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**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00374/2015

Wednesday, this the 6th day of February, 2019

CORAM:

HON'BLE Mr.E.K.BHARAT BHUSHAN, ...ADMINISTRATIVE MEMBER
HON'BLE MR.ASHISH KALIA, ...JUDICIAL MEMBER

1. Shri Venu,
Library & Information Assistant,
Doordarshan Kendra,
Thiruvananthapuram.
 2. Smt. T.Sabitha,
Library & Information Assistant,
Doordarshan Kendra,
Thiruvananthapuram.
 3. Shri D.R.Benoy,
Library & Information Assistant,
Doordarshan Kendra,
Thiruvananthapuram.

(By Advocate Mr.K.P.Chandrasekar)

Versus

1. The Union of India,
Represented by the Secretary,
Ministry of Information and Broadcasting,
Shastri Bhawan,
New Delhi – 110 001.
 2. The Prasar Bharathi,
(Broadcasting Corporation of India),
New Delhi,
represented by the Chief Executive.
 3. The Director General (Admn.),
Prasar Bharathi,

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(Broadcasting Corporation of India),
New Delhi.

4. The Director,
Doordarshan Kendra,
Thiruvananthapuram. ...Respondents

(By Mr.N.Anilkumar, SCGSC for Respondents)

This application having been heard on 4th February, 2019, the Tribunal on 6th February, 2019 delivered the following :

ORDER

HON'BLE Mr.E.K.BHARAT BHUSHAN, ...ADMINISTRATIVE MEMBER

OA No.374/2015 is filed by Shri M.Venu, Smt.T.Sabita and Shri D.R.Benoy, all Library & Information Assistants, Doordarshan Kendra, Thiruvananthapuram against the denial of their claim for grant of financial upgradation under MACP in the pattern of ACP. Reliefs sought in the OA are as follows:

- i) to call for the records leading to Annexure A15 and to set aside the same;
- ii) to declare that the applicants are entitled to 2nd MACP with effect from 01.09.2008 in the pay band of Rs.15600-31100 with grade pay of Rs.6600/- with all consequential benefits; and
- iii) to grant such other further reliefs as this Hon'ble Tribunal may deem just, fit and proper in the facts and circumstances of the case.

2. The applicants had joined Doordarshan in 1988 as Junior Librarians. They

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had been selected through Staff Selection Commission and possessed qualification of Graduation and Degree in Library and Information Science, At the time of their appointment they had various alternatives for career advancement and promotion. However, the Junior Librarians came to be redesignated as Library and Information Assistant as per revised scale of Rs.1400-2600 on par with the Transmission Executive from July, 1990. As per the option exercised by them, they were accommodated in the revised pay scale of Rs.1400-2600 with effect from July, 1990. A copy of the circular is at Annexure A1.

3. However, the applicants' hopes of further promotions as they had been redesignated one step above to Transmission Executive proved to be a mirage. Realising the fact that they do not have any promotional avenue, they filed a representation in 1995, a copy of which is at Annexure A2. At this stage, as well as later on, when the Corporation Prasar Bharati was set up the category of Library and Information Assistants in Doordarshan came to be the victims of a step-motherly attitude. While all other categories were able to gain promotion, the post held by the applicants had no such avenue. In pursuance to Annexure A5 judgment of the Hon'ble High Court their plight was considered by the authorities and an OM dated 07.08.2002 was issued granting financial upgradation under ACP Scheme on completion of 12 years of service. It was also ordered that on completion of 24 years of service they will be eligible for 2nd financial upgradation under the Scheme to the scale of Rs10000-15200,

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that is the next higher scale of Library and Information Officer. A true copy of this order is at Annexure A6

4. The applicants hoped for this further enhancement on completion of 24 years. However, this did not come about. In the meanwhile, ACP Scheme was amalgamated into MACP with effect from 01.09.2008 and the applicants were granted 2nd financial upgradation under MACP scheme in the Pay Band of Rs.9300-34800 with Grade Pay of Rs.4800 without the promised 2nd financial upgradation as mentioned in Annexure A6 which would have meant elevation to the Pay Band of Rs.15600-39100 with Grade Pay of Rs.6600. A true copy of the 2nd MACP order dated 29.11.2012 is at Annexure A8.

5. It is stated that judgments as available at Annexure A9, A10, A11, A12 and A13 are all judgments of various Benches of this Tribunal as well as those of different High Courts which support the contention of the applicants. Since the representations were not considered by the administration, the applicants approached this Tribunal and this Tribunal had disposed of the OA directing the respondents to take a decision on their representations. However, the 3rd respondent has issued orders rejecting the claims of the applicants.

6. The respondents have filed a detailed reply statement wherein the claims of the applicants have been disputed. It is argued that the post of Library and Information Assistant cannot be considered on par with the other posts such

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as Transmission Executive. As per the Recruitment Rules of Programme Executive, there is no provision to consider Library and Information Assistant as feeder post for Programme Executive. However, as per review conducted by the Ministry of Finance several posts leading up to Director have been made available to Library and Information Assistant in their promotional hierarchy. The applicants had been beneficiaries of 1st financial upgradation under ACP on its due date on completion of 12 years of service and 2nd MACP as detailed in the OA. While both schemes are meant to tackle stagnation particularly in respect of employees in isolated posts, ACP envisages upgradation in the next promotional hierarchy whereas under MACP the upgradation is only to the next Grade Pay. It is true that certain Benches of the Tribunal have issued order in favour of the claim for grant of MACP to the next promotional hierarchy. However, this matter is now engaging the attention of the Hon'ble Supreme Court which has been approached by the respondents by filing an SLP. Hence it cannot be stated that this question has attained finality.

7. Heard Shri K.P.Chandrasekhar, learned Counsel for the applicant and Shri N.Anilkumar, learned SCGSC for respondents. In so far as the applicants are concerned there are personnel who are engaged in isolated posts and do not have prospects of a promotion as things stand now. They have been beneficiaries of the 1st financial upgradation under ACP and the 2nd one under MACP on the due dates. With regard to the main distinction in the financial upgradation it is necessary to detail the particular portion of the two Schemes.

ACP works in favour of the employees as follows:

Annexure-I – CONDITIONS FOR GRANT OF BENEFITS UNDER THE ACP SCHEME

7. Financial upgradation under the Scheme shall be given to the next higher grade in accordance with the existing hierarchy in a cadre/category of posts without creating new posts for the purpose. However, in case of isolated posts, in the absence of defined hierarchical grades, financial upgradation shall be given by the Ministries/Departments concerned in the immediately next higher (*standard/common*) pay-scales as indicated in Annexure-II, which is in keeping with Part A of the First Schedule annexed to the Notification dated September 30, 1997 of the Ministry of Finance, (Department of Expenditure)..... (emphasis supplied)

Annexure-I – Modified Assured Career Progression Scheme (MACPS)

2. The MACPS envisages merely placement in the immediate next higher grade pay in the hierarchy of the recommended revised pay bands and grade pay as given in Section 1, Part -A of the first schedule of the CCS (Revised Pay) Rules, 2008. (emphasis supplied)

8. Despite certain judgments in judicial fora which have supported their case, we are of the view that as matters stand there is a clear distinction between the two schemes. The respondents have set considerable store by Annexure A6 OM which concludes as follows:

“In pursuance of the instructions contained in Ministry of finance, Department of Expenditure’s O.M.No.71/3/2001-IC dated 21.02.2002, the Library & Information Assistants in Doordarshan, including the Petitioners, Sh.M.Venu, Smt.T.Sabitha, Sh.D.R.Benoy and Sh.S.Sumithran are eligible w.e.f. 08.06.2000, 06.06.2000, 03.08.2000 and 23.12.2000 respectively for 1st Financial upgradation under the ACP scheme on completion of 12 years of regular service to the scale of Rs.6500-10500/- (the pay scale prescribed for the promotional grade of Assistant Library Information Officer) and on completion of 24 years regular service , they will be eligible for grant of 2nd financial upgradation under the Scheme to the scale of Rs.10,000-15,200/- (i.e. to the pay scale prescribed for Library & Information Officers) subject to the approval of DPC. DDK, Thiruvananthapuram, through the endorsement of this communication, is being directed to take immediate necessary action for grant of 1st ACP to the Petitioners.

9. But this is more in the nature of an order of granting them ACP on completion of 12 years. And the offer being made on completion of 24 years,

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appears to be more in the nature of promise. Clearly Annexure A6 was issued before the MACP came into force and matters naturally took a different turn. Facts being so, we are not convinced about the case made out by the applicants. OA fails and is dismissed. No costs.

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

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List of Annexures in O.A. No.180/00374/2015

1. **Annexure A1** – True copy of the Circular No.19(1)/10/86 dated 24.07.1990 of the Ministry of Finance.
2. **Annexure A2** – True copy of the representation dated 18.03.1995 of the applicant to the 2nd respondent.
3. **Annexure A3** – True copy of the representation dated 26.09.1996 of the 1st applicant to 2nd respondent.
4. **Annexure A4** – True copy of the representation dated 26.05.1999 of the 1st applicant.
5. **Annexure A5** – True copy of judgment dated 24.01.2002 of the Hon'ble High Court of Kerala in OP No.2810/2002(H).
6. **Annexure A6** – True copy of the Office Memorandum No.19/13/2002-S-II dated 07.08.2002 of the respondents.
7. **Annexure A7** – True copy of the representation dated 11.06.2012 of the 1st applicant to the 2nd respondent.
8. **Annexure A8** – True copy of the Order No.22(11)(3)2012-A1/DKT dated 29.11.2012 issued by the respondents.
9. **Annexure A9** – True copy of the order dated 31.05.2011 of the Hon'ble CAT, Chandigarh Bench in OA No.1038/CH/2010.
10. **Annexure A10** – True copy of the judgment dated 19.10.2011 of the Hon'ble High Court of Punjab and Haryana in CWP No.19387/2011 (O&M).
11. **Annexure A11** – True copy of the order dated 115.04.2013 of the Hon'ble Supreme Court of India in CC 7463/2013.
12. **Annexure A12** – True copy of order dated 26.11.2012 of the Hon'ble CAT, Principal Bench, New Delhi in OA No.904/2012.
13. **Annexure A13** – True copy of representation dated 08.07.2013 of the 1st applicant.
14. **Annexure A13(a)** – True copy of representation dated 08.07.2013 of the 2nd applicant.

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15. **Annexure A13(b)** - True copy of representation dated 08.07.2013 of the 3rd applicant.

16. **Annexure A14** – True copy of order in OA No.213/2014 of this Hon'ble Tribunal.
