

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00702/14

Reserved on: 30.07.2019
Date of Order: 01.08.2019

C O R A M

HON'BLE MR. JAYESH V. BHAIRAVIA, JUDICIAL MEMBER
HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER

1. Brij Kishore Roy, S/o Langtu Roy, r/o CB-19, Biswas Apartment, Christian Colony, Keshwa Lal Road, Lodipur, Patna.
2. Harendra Kumar Mishra S/O Adya Saran Mishra Resident of Malvey Nagar, Sareya, Ward No. 4, Gopalganj.
3. Sudhanshu Kumar, S/o Late Kaleshwar prasad, Resident of Mohalla-Anishabad, PS- Gardanibagh, District- Patna.

.... Applicants.

By Advocate: - Mr. S.K. Bariar

-Versus-

1. The Secretary, Ministry of Information and Broadcasting, Govt. of India, 'A' Wing, Shastri Bhawan, New Delhi-110001.
2. The Chief Executive Officer, Prasar Bharti, Prasar Bharati Secretariat, 2nd Floor, PTI Building, Sansad Marg, New delhi-110001.
3. The Joint Secretary(B), Ministry of Information and Broadcasting, Govt. of India, 'A' Wing, Shastri Bhawan, New Delhi-110001.
4. The Director General, Directorate of All India Radio, Akashwani Bhawan, Sansad Marg, New delhi-110001.
5. The Director General, Doordarshan, Doordarshan Bhawan, Copernicus Marg, New Delhi-110001.
6. The Additional Director General (Adm.), Doordarshan, Doordarshan Bhawan, Copernicus Marg, New Delhi-110001.

.... Respondents.

By Advocate: - Mr. H.P. Singh, Sr. SC
Mrs. P.R. Laxmi

O R D E R

Per Dinesh Sharma, A.M:- The prayer of the applicants in the instant OA is for grant of first ACP in the pay scale of Rs. 10000-15200/- corresponding to the analogously pre-revised pay scale of Rs. 7500-12500/- vide letter

dated 25.02.1999 at par with the Assistant Surveyor/Assistant Engineer of Civil Construction Wing, All India Radio and Doordarshan under the same Department/Ministry along with all the consequential benefits.

2. The applicants have argued that for several years they are working on the post of Senior Engineering Assistants (Grade Pay of Rs. 6600/- for applicant no. 1 and 2 and Grade Pay of 5400 for applicant no. 3) though their Grade Pays are equivalent to the post of Dy. Director (Engg.)/Executive Engineer (Grade Pay 6600). When the applicants were granted 1st ACP after completion of 12 years it was done in the pay scale of Rs. 8000-13500 while the Assistant Surveyors/Assistant Engineers of Civil Construction Wing were granted 1st ACP in the pay scale of 10000-15200. This discrimination amongst similarly situated persons amounts to violation of Article 14 and 16 of Constitution of India and hence, this OA.

3. The respondents have filed a counter affidavit in which they have denied the claim of the applicants. They have alleged that the scales of the employees are fixed as per the 5th CPC and pay scale of 5000-8000 was granted to EAs and Rs. 5500-9000 to Sr. EAs w.e.f. 1.1.1996. These were further upgraded by the Ministry vide its order dated 25.02.1999 to 6500-10500 and 7450-11500 respectively as Prasar Bharti's scale on condition that the beneficiaries opt to become Prasar Bharti employee. A section of the employees including the applicants did not agree to the above conditions and filed an OA (662/2004) before this Tribunal. The Tribunal ordered to grant the pay scale of Rs. 6500-10500/- as personal to them. One of the applicants Shri B.K. Roy who had earlier agreed to the conditions put

by the Ministry of I&B opted to revert to the pay scale granted by the Hon'ble Tribunal in OA 662/2004. It is also alleged that the applicants had filed another OA 514/2002 for grant of pay scale of 10000-15200. The Tribunal ordered to grant the pay scale of 8000-13500 as 1st ACP benefit which was accepted by the applicant at that time. The request of the applicants for 1st ACP benefit in the pay scale of 10000-15200 has already been considered and decided by the Tribunal in OA 514/2002. Thus, the cause of action and the reliefs sought in this OA are the same as was sought by the applicants while filing OA 514/2002. Concealing of this fact by the applicants amounts to perjury. It is also further submitted that the Ministry vide its order dated 25.02.1999 had upgraded only the pay scales granted to certain categories of employees by the 5th CPC and not the pay scale of Rs. 6500-10500 granted by this Tribunal in OA 662/2004. The applicants' claim, that the pay scale of 6500-10500 has been uniformly upgraded to 7500-12000 by the Ministry, is therefore misleading. The applicants hold a lower status and pay scale compared to the Assistant Surveyors/Assistant Engineers. The post AE is the next post in the promotional hierarchy of the applicants and therefore there is no justification to seek comparable ACP benefits granted to employees holding higher status.

2. We have gone through the pleadings and heard the arguments of learned counsels. Since it has been categorically denied by the respondents that the applicants and the Assistant Engineers/Assistant Surveyors are employees of the same status, the prayer of the applicants, on ground of treating them equal with these categories of employees, is not

tenable. No rejoinder has been filed by the applicants denying this assertion of the respondents. The OA is, therefore, dismissed. No order as to costs.

[Dinesh Sharma]
Administrative Member
Srk.

[Jayesh V. Bhairavia]
Judicial Member