benefits of pay fixation is to be allowed in the context of parity given to the Lighting Assistants to that of Technicians in the light of the order passed by the Hon'ble Apex Court.

2. According to the applicant, he was appointed as Technician in November 1984 and then promoted as Senior Technician in July 1989 and then as Engineering Assistant vide order dtd.04.07.2001. The issue of parity of pay of the Technician/Senior Technician with the Lighting Assistants was a subject matter of litigation. The Hon'ble High Court of Madras in WP(C).No.27155/2009 passed an order bringing parity between the Technician/Senior Technician with the Lighting Assistants and enhanced the pay scale with the stipulation that they will get the benefit of notional fixation of pay scale from 01.07.1983 without awarding any arrears. The said order of the Hon'ble High Court of Madras was assailed before the Hon'ble Apex Court in SLP.No.33048/2011 and the Hon'ble Apex Court vide order dtd.10.01.2013(Annexure-A6) held that by ordering revision of pay scales of the Technicians at par with the Lighting Assistants, the High Court has acted in consonance with the spirit of Articles 14 and 16 of the Constitution. It also noted the fact that the concerned employees will not claim arrears and directed that their pay scales be revised notionally w.e.f. 1.7.1983.

3. According to the applicant, he is deemed to be in the pay scale applicable to the Lighting Assistants till his promotion as Engineering

OA.No.170/01021/2016/CAT/Bangalore Bench Assistant on 04.07.2001. In the circumstances, the applicant submitted a representation to the Doordarshan on 10.09.2014 with a request to make payment of arrears of salary from 01.01.1996 onwards consequent upon enhancement of his pay on par with that of Lighting Assistants. He followed up the matter with the subsequent representations on 13.12.2014 and 20.01.2015 respectively. When the grievance was not redressed by the respondents, he approached this Tribunal in OA.No.1605/2015 seeking direction to the respondents to make payment of arrears of salary w.e.f. 01.01.1996. The Tribunal vide order dtd.13.07.2014(Annexure-A12) disposed of the said OA directing the respondents to dispose of the representations of the applicant in terms of the Hon'ble Apex Court order in SLP No.33048/2011 dtd.10.01.2013. Thereafter, the applicant submitted further representation to the respondent No.3 on 29.7.2016(Annexure-A13) requesting to make payment of arrears of salary from 01.01.1996 on par with the Lighting Assistants. However, the request was turned down by the respondents by order dtd.20.09.2016(Annexure-A14). The applicant has challenged the said order in the present OA seeking the following relief:

- i. *To quash the order No.8/27/2015-S.IV (A) 827 dated 20.09.2016, issued by the respondent No.3, communicated to the applicant by letter No.ADG(E)(SZ)/OA 1605 of 2015/2015/3782 dated 04.10.2016 of the respondent No.4 and the letter No.Ban.1(2)/2015-S(HSS)/4055 dated 07.10.2016, Annexure-A14.*
- ii. *Direct the respondents to make payment of arrears of pay to the applicant with effect from 01.01.1996 as per the Pay Fixation order dtd.19.06.2014, Annexure-A8.*

4. The respondents in their reply statement while corroborating the career profile of the applicant highlighted in the OA referred to the order of the

Hon'ble High Court of Madras in WP.No.27115/2009 dtd.24.11.2010 and also the order of the Hon'ble Apex Court dtd.10.01.2013 in SLP.No.33048/2011 and submitted that in terms of the order of the Hon'ble Apex Court, the pay of the Technicians was fixed notionally vide order dtd.11.03.2014(Annexure-R2). They also mentioned that several Technicians approached the Principal Bench of the Tribunal in OA.No.1861/2014 and the Tribunal vide order dtd.01.04.2015 allowed the OA directing the respondents to grant the benefits of higher scale of Rs.5000-8000 w.e.f. 01.01.1996 on notional basis to the applicants. Subsequently, Review Petition No.148/2015 filed by the applicants for arrears was also dismissed by the Principal Bench on 15.02.2016. Following the order of the Tribunal, the respondents vide order dtd.08.07.2016 allowed the pay scale of Rs.5000-8000 to the applicants on notional basis up to 31.03.2015 and on actual basis w.e.f. 01.04.2015 i.e. the date of the order of the CAT, Principal Bench(Annexure-R5).

5. According to the respondents, the pay scale of Rs.5000-8000 has been extended to all similarly placed Technicians on notional basis from 01.01.1996 up to 31.03.2015 and on actual basis from 01.04.2015 vide order dtd.12.5.2017(Annexure-R6). Therefore, they submit that the claim of the applicant seeking arrears w.e.f. 01.01.1996 is not in conformity with the order of the Principal Bench and cannot be acceded to. Moreover, the applicant is already working in the higher pay scale of Rs.6500-10500 w.e.f. 06.09.2001.
6. The applicant has filed a rejoinder in which he submits that the Director General, All India Radio issued an order dtd.16.05.2017 which provides

OA.No.170/01021/2016/CAT/Bangalore Bench for fixation of pay of the Technicians in the scale of Rs.4500-7000 who have joined in the said post during Feb.1999 and October 2007. They have been given the arrears of differences in pay to which they were entitled and what has been actually paid to them. Moreover, the Lighting Assistants, when they were granted the pay scale of Rs.5000-8000 as per Doordarshan Directorate office order dtd.18.03.2013, they were given arrears of pay and allowances from the date of their regularization as Lighting Assistants or 01.01.1996 whichever is later.

7. We have heard the Learned Counsel for both the parties. The arguments put forth by both the parties were in the line and reasonings given in the OA and reply statement which have been highlighted in the preceding paras.
8. We have carefully considered the facts of the case and submissions made by either side. The only issue that has been raised in this case is whether the applicant is entitled to the arrears w.e.f. 01.01.1996 in the context of the Hon'ble Apex Court order dtd.10.01.2013. The order of the Hon'ble High Court of Madras which has been upheld by the Hon'ble Apex Court in its order dtd.10.01.2013 is quite clear. The Hon'ble High Court has expressed views in favour of the parity in pay scales of Technicians at par with Lighting Assistants and allowed that w.e.f. 01.07.1983 but with the clear stipulation that while notional fixation was done, there will be no arrears of pay. The Hon'ble Apex Court while confirming the order of the Hon'ble High Court of Madras reiterated the revision of pay scales of Technicians at par with the Lighting Assistants noting that though the pay scale is revised notionally w.e.f. 01.07.1983, the concerned applicants will not claim

arrears. The other Technicians have approached the various Courts based on this order only. As pointed out by the respondents, the Principal Bench of this Tribunal in a similar case had allowed the relief to the applicants allowing them grant of pay scale of Rs.5000-8000 w.e.f. 01.01.1996 on notional basis. Further claim in the review petition seeking grant of other consequential benefits and including arrears was turned down. Consequently, the respondents by a general order allowed the fixation of the pay scale of Rs.5000-8000 on notional basis and arrears only w.e.f. 01.04.2015. We are in agreement with the stand of the Principal Bench and subsequent action taken by the respondents in the matter. In the present case, the applicant has approached the Tribunal when his representation was not considered. Even though the applicant had represented prior to the order of the Principal Bench, the claim of the applicant for payment of arrears can only be considered w.e.f. 01.04.2015 when similar benefit was extended to similarly placed persons who approached the Principal Bench of the Tribunal. It has been mentioned that the applicant is already drawing higher pay scale of Rs.6500-10500 w.e.f. 06.09.2001. We are not sure whether the applicant is likely to get any further benefit of pay fixation thereafter. In any case, the maximum benefit that the applicant can claim only a notional pay fixation from 01.01.1996 onwards and actual arrears if any w.e.f. 01.04.2015 when similar persons were allowed. His claim for arrears w.e.f. 01.01.1996 is therefore bereft of any logic and cannot be considered since the Hon'ble Apex Court in its order dtd.10.01.2013 had only allowed fixation of pay on notional basis without any arrears.

9. In the light of the discussions made in the preceding paras, we are of the view that the contention made by the applicant does not merit any

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 consideration and hence the OA being devoid of any merit is liable to
 be dismissed. Accordingly, the OA stands dismissed. No order as to
 costs.

(P.K.PRADHAN)
 MEMBER (A)

(DR.K.B.SURESH)
 MEMBER (J)

/ps/

Annexures referred to by the applicant in OA.No.170/01021/2016

Annexure A1: Copy of the order dtd.16.11.1984
 Annexure A2: Copy of the order dtd.21.07.1989
 Annexure A3: Copy of the pay fixation statement dtd.17.02.2000
 Annexure A4: Copy of the order dtd.04.07.2001
 Annexure A5: Copy of the order dtd.07.12.2009
 Annexure A6: Copy of the order dtd.10.01.2013 in SLP(C) No.33048 of 2011
 Annexure A7: Copy of the order dtd.11.03.2014
 Annexure A8: Copy of the order dtd.19.06.2014
 Annexure A9: Copy of the applicant's representation dtd.10.09.2014
 Annexure A10: Copy of the applicant's representation dtd.13.12.2014
 Annexure A11: Copy of the applicant's representation dtd.20.01.2015
 Annexure A12: Copy of the order dtd.13.07.2016 in OA.170/01605/2015
 Annexure A13: Copy of the applicant's representation dtd.10.09.2014
 Annexure A14: Copy of the order dtd.20.09.2016 with the letters dtd.04.10.2016 &
 07.10.2016

Annexures with reply statement:

Annexure R1: Copy of the Hon'ble Supreme Court order dtd.02.09.2013
 Annexure R2: Copy of order dtd.11.03.2014
 Annexure R3: Copy of order dtd.01.04.2015 passed by PB, N.Delhi
 Annexure R4: Copy of order dtd.15.02.2016 passed by PB, N.Delhi
 Annexure R5: Copy of order dtd.08.07.2016
 Annexure R6: Copy of order dtd.12.5.2017

Annexures with rejoinder:

Annexure A15: Copy of the circular dtd.25.02.1999
 Annexure A16: Copy of the order dtd.16.05.2017
 Annexure A17: Copy of the order dtd.18.03.2013
