



CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. O.A. 1471 of 2013

Date of order: 20.6.2016

Present : Hon'ble Justice Shri Vishnu Chandra Gupta, Judicial Member
Hon'ble Ms. Jaya Das Gupta, Administrative Member

DEBAL MUKHERJEE & ORS.

VS.

UNION OF INDIA & ORS. (AIR)

For the Applicants : Mr. B.R. Das, Counsel

For the Respondents : Mr. S.K. Ghosh, Counsel

ORDER (Oral)

Justice Shri Vishnu Chandra Gupta, Judicial Member:

Ld. Counsel for both sides are present and heard.

2. The short question for consideration before this Court is whether in pursuance of an order passed by Chennai Bench of this Tribunal in O.A. No. 862-865/2004 and 883/2004 benefit has been granted to the applicant or not?

3. All the applicants who are working in All India Radio at Calcutta claim the benefit of that order relying upon the judgment of the Bombay Bench of this Tribunal delivered in O.A. No. 203 of 2008. The judgment of the Madras Bench has been quoted in the judgment of Bombay Bench which reads as follows:-

"..... The directions for implementation of the 5th Central Pay Commissions recommendations regarding recruitment rules and pay structures and grant of ACP benefits are to be taken as a judgment in "rem" and applicable to the entire category as such. Therefore, the respondents cannot restrict the benefits only to those who approached the Tribunal. In fact the first para of the order dated 27.4.2004 conveys the impression that a decision has already been taken with the approval of the Ministry of Information and Broadcasting and the Ministry of Finance to implement the recommendations of the Central Pay Commission by granting multi grade pay structure by distributing the number of posts in the ratio of 32:45:16:6 and this order seems to be only the consequential order to the main direction. It is therefore for the respondents 1 and 2 to now issue the orders implementing these decisions as directed by the Principal Bench in O.A. No. 2153/1999 and instruct all the subordinate Officers and Station Directors for passing appropriate orders in respect of staff working under them. Once the recommendations have been accepted by the competent authority the reliefs prayed for by the applicants in these OAs will have to be granted not

only to these applicants but also to all those similarly placed.

5. In the light of the above facts and legal position, we direct the respondents to implement the recommendations of the 5th Central Pay Commission with effect from 1.1.1996 and grant multi grade pay structure as applicable to Instrumentalists in the All India Radio to the applicants who are Tanpura players and also to grant them other monetary and consequential benefits relating thereto. This exercise shall be completed within a period of three months from the date of receipt of this order. The O.A.s are allowed accordingly."

4. It is not in dispute that the order passed by the Madras Bench is a judgment in rem and the benefits of which ought to have been given to all the similarly situated persons and in the similar terms Bombay Bench passed orders.

The applicant has also filed a copy of the letter dated 11.2.2013 issued by Prasara Bharati which has been referred to in para 4.17 of the reply. The relevant portion of the said letter is annexed as Annexure A-6:-

"2. It is informed that a proposal for grant of multigrade pay structure to the remaining Tanpura Players has been sent to the Ministry of I&B for taking the approval of the Department of Expenditure, Ministry of Finance for extending the similar benefits as already allowed to other Tanpura players in pursuance of the various CAT's order. Further action in the matter will be taken on receiving the decision of the Ministry of I & B."

5. No reply has been given of para 4.17 of the reply. Reply has been given upto para 4.16. Hence, the fact that the case has been referred to the Ministry of Information & Broadcasting by letter dated 11.2.2013 is not denied which clearly speaks that the department also treated the applicant as similarly situated persons so far as the judgment of Madras Bench is concerned. The decision has not yet been taken either by the respondents or by the Ministry of Information & Broadcasting.

6. Hence, we are of the view that appropriate direction be issued to the respondents to implement the order of the Madras Bench in letter and spirit by fixing some ~~parity~~ ^{period}.

7. Hence, this petition is finally disposed of with a direction to the respondents to implement the judgment of aforesaid Madras Bench in letter and

spirit within a period of three months from the date of communication of the order passed by this Bench and necessary payment may be made within a month thereafter including all the arrears.

(Jaya Das Gupta)
MEMBER(A)
(Vishnu Chandra Gupta)
MEMBER(J)

SP