

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH**

ORIGINAL APPLICATION NO.170/00629/2017

DATED THIS THE 14th DAY OF FEBRUARY, 2019

HON'BLE DR.K.B.SURESH, JUDICIAL MEMBER

HON'BLE SHRI C.V.SANKAR, ADMINISTRATIVE MEMBER

Usha B.Patil
Announcer
All India Radio, Gulbarga
Resident of : House No.45, Gunj Colony
Kalburgi (Gulbarga)-585103.Applicant

(By Advocate Shri N.Obalappa)

Vs.

1. The Union of India
Represented by its Secretary
Ministry of Information and Broadcasting
'A' Wing, Shastry Bhavan
New Delhi-110 001.
2. The Chief Executive Officer
Prasar Bharati, I "C" Tower
Doordarshan Bhavan
Copernicus Marg
Mandi House
New Delhi-110 001.
3. The Director General
All India Radio, Akashvani Bhavan
Parliament Street
New Delhi-110 001.
4. The Station Director/Head of Office
All India Radio
Gulbarga-585103.Respondents

(By Advocate Sri K.Gajendra Vasu)

ORDER

(PER HON'BLE SHRI C.V.SANKAR, MEMBER (ADMN))

The applicant has filed the present OA seeking the following relief:

- a. *To quash Annexure-A6 dtd.29.10.2014 with Grade Pay of Rs.4800/- & Annexure-A7 dtd.9.6.2015 with Grade Pay of*

Rs.5400/- (Impugned orders) which are contrary to Annexure A5 dtd.4.9.2013 issued by the 3rd respondent.

- b. Call for records leading for not granting the 2nd ACP in hierarchical the pay scale of Rs.10000-15200 with Grade Pay of Rs.6600/- w.e.f.27.10.2007 and for not granting of 3rd MACP after 30 years of service with Grade Pay of Rs.7600/- vide Annexure-A3 dtd.19.05.2009.*
- c. To direct the respondents to grant the 2nd ACP with Grade Pay of Rs.6600/- w.e.f. 27.10.2007 vide Annexure-A5, dtd.4.9.2013 & 3rd MACP with Grade Pay of Rs.7600/- w.e.f. 27.10.2013 vide Annexure-A3 dtd.19.05.2009 and to pay all the consequential benefits of the arrears of pay & allowances, revision of pay etc. as per the draft pay fixation statement supported by the applicant at Annexure-A9 after due verification by the respondents.*

2. The facts leading to the case are as follows:

The applicant was declared as Government servant as Announcer w.e.f. 27.10.1983(Annexure-A1). Thereafter she got 1st ACP w.e.f. 9.8.1999. The 3rd respondent vide communication dtd.4.9.2013(Annexure-A5) clarified that Announcers who are recruited in the pre-revised pay scale of Rs.5000-8000 and completed 24 years of regular service on a date between 1.1.2006 and 31.8.2008, will be allowed 2nd financial upgradation in GP of Rs.6600 subject to fulfilment of promotion norms(after framing of Recruitment Rules(RRs) post- merger). The applicant submits that 4th respondent vide order dtd.29.10.2014 granted 2nd ACP with Grade Pay(GP) of Rs.4800 w.e.f. 27.10.2007 instead of granting the 2nd ACP vide order dtd.4.9.2013(Annexure-A5) with GP Rs.6600, hence the 2nd ACP order dtd.29.10.2014(Annexure-A6) is liable to be set aside. She got 3rd MACP

OA.No.170/00629/2017/CAT/Bangalore Bench again wrongly with GP of Rs.5400 w.e.f. 27.10.2013(Annexure-A7) instead of granting GP Rs.7600 after completion of 30 years of service by 27.10.2013. She submitted a representation dtd.28.12.2016(Annexure-A8) requesting the 3rd respondent for grant of ACP & MACP on hierarchy of promotion pay scales which has not been considered. Aggrieved by the same, the applicant filed the present OA.

3. The respondents have filed reply statement wherein they submit that the applicant joined as Staff Artist/Announcer on contractual terms w.e.f. 27.10.1983 in the revised pay scale of Rs.5000-8000(revised to GP Rs.4200 by 6th CPC) and she was granted promotion to Announcer(Senior Grade) w.e.f.25.06.1990 in the revised pay scale of Rs.5500-9000 vide order dtd.26.9.1990. Therefore, she became eligible for 2nd financial upgradation under ACP scheme w.e.f. 27.10.2007 after completion of 24 years of service. Accordingly, she was granted 2nd ACP in the pay scale of Rs.6500-10500(revised to grade pay of Rs.4600) vide order dtd.29.10.2014. She failed to bring the fact that she was granted promotion to Announcer(Senior Grade). In the meantime, on the recommendations of 6th CPC, the pay scale of Rs.5000-8000 and Rs.5500-9000 were merged into GP Rs.4200. Based on this, the DOP&T issued clarification dtd.4.9.2013 for the question "what would be 2nd financial upgradation for employee recruited in the scale Rs.5000-8000, who has completed 24 years of regular service on 12.4.2007 (between 1.1.2006 and 31.8.2008)" that "since the pre-revised pay scale Rs.6500-10500 & Rs.7450-11500 have been merged and placed in PB-2 with GP Rs.4600, 2nd financial upgradation would be allowed in the GP of Rs.6600,

OA.No.170/00629/2017/CAT/Bangalore Bench subject to fulfilment of promotional norms (after framing of RRs post-merger) as stipulated in condition no.6 of Annexure-I ACPS dtd.9.8.1999, in terms of clarification given on point of doubt No.1 of ACPS dtd.10.02.2000. Accordingly, the applicant is not entitled to get upgradation in the GP Rs.6600. The order is applicable only after the framing of RRs post-merger. However, in Announcer cadre there has been no merger till date. Although the proposal to merge the grades were initiated, the same was not approved by the competent authority. The cadre remains as 4-grades cadre as Announcer Gr-IV with scale of Rs.5000-8000(revised to GP Rs.4200), Announcer Gr-III with

scale of Rs.5500-9000(revised to GP Rs.4200), Announcer Gr-II with scale of Rs.6500-10500(revised to GP Rs.4600) and Announcer Gr-I with scale of Rs.10000-15200(revised to GP Rs.6600). Therefore, since the applicant has already been granted 2nd financial upgradation as per the available hierarchy of Announcer cadre in the scale of Rs.6500-10500 (revised to GP of Rs.4600 as per 6th CPC) as per ACP Scheme and 3rd financial upgradation as per MACP Scheme in GP Rs.5400 w.e.f. 27.10.2013 on completion of 30 years of service, she is not entitled to get upgradation in the Grade Pay of Rs.6600/- and is not entitled for any other upgradation under ACP/MACP Scheme. The order dtd.29.10.2014 has been rightly issued and implemented.

4. The applicant has filed rejoinder wherein she submits that the 1st promotion is adjusted against the 1st ACP granted vide order dtd.29.10.2014(Annexure-A6) with GP Rs.4600 and for 24 years of service without any promotion, she is entitled for 2nd ACP in the pay scale of Rs.10000-15200 with GP Rs.6600 and for 30 years of service, she is entitled for 3rd MACP w.e.f. 27.10.2013

OA.No.170/00629/2017/CAT/Bangalore Bench with GP Rs.7600/- It is further submitted that Ministry of Finance vide order dtd.13.11.2009(Annexure-A10) had merged the pay scales of Rs.5000-8000, Rs.5500-9000 & Rs.6500-10500 and upgraded to Rs.7450-11500 and hence the post-merger issue is also settled. With regard to the query that what would be 2nd financial upgradation for employee recruited in the scale Rs.5000-8000, who has completed 24 years of regular service on 12.4.2007 (between 1.1.2006 and 31.8.2008), the respondents have rightly considered in Annexure-I of ACP OM dtd.9.8.1999 that since the pre-revised pay scale Rs.6500-10500 & Rs.7450-11500 have been merged and placed in PB-2 with GP Rs.4600, 2nd financial upgradation would be allowed in the GP of Rs.6600. Accordingly, the applicant is entitled to be granted 2nd ACP in the pay scale of

Rs.10000-15200 with GP Rs.6600 after completion of 24 years of service and 3rd MACP with GP Rs.7600/- w.e.f. 27.10.2013 after completion of 30 years of service with all the consequential service benefits.

5. The respondents have filed additional reply statement reiterating the points already made in the main reply and submit that the applicant who got one promotion as Announcer Grade-III in the pay scale of Rs.5500-9000/- w.e.f. 25.6.1990 was entitled to 2nd upgradation w.e.f. 27.10.2007 in the pay scale of Rs.6500-10500/- equivalent to the post of Announcer Grade-II. As the pay scales of Rs.5000-8000 and Rs.5500-9000 were merged into PB-2 and Grade Pay Rs.4200/- under 6th CPC, the applicant was granted one upgradation w.e.f. 1.1.2006 in GP Rs.4600 and further upgraded to GP Rs.4800 w.e.f.

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27.10.2007 in accordance with DOPT instructions. The applicant is not

entitled to the pay scale of Rs.10000-15200/- for 2nd ACP as it is the pay scale of Announcer Grade-I.

6. Heard the Learned Counsel for both the parties and gone through the records and written arguments note filed by the applicant in detail. We find that the applicant was deemed as Civil Government Servant w.e.f. 27.10.1983. We also find that the applicant has not made any mention about the first promotion as Announcer(Senior Grade) given to her on 25.6.1990 in her original application but later admitted the same in her rejoinder to the reply of the respondents. Considering this, the financial upgradation under ACP was given w.e.f. 1.1.2006 in the pay scale of Rs.6500-10500(Revised to GP Rs.4600) and w.e.f. 27.10.2007 with pay band 9300-34800 with GP of Rs.4800/- vide order dtd.29.10.2014. After the introduction of MACP Scheme, the applicant was granted the 3rd MACP with the Grade Pay of Rs.5400 w.e.f.27.10.2013 on completion of 30 years of service. The applicant has sought to make a point that she has already fulfilled the conditions relating to entitlement of further grant of 2nd ACP with Grade Pay of Rs.6600 on the basis of the respondents' letter dtd.4.9.2013(Annexure-A5) that such entitlement would be allowed subject to fulfilment of promotional norms after framing of RRs post-merger as prescribed therein. The applicant would claim that the Ministry of Finance OM dtd.13.11.2009(Annexure-A10) relating to merger of posts in various pay scales would suffice so far as the condition relating to the merger of posts as mandated by the respondents' letter dtd.4.9.2013 is concerned. The respondents have maintained that the various grades of Announcers are still continuing and there has been no merger as such and no new RRs have been framed for these posts. This is the position

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7. Considering the above, the OA deserves to be dismissed and therefore, it is ordered accordingly. No costs.

(C.V.SANKAR)
MEMBER (A)

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

/ps/

Annexures referred to by the applicant in OA.No.170/00629/2017

Annexure-A1: The applicant declared as Govt. servant w.e.f. 27.10.1983 vide order No.Glb.19(1)/93-S dtd.19.07.1993

Annexure-A2: The DOPT OM No.35034/1/197 Estt(D) dtd.09.08.1999 ACP Scheme

Annexure-A3: The DOPT OM 35034/3/2008 Estt(D) dtd.19.5.2009 the applicant is entitled for ACP benefits

Annexure-A4: The 3rd respondent vide communication No.6/1/2013-S-VIII/23 dtd.17.01.2013 issued clarification towards the 1st ACP for Announcers

Annexure-A5: The 3rd respondent vide communication No.6/1/2013/S-VIII/402 dtd.4.9.2013, clarified the entitlement of 2nd ACP to Announcer Grade-IV

Annexure-A6: The 4th respondent by order No.GLB 10(2)2012-S dtd.29.10.2014 granted 2nd ACP to the applicant

Annexure-A7: The 4th respondent vide order No.GLB 10(2)2015-S dtd.09.6.2015 granted 3rd MACP to the applicant

Annexure-A8: The applicant submitted a representation dtd.28.12.2016 to consider the 2nd ACP & 3rd MACP admissible to her

Annexure-A9: The applicant submits a draft pay fixation statement from 27.10.1983

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to 1.7.2017

Annexures with reply statement:

-NIL-

Annexures with rejoinder:

Annexure-A10: Copy of the order dtd.13.11.2009

Annexures with additional reply statement:

Annexure-R1: D/o Expenditure OM dtd.13.11.2009

Annexure-R2: DG:AIR letter dtd.5.12.2013

Annexure-R3: MIB letter dtd.5.4.2018

Annexure-R4: DOPT clarifications

Annexures with written arguments note filed by the applicant:

Annexure-A11: Copy of the DOPT OM clarification dtd.10.2.2000

Annexure-A12: Copy of the 3rd respondent letter dtd.9.12.2013
