

**CENTRAL ADMINISTRATIVE TRIBUNAL,**  
**ERNAKULAM BENCH**

**Original Application No. 180/00559/2015**

**Friday, this the 14<sup>th</sup> day of June, 2019**

**CORAM:**

**Hon'ble Mr. E.K. Bharat Bhushan, Administrative Member**  
**Hon'ble Mr. Ashish Kalia, Judicial Member**

K.V. Anandan, aged 60 years, S/o. Chindan Vaidyar,  
(Retd. Senior Engineering Assistant, All India Radio, Calicut),  
Residing at Amalasee, No. 26/2740, Kommeri PO,  
Calicut – 673 007. ....

**Applicant**

**(By Advocate : Mr. T.C. Govindaswamy)**

**V e r s u s**

1. Union of India, represented by the Secretary to the Government of India, Ministry of Information and Broadcasting, A-Wing, Sastri Bhavan, New Delhi – 110 001.
2. The Additional Director General, All India Radio, Prasar Bharti (Broadcasting Corporation of India), Akashvani Bhavan, New Delhi 110 001.
3. The Additional Director General (E) (SZ), Prasar Bharti, All India Radio & Doordarsan, Swamy Sivananda Salai, Chepauk, Chennai – 600 005.
4. The Head of Station, All India Radio, Kozhikode-673 032.
5. The Pay & Accounts Officer, All India Radio, Chennai-600 004.
6. The Secretary to the Government of India, Ministry of Personnel, Public Grievance & Pensions, (Department of Personnel & Training), New Delhi – 110 001. ....

**Respondents**

**(By Advocate : Mr. S.R.K. Prathap, ACGSC)**

This application having been heard on 29.05.2019 the Tribunal on 14.06.2019 delivered the following:

**ORDER****Hon'ble Mr. Ashish Kalia, Judicial Member –**

The relief claimed by the applicant are as under:

“(i) Call for the records leading to the issue of A1 and A2 and quash the same to the extent they calculate the applicant's pension and leave encashment in PB-2 + GP Rs. 4,600/- by ignoring grant of the financial upgradation granted to the applicant in PB-2 + GP Rs. 4,800/- with effect from 1.9.2008 up to the date of his superannuation on 30.4.2015;

(ii) Call for the records leading to the issue of Annexure A3 and quash the same;

(iii) Declare that the applicant is entitled to be granted the 3<sup>rd</sup> financial upgradation in PB-2 + GP Rs. 5,400/- with effect from 5.3.2011 and direct further to grant the applicant all the consequential benefits arising there from, including arrears of pay and allowances and the arrears of pension and other retirement benefits and direct the respondents accordingly;

(iv) Direct the respondents to grant all the consequential benefits of the declarations and directions in paragraph 8(iii) above, within a time frame as may be found just and proper by this Hon'ble Tribunal with interest to be calculated @ 9% per annum on the arrears of pay and allowances/pension and other retirement benefits with effect from the dates on which the payment originally fell due month after month, up to the date of full and final settlement of the same;

(v) Award costs of and incidental to this application;

(vi) Pass such other orders or directions as deemed just fit and necessary in the facts and circumstances of the case.”

2. The brief facts of the case are that the applicant was initially appointed as a Technician under the respondents on 30.6.1982. The scale of pay attached to the post was Rs. 330-480/- which was given a IVth CPC replacement scale of Rs. 1,200-1,800/-. The applicant was promoted as Senior Technician with effect from 31.7.1987 in the scale of Rs. 1,320-2,040/-. The scales of Rs. 1,200-1,800/- and Rs. 1,320-2,040/- were given the Vth CPC scale of pay of Rs. 4,000-6,000/-. However, on implementation of the decision of the apex court in *Union of India v. AIR & Doordarsan Technical Employees' Association*, it was directed by the 2<sup>nd</sup> respondent

that the Technicians and Senior Technicians be granted 4<sup>th</sup> CPC replacement scale of pay of Rs. 1,400-2,300/- and 5<sup>th</sup> CPC replacement scale of Rs. 4,500-7,000/-. The applicant was promoted as Engineering Assistant in scale of Rs. 2,000-3,200/- with effect from 5.3.1991. The scale of pay of Rs. 2,000-3,200/- was replaced by the V<sup>th</sup> CPC scale of Rs. 6,500-10,500/- with effect from 1.1.1996. The applicant was further promoted as Senior Engineering Assistant in the then scale of pay of Rs. 7,450-11,500/- w.e.f. 15.6.2002. The scale of pay and the posts in Rs. 6,500-10,500/- and Rs. 7,450-11,500/- were merged together and granted the replacement pay band of Rs. 9,300-34,800/- plus Grade Pay of Rs. 4,600/- with effect from 1.1.2006. When the MACP scheme was introduced as per paragraph 5 of the scheme it was provided that promotions earned/upgradations granted under the ACP scheme in the past to those grades which now carry the same Grade Pay due to merger of pay scales/upgradation of posts recommended by the VI<sup>th</sup> Pay Commission shall be ignored for the purpose of granting upgradation under MACP scheme. Therefore, in the case of the applicant the promotion granted as Senior Technician and the promotion granted as Senior Engineering Assistant are to be ignored which means the applicant had only one promotion/financial upgradation as on 31.8.2008. As on date the applicant had a total service of about 26 years. The applicant also had a service of more than 17 years after his promotion as Engineering Assistant on 5.3.1991. Hence, the applicant was due to be granted 2<sup>nd</sup> financial upgradation in PB-2 plus Grade Pay of Rs. 4,800/- w.e.f. 1.9.2008 and further since the applicant have completed 20 years of service with effect from 5.3.1991 i.e. as on 4.3.2011 became entitled to be considered and

granted 3<sup>rd</sup> financial upgradation in PB-2 plus Grade Pay of Rs. 5,400/- w.e.f. 5.3.2011. The applicant submitted a representation Annexure A7 to the respondents but the respondents did not pay any heed to the same. Moreover, the applicant retired from service w.e.f. 30.4.2015. Since the respondents had not taken any action on the representation of the applicant, he filed OA No. 329 of 2015 wherein this Tribunal directed the respondents to consider the representation of the applicant and also to finalize the pension of the applicant. Accordingly, the respondents rejected the representation of the applicant by Annexure A3 without any application of mind nor based on any relevant material. Aggrieved the applicant has filed the present OA.

3. Notices were issued to the respondents. Shri S.R.K. Prathap, ACGSC entered appearance on behalf of the respondents and filed a reply statement contending that the applicant was appointed as a Technician on 30.6.1982 in the scale of pay of Rs. 330-480/- which was revised in 4<sup>th</sup> CPC to Rs. 1,200-1,800/-. The applicant was later promoted as Senior Technician with effect from 31.7.1987 in the scale of Rs. 1,320-2,040/- which was revised to Rs. 4,000-6,000/- by 5<sup>th</sup> CPC. The applicant again got promotion as Engineering Assistant with effect from 5.3.1991 and further promoted as Senior Engineering Assistant with effect from 15.6.2002 from which he superannuated from service on 30.4.2015. The contention of the applicant that the posts of Technician and Senior Technician merged together is not true as vide Annexure R2 it clearly stipulates that the posts of Technician and Senior Technician are not merged and till now these two posts have

separate entity. Further if a Technician got promotion as Senior Technician during the period from 1.7.1983 to 31.12.1995, it will be treated as promotion and counted for the purpose of MACP also. The applicant on promotion as Senior Technician w.e.f. 31.7.1987 got the benefit of pay fixation under FR 22(1)(a)(1). Therefore, he got his upgradation on 31.7.1987 as admissible under MACP. Further the upgraded pay scale has been granted to the applicant as an employee of Prasar Bharati with the undertaking that in the event of opting to become Government employee, he should refund all payment including arrears. So the reduction of payment of pension as alleged by the applicant is totally incorrect. The retirement benefits like pension, gratuity, commuted value of pension, etc. have already been settled taking into account his entitled Grade Pay of Rs. 4,600/- in PB-2 Rs. 9,300-34,800/-. Moreover, the benefits of MACP are allowed in the Grade Pay hierarchy and any upgradation availed during the service career would be counted against the three upgradations permissible under the MACP. The applicant himself is well aware that he is not entitled for the benefit of Grade Pay of Rs. 5,400/-. The Grade Pay of Rs. 4,800/- was granted to the applicant erroneously and on the moment it came to the knowledge of the respondents his Grade Pay was reduced to Rs. 4,600/- from 1.9.2008. The respondents have every right to revise the pay of an incumbent if it is allowed erroneously. Respondents pray for dismissing the OA.

4. Respondent No. 5 also filed a separate reply statement reiterating the above position taken by respondents Nos. 1-4. It is submitted that PPO was

issued on 1.6.2015 itself and orders regarding sanctioning of retirement gratuity, commutation, EL encashment were also issued on the same date. The payment of commutation of pension, EL encashment were credited to the bank account of the applicant and demand draft of gratuity was handed over to the applicant. Further the residual gratuity of Rs. 1,00,000/- was also paid to the applicant through e-payment on 7.7.2015 by the 5<sup>th</sup> respondent.

5. We have heard Shri T.C. Govindaswamy, learned counsel appearing for the applicant and Shri S.R.K. Prathap, learned ACGSC appearing for the respondents. Perused the record.

6. The short points to be considered in the present case is whether there is any merger of the posts of Technician and Senior Technician as alleged by the applicant and whether the applicant is entitled for the Grade Pay of Rs. 4,800/- and 5,400/- or not ?

7. The applicant was appointed as a Technician on 30.6.1982 in the pay scale of Rs. 330-480/- which was later revised in 4<sup>th</sup> CPC to Rs. 1,200-1,800/-. The applicant was further promoted as Senior Technician with effect from 31.7.1987 in the scale of Rs. 1,320-2,040/- which was revised in 5<sup>th</sup> CPC to Rs. 4,000-6,000/-. He was granted the benefits of pay fixation under FR 22(1)(a)(1) on his promotion as Senior Technician. The respondents have categorically stated that vide Annexure A4 the pay scale for the post of Technician and Senior Technician was notionally enhanced to Rs. 425-700/- from 1.7.1983 to 31.12.1985. This was made to make these

scales with par with two other distinguished scales of Lighting Assistants I & II. Annexure R2 clearly speaks that the post of Technician and Senior Technician are not merged and till now these two posts have separate entity. Further if a Technician got promotion as Senior Technician during the period from 1.7.1983 to 31.2.1995, it will be treated as promotion and counted for the purpose of MACP. After the promotion of the applicant as Senior Technician he was further promoted as Engineering Assistant w.e.f. 5.3.1991 in the scale of pay of Rs. 2,000-3,200/- after allowing the usual fixation benefits and the scale was revised as per Vth CPC to Rs. 5,000-8,000/- which was later upgraded to Rs. 6,500-10,500/- w.e.f. 1.1.1996 as per the recommendations of the VIth CPC. The upgraded pay scale has been granted to the applicant as an employee of Prasar Bharati under the undertaking that in the event of opting to become Government employee, applicant would refund all payment including arrears. As contended by the respondents the Grade Pay of Rs. 4,800/- was granted to the applicant erroneously and the moment it came to the knowledge of the respondents his Grade Pay was reduced to Rs. 4,600/- from 1.9.2008. The applicant entered the service as a Technician with effect from 30.6.1982, got first promotion as Senior Technician on 31.7.1987, second promotion as Engineering Assistant with effect from 5.3.1991 and third promotion as Senior Engineering Assistant with effect from 15.6.2002. Thus, he got three promotions in his career. As per MACP scheme only three financial upgradations are available at the intervals of 10, 20 and 30 years of continuous regular service. The applicant got three direct promotions in his service and there is no question of further financial upgradation as claimed

by him.

8. In view of the above, we do not find any ground for interference in the matter. Therefore, the Original Application is liable to be dismissed. We order accordingly. No order as to costs.

**(ASHISH KALIA)**  
**JUDICIAL MEMBER**

**(E.K. BHARAT BHUSHAN)**  
**ADMINISTRATIVE MEMBER**

“SA”



**Original Application No. 180/00559/2015****APPLICANT'S ANNEXURES**

- Annexure A1** - True copy of Pension Payment Order bearing No. 285541500660 dated 1.6.2015 issued by the 5<sup>th</sup> respondent.
- Annexure A2** - True copy of Sanction order bearing No. CLT-13(2)2015-S(KVA)/1146 dated 5.6.2015 issued on behalf of the 4<sup>th</sup> respondent.
- Annexure A3** - True copy of speaking order bearing No. ADG(E)(SZ)/OA-180/00329 of 2015/2015/1488 dated 1.7.2015 issued by the 3<sup>rd</sup> respondent.
- Annexure A4** - True copy of order bearing No. 8/8/2006-S IV (A)/Part-1/107 dated 11.3.2014, issued by the 2<sup>nd</sup> respondent.
- Annexure A5** - True copy of orders of the Government of India, Ministry of Information & Broadcasting bearing File No. 515/09/2011-BA(E) dated 18.2.2014.
- Annexure A6** - True copy of office memorandum bearing No. 35034/3/2008-Estt(D) dated 19.5.2009 issued by the DoP&T.
- Annexure A7** - True copy of representation dated 28.8.2014 addressed to the 4<sup>th</sup> respondent.
- Annexure A8** - True copy of representation dated 6.4.2015 addressed to the 3<sup>rd</sup> respondent.
- Annexure A9** - True copy of interim order dated 29 Apr 2015 in OA No. 180/00329/2015 rendered by this Hon'ble Tribunal.
- Annexure A10** - True copy of order dated 4 June 2015 in OA No. 180/00329/2015 rendered by this Hon'ble Tribunal.
- Annexure A11** - True copy of order bearing No. 285541500660 dated 1.6.2015 (File No. 66/2015), issued by

the 5<sup>th</sup> respondent.

**RESPONDENTS' ANNEXURES**

- Annexure R1** - True copy of the order NO. 14/19/2014-SIV(A) dated 12.3.2015 issued by the Director General, All India Radio.
- Annexure R2** - True copy of the letter No. 14/18-2015-S.VI9A) dated 10.3.2015 issued by the Director General, All India Radio, New Delhi.
- Annexure R3** - True copy of the office memorandum No. 10/2/2011-E-III(A) dated 19.3.2012 issued by the Government of India, Ministry of Finance.
- Annexure R4** - True copy of the order No. CLT.10(2)/2012-Estt dated 7.12.2012.
- Annexure R5** - True copy of communication No. 310/173/97-B(D) dated 25.2.1999 issued by the 1<sup>st</sup> respondent.
- Annexure R6** - True copy of letter No. I.D. No. 47539/13/CR dated 10.7.2013 issued by Department of Personnel & Training.
- Annexure R7** - True copy of the letter No. 503/5/2014-BA(E) dated 8.9.2014 issued by the Ministry of Information & Broadcasting.

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