

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION No. 210/00447/2014

Dated this Wednesday, the 20th day of March, 2019

CORAM: DR. BHAGWAN SAHAI, MEMBER (ADMINISTRATIVE)
RAVINDER KAUR, MEMBER (JUDICIAL)

Shri Prakash B. Sangeet,
 Ex. Instrumentalist Top-Grade
 (Tanpura Player), Music Station,
 All India Radio Mumbai – 20.

Residence Address :

Shri Prakash B. Sangeet ,
 683-A-OPG Tower, Sector – 2,
 Navi Mumbai 400 705.

(By Advocate Shri M.S.Lal)

... **Applicant**

VERSUS

1. The Union of India,
 (Through the Secretary),
 Ministry of Information & Broadcasting,
 Shastri Bhavan, Sansad Marg, New Delhi – 1.

2. The Director General, Prasar Bharti,
 (Broadcasting Corporation of India),
 Akashvani Bhavan, Sansad Marg,
 New Delhi 110 001.

3. The Station Director, Prasar Bharti,
 (Broadcasting Corporation of India),
 Opp. MLA Hostel, H.T. Prakash Marg,
 All India Radio, Mumbai – 20.

(By Advocate Shri R.R.Shetty)

... **Respondents**

Order reserved on 27.02.2019

Order delivered on 20.03.2019

O R D E R

Per: Dr. Bhagwan Sahai, Member (Administrative)

Shri Prakash B. Sangeet has filed
 this OA on 23. 04.2014 challenging the order
 of Programme Executive (DDO) for Head of
 Office, Prasar Bharti Broadcasting
 Corporation of India, All India, Radio,

Mumbai dated 04.04.2012 (Annex A-1). He seeks direction to the respondent No.2 i.e. Director General, Prasar Bharti Broadcasting Corporation of India, Akashvani Bhavan, Sansad Marg, New Delhi to settle the matter of pay / financial benefits to the applicant under the ACP Scheme and to pay consequential benefits such as re-fixation of pay and pay arrears with 18% interest.

2. Brief facts :-

2(a). The applicant was appointed as Tanpura player on 01.06.1978 in B-High Grade in pay scale of Rs.1,640/- in the office of Station Director, All India Radio, Aurangabad. From 08.03.1979, he was promoted to Grade 'A' without any increase in the pay. He states that the first financial benefit was given to him in the pay scale Rs.5,500-9,000/- instead of pay scale Rs.6,500-10,500/- from 09.08.1999 and he was also eligible for second financial upgradation from 01.06.2002 under ACP Scheme but it has not been settled. He claims that he had already completed 12 years of service on 01.06.1990 and was eligible for first ACP

as per the V Central Pay Commission. Thus he claims that he was deprived of the financial benefit under ACP Scheme / multi grade pay scale as per the V Central Pay Commission up to 2008. So he filed OA No.203/2008, which was decided with a direction to the respondents to comply with the order in four months from its receipt. Thereafter, the respondents granted him multi-grade benefit i.e. pay scales of Rs.6,500-10,500/- from 01.01.1996. So this OA has been filed for direction to the respondents to grant him the second financial benefit of ACP.

3. Contentions of the parties -

3(a). The main contention of the applicant is that because of non-grant of second ACP to him, he has been suffering financial loss in his pay and pension. He has passed the skill of Musical discipline through Music Audition Board. There was no promotional opportunity available to the applicant till 1991 in spite of having become a Government servant with effect from 06.03.1982. Since he had already completed 12 years of service

in 1991, after completing 24 years of service he should have been granted the second ACP benefit in 2002. But he was not considered for financial upgradation till 2007 based on multi grade cadre structure of instrumentalists according to V Central Pay Commission recommendation. His request for second ACP was not decided by the respondents till he took voluntarily retirement from 01.12.2003.

The respondents have contended that

3(b). All India Radio has a standing practice of grading performance of specific music artists. The grading is done / awarded by the Music Board of All India Radio;

3(c). as per the Recruitment Rules, posts of Instrumentalist Grade-II (Rs.6,500-10,500/-), Grade-III (Rs.5,500-10,500/-) and Grade-IV (Rs.5,000-8,000/-) are to be filled up 100% by direct recruitment through circulation among approved casual artists of All India Radio Stations and the pay scale should correspond with the grading of the

artists by the Music Audition Board. The post of Instrumentalist Grade-I (payable Rs.10,000-15,200/-) is, however, 100% promotional on selection basis from Instrumentalists Grade-II;

3(d). as per Directorate General of All India, Government of India, New Delhi, memorandum dated 02.03.1988 - Recruitment Rules for Music Composers and Instrumentalists (page Nos.52 and 53), for appointment as Instrumentalists Grade I by promotion of Instrumentalists Grade II, eight years regular service in the Grade II of Instrumentalists is essential;

3(e). the benefits of financial upgradation of higher pay scale on achieving higher Music Audition Board grading and grant of financial upgradation under ACP / MACP both cannot be allowed at the same time. The applicant was initially appointed as Tanpura Player on 01.06.1978 at All India Radio, Aurangabad in the pay scale of Rs.425-750/-, which was later revised to Rs.1,400-2,600/- from 01.01.1986 and to Rs.5,000-8,000/- from 01.01.1996;

3(f). under the multi grade pay structure applicable to Instrumentalists of All India Radio based on recommendation of V Central Pay Commission, he was included as Instrumentalist Grade II in that structure from 01.01.1996 and granted the higher pay scale of Rs.5,500-9,000/- from 01.01.1996 (from his earlier pay scale of Rs.5,000-8,000/-);

3(g). from 01.01.1996, since he had already been granted the above improved grading based on higher pay scale, the requirement of one additional ACP benefit had to be treated as having been fulfilled. Then by counting his service from his initial appointment as Tanpura Player from 01.06.1978, he was granted the first financial upgradation under ACP Scheme in the pay scale of Rs.5,500-9,000/- with effect from 09.08.1999. Thereafter, as per the requirement, the applicant after completing 12 years in the same pay scale from 09.08.1999, or completion of 24 years of service, he would have become eligible for further financial upgradation only from

01.01.2004. However, before that date, he voluntarily retired from service on 01.12.2003. In view of these facts, the present OA is without any merit and requires to be dismissed;

3(h). the applicant cannot have any grievance about implementation of the direction of the Tribunal dated 08.06.2010 in OA No.203/2008 as he has already been included in the multi-grade cadre structure applicable to the instrumentalists of All India Radio and based on recommendation of the V Central Pay Commission, he was granted the higher pay scale of Rs.5,500-9,000/- from 01.01.1996 as per the order dated 27.10.2010 page No.91). The benefits claimed by the applicant are not covered under the order of the Ministry of Information and Broadcasting dated 29.11.1991 or the clarification dated 19.11.1992 and OM dated 24.02.1993. The applicant has already been treated as deemed Government Servant from 06.03.1982 and, therefore, he is governed by the normal conditions of service applicable to civilian

employees of the Central Government;

3(i). every appointment of a Tanpura Player is not a fresh appointment. The Tanpura Players were initially appointed as Staff Artists of All India Radio on contractual basis and as per the option exercised by them, they became deemed Government servant from 06.03.1982. Since the applicant completed 12 years of regular service on 09.08.1991 but the ACP Scheme came to be implemented only from 09.08.1999, accordingly he has been granted the first ACP from 09.08.1999. Hence, the OA be dismissed.

4. Analysis and conclusions :-

We have perused the OA memo and its annexes, rejoinder of the applicant, reply and sur-rejoinder filed by the respondents, various case laws cited by the parties and considered the arguments advanced by both of them on 27.02.2019. On their careful consideration, the clear position emerges as follows :

4(a). The applicant was appointed as Tanpura Player from 01.06.1978 on

contractual basis. Subsequently, along with others, he came to be counted as deemed Government servant from 06.03.1982 as Instrumentalist Grade II.

4(b). The post of Instrumentalist Grade I is filled up 100% on promotion based on selection from Instrumentalists Grade II.

4(c). Subsequently based on multi-grade cadre restructuring in the respondent organization, the applicant also got the benefit of refixation of his pay accordingly with grant of higher pay scale of Rs.5,500-9,000/- with effect from 01.01.1996 as per the order dated 27.10.2010. This was thus equivalent to one ACP benefit. Thereafter, since the ACP Scheme came to be implemented only from 09.08.1999 and with prospective effect, he has also been granted the benefit of first ACP from the same date i.e. 09.08.1999 in the pay scale of Rs.6,500-10,500/-..

Thereafter the applicant would have become eligible for grant of third ACP benefits only after completing 12 years of service in the same pay scale granted on

09.08.1999 i.e. only from 09.08.2011.

However, in the meantime, he took voluntarily retirement on 01.12.2003 and therefore, the applicant was not entitled for grant of any additional financial upgradation under the ACP Scheme. We find that the claim of the applicant has no substance. Submissions of the respondents in their reply and sur-rejoinder are correct. In view of this, the OA is devoid of merits and deserves dismissal.

5. **Decision :**

The OA is dismissed.

(Ravinder Kaur)
Member (Judicial)

(Dr. Bhagwan Sahu)
Member (Administrative)

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