

**Central Administrative Tribunal
Principal Bench, New Delhi**

**O.A. No.1938/2013
WITH
O.A. No.2985/2013**

Thursday, this the 21th Day of August, 2014

Honble Mr. G George Paracken, Member (J)
Honble Mr. Shekhar Agarwal, Member (A)

OA No.1938/2013

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.....Applicants

(By Advocate: Shri M.K. Bhardwaj)

VERSUS

1. The Secretary
Ministry of Information & Broadcasting
Shastri Bhawan, New Delhi.
2. The Secretary
Ministry of Personnel, Public Grievances & Pensions
(Deptt. of Personnel & Training)
North Block, New Delhi.
3. The Secretary
Ministry of Finance
Department of Expenditure

Implementation Cell
North Block, New Delhi.

4. The CEO
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5. The Director General
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6. The Director (Admn)
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7. The D.D.G. (Admn.)
All India Radio
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.....Respondents

(By Advocate: Shri M.S. Reen for respondent Nos. 1-3 and Shri Sahil Bhalaik for Shri Rajeev Sharma for Respondent Nos. 4-7)

OA No.2985/2013

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(By Advocate: Shri M.K. Bhardwaj)

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1. The Secretary
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Ministry of Personnel, Public Grievances & Pensions
(Deptt. of Personnel & Training)
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Ministry of Finance
Department of Expenditure
Implementation Cell
North Block, New Delhi.
4. The CEO
Prasar Bharati
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New Delhi.

5. The Director General
All India Radio
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Parliament Street
New Delhi.
6. Senior Accounts Officer
Pay & Accounts Office
All India Radio
New Delhi-110001.

.....Respondents

(By Advocate: Shri M.S. Reen for respondent Nos. 1-3 and Shri Sahil Bhalaik for Shri Rajeev Sharma for Respondent Nos. 4-6)

Order (Oral)

Shri G. George Paracken:

OA No.1938/2013

In this Original Application, the applicants have sought the following reliefs:-

- (i) Declare that all the applicants, on completion of 20 years period of service are entitled to and have acquired a vested prescriptive right to the grant of 2nd Financial Upgradation in the hierarchy of Hindi Translator/Hindi Officer, so existing in the Air, Hindi Translators carrying the pay scale in the PB-2 Rs.9300-34800 (Revised) G. Pay Rs.4200/- have been granted the 1st Financial Upgradation pay scale of Hindi Officer i.e. Rs.15600-39100 PB-3, G.P. 5400/- and are entitled to 2nd Financial Upgradation in PB-3 + Rs.6600/- grade pay at par with the Doordarshan Hindi Translators.
- (ii) Direct/command the respondent to grant all the applicants having already been granted 1st Financial Upgradation, benefit of 2nd Financial Upgradation under the MACPS w.e.f. the date of completion of requisite 20 years period of service on the lines and at par with the similar situate Hindi Translators of the Doordarshan, with arrears and 24% interest on the resultant amount.
- (iii) Direct/command the respondents to grant the financial upgradation, by way of 2nd MACP, on the lines and by applying the same Rules Policy, based on which similar situate Hindi Translators of Doordarshan have been granted with all consequential benefits of Pay Fixation and Payment of resultant arrears with 24% interest P.A.

2. During the pendency of this OA, the respondent-Prasar Bharti has issued order No.11/5/2011/SVI/128 dated 17.04.2014 stating that in pursuance of Department of Personnel & Trainings O.M. No.35034/3/2008-Estt(D) dated 19.05.2009 and on the recommendation of the Screening Committee held on 09.04.2014, 47 AD(OL)/Hindi Translators working in AIR Stations/Offices, who have completed 20 years of regular service have been granted 2nd financial upgradation under the MACP Scheme in the grade of Rs.6600 in PB-3. In the said order, it has also been stated that the same has been issued subject to the clarification from M/o Information and Broadcasting/DOP&T. The relevant part of the said order reads as under:-

“6. Consequent upon the objections raised by Deptt. of Expenditure, Ministry of Finance, the matter regarding the grade pay to be given to Hindi Translators has been under reference to MoI&B/DoP&T for clarification. Accordingly, the pay fixation in r/o the above officials will be subject to the clarification by the DoP&T. The excess payment thus made, if any, will be adjusted against the future payments in favour of the above officials.”

3. Learned counsel for the applicants has submitted that except in the case of one of the Applicants Ms. Shyamawati Pathak, Hindi Translator, the grievance of all the other applicants has been met with the issuance of the aforesaid order dated 17.04.2014 and their pay has also been fixed in the revised grade pay as aforestated.

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4. This Original Application has been filed by Smt. Shyamwati Pathak and six others who are applicants in OA No.1938/2013(supra) also. Their prayers in this OA are as under:-

- (i) Set-aside and quash Respondent No. 6s orders No.PAO/AIR.ND/PENSION/856 dated 26.08.2013, and reduction of pay orders bearing No.DEL-1(10)/07-13-S-III/3124 dated 26.08.2008.
- (ii) Direct/command the Respondents to maintain the benefit of orders bearing No.DEL-1(10)/07-S-III dated 07.09.2009 and implement the DG/AIRs orders bearing No.7/5/2010-SVI/418 dated 30.07.2013, and await the decision of the Prasar Bharti in the matter as already decided and mentioned in the orders of abeyance.

Interim Relief:

In view of the humble submissions made, facts and circumstances explained, it is respectfully prayed that the Honble Tribunal be graciously pleased to restrain the Respondents from giving effect to the Senior Accounts Officers letter bearing No.PAO/AIR.ND/PENSION/856 dated 26.08.2013, alongwith pay reduction orders of Applicant No.1 dated 26.08.2013, failing irreparable loss will be caused as Applicant No.1 is retiring on 31.08.2013 and her pension is being reduced arbitrarily and without any competency, cause of action arose with the issue of the impugned orders dated 26.08.2013, and balance of convenience lies in favour of the applicants. Prayed accordingly, in the interest of justice.

5. The learned counsel for the Applicant has submitted that with the issuance of the aforesaid order No.11/5/2011/SVI/128 dated 17.04.2014, the grievance of all the applicants in this OA also except that of Ms. Shyamwati Pathak has been met. In the case of Ms. Shyamwati Pathak, the respondents have issued a separate Notification No.Delhi-1(10)/07-13/S-13/237 dated 01.05.2014 stating that since she has already retired from service and it would not be possible to effect the resultant recovery from her pay as in the case of other serving Applicants, fixation of pay in the higher grade will be done only after receipt of clarification of the DOP&T.

6. According to the learned counsel for the applicants, no clarification is required in the matter as stated by the respondents in their aforesaid order dated 17.04.2014. He has also stated that Smt. Shyamwati Pathak alone cannot be treated differently to her disadvantage just because she has retired from service.

7. We have heard the learned counsel for the parties. In our considered view, the stand taken by the respondents in the case of Smt. Shyamwati Pathak, is not legal and, therefore, it is not acceptable. We agree with the learned counsel for the Applicant that just because she has retired from service, she cannot deny the benefit of the revised grade to her in such an indefinite manner.

8. In the above facts and circumstances of the case, we set aside the aforesaid Notification dated 01.05.2014 and direct the respondents to treat Smt. Shyamwati Pathak as also at par with other similarly placed applicants in the matter of granting grade pay of Rs.6600 in PB-3 and to fix her pay accordingly without any delay. We also make it clear that if any recovery is going to be made from any of the applicants including Smt. Shyamwati Pathak, the respondents shall do so only after putting them on advance notice. Further, we make it clear that in the event of such recovery, just because Smt. Shyamwati Pathak is retired, she will not get any exemption.

9. With the above directions, both these OAs are disposed of. There shall be no order as to costs.

Let a copy of this order be placed in both the case files.

(Shekhar Agarwal)
Member(A)

(G. George Paracken)
Member (J)

/vb/