

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

**O.A. No.3048/2012
Wednesday, this the 5th Day of November, 2014**

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

1. Brham Parkash Dhaman
S/o Late Sh. H.D. Lal
R/o 26-CC Block, Ajay Enclave Extension
Main Ashok Nagar, Delhi-110018.
2. Praveen Kumar Sharma
S/o Sh. Ram Lubhaya Sharma
R/o 44, Akash Nagar Kotra
Sultanabad, Bhopal, Madhya Pradesh.Applicants
(By Advocate : Dr. Ashwani Bhardwaj)

Versus

1. Union of India
Through the Secretary
Ministry of Information & Broadcasting
601, Shastri Bhawan, New Delhi-110001.
2. Director General, Doordarshan
Doordarshan Bhawan
Copernicus Marg
New Delhi-110001.Respondents

Order (Oral)

Shri G. George Paracken:

The applicants in this case are seeking Grade Pay of Rs.5400, which, according to them, has been granted to the similarly situated persons as well as the Engineering Assistants and Senior Engineering Assistants, w.e.f. 01.01.2006. In this regard, the applicants have relied upon an earlier Order of this Tribunal dated 06.08.2010 in OA No.2662/2009-R K Jain and Ors. v. Union of India through the Secretary, M/o Information & Broadcasting and Anr.

2. The brief facts of the case are that the applicant No.1 joined the respondents as Technical on 27.07.1978. He was promoted after departmental examination as Engineering Assistant in April, 1989. He was again promoted after passing the departmental examination as Assistant Engineer on 14.12.2004. Similarly, Applicant no.2 joined the respondents as Technician on 24.10.1973 and became Senior Technician on 11.02.1978. After passing the departmental examination, he was also promoted as Engineering Assistant on 02.03.1987. He was again promoted after passing the departmental examination as Assistant Engineer on 13.12.1999. Both of them have been performing their duties as Assistant Engineers in the scale of pay of Rs.7500-250-12000, which was revised by the 6th Central Pay Commission to Rs.9300-34800 in the Grade pay of Rs.4800/-. After the acceptance of recommendations of the 6th CPC, they became entitled to the grade of Rs.5400 in PB-2 on non- functional basis after completion

of four years of regular service in the grade of Rs.4800/- in PB-2 in pursuance of the Resolution dated 29.08.2008 passed by the Ministry of Finance, Department of Expenditure and notified in the Gazette of India. They have also stated that the respondents have implemented the aforesaid resolution partially vide order dated 8.09.2008 and the applicants were placed in the revised pay structure as per the recommendations of 6th CPC vide office order dated 23.09.2008. They have also stated that in the aforesaid facts and circumstances of the case, similarly placed persons approached this Tribunal vide OA No.2662/2009 (supra) which was allowed by this Tribunal vide order dated 06.08.2010. The said order being a short one, reads as under:-

Applicants, who were on deemed deputation to Prasar Bharati, are still governing the conditions of service as compared to their counterparts in Central Government, as reflected from the Cabinet decision taken on 29.1.2009 whereby it is decided that all the employees, who are on deemed deputation as certified under RTI appended at page 116 of the paper book, shall be entitled to the pay scale and other benefits as per their entitlement.

2. It is no more res integra that as the counterparts in Department of Posts have been placed in the PB-III with grade pay of `5400/-, the applicants are being entitled for the same. However, they are not being granted the grade pay of `5400/-. The only justification, which has come forth by the respondents in their reply and also a proposal, which the Ministry of Finance has turned down on 7.7.2009 firstly on the ground that upgraded pay scales as recommended by 6th CPC for certain section of Central Government employees and common category posts cannot be implemented in the case of employees working in Prasar Bharati, which is an autonomous organization and secondly the revised pay structure notified vide para 1 (x) (a to e) of Departments Resolution dated 29.8.2008 is applicable to the category/cadre of Group B officers. As such, in the case of those Group B officers whose category/cadre is not mentioned in the said paragraphs of the departments above-mentioned Resolution cannot claim upgradation based on it. Further, revised pay structure of Assistant Engineers working in Central Government Departments like CPWD, etc. has been separately notified vide CCS (Revised) Rules, 2008 and the same, as notified by the Government, is grade pay of `4600 in PB-II.

3. We have carefully considered the rival contentions of the parties and perused the records.

4. An information under RTI served upon the applicant clearly indicated that the decision referred to above in clause 1 (x) (a to e) of the Resolution dated 29.8.2008 placing Group B employees in the grade pay of `5400/- covers the applicants in the present OA but it does not entitle the employees of autonomous body. As we find on an admitted stand that the applicants are still the Central Government employees on deemed deputation to Prasar Bharati vide a Cabinet decision, the pay structures granted to the employees of Central Government shall mutatis mutandis apply to the applicants and rejection of their request for grade pay of `5400/- is not justifiable.

5. Resultantly, OA is allowed and impugned decision of the respondents is set aside. Respondents are directed to accord grade pay of `5400/- in PB-III after completion of four years regular service in grade pay of `4800/-, with all arrears, within a period of two months from the date of receipt of a copy of this order. No costs.

3. Learned counsel for the applicant has submitted that the aforesaid order has been implemented by the respondent vide their order dated 13.12.2011 subject to filing the review in the aforesaid OA. The said order is reproduced as under:-

PRASAR BHARATI
(BROADCASTING CORPORATION OF INDIA)
DIRECTORATE GENERAL ALL INDIA RADIO
AKASHVANI BHAVAN: New Delhi

File No.8/14/2010-S-IV(B)

Dated 3.12.2011

Order

Shri R.K. Jain, Assistant Engineer, DG: Doordarshan and others had filed O.A. **No.2662/2009 before Honble CAT, PB, New Delhi claiming therein grade pay of Rs.5400/- in pay band-II.**

In pursuance of CAT's order in said O.A. it has been decided to grant Grade Pay of Rs.5400/- in PB-2 on non-functional basis to the applicants after having put in 4 years of regular service in the grade pay of Rs.4800/- in PB-2 subject to outcome of the Review Petition filed by the Department.

It is clarified that grant of the higher grade pay of Rs.5400/- in PB-2 on non-functional basis is not linked to vacancy and may be given retrospectively w.e.f. 1/1/2006 provided the applicants have;

(i) Completed minimum 4 years of regular service as on 1/1/2006 as Assistant Engineer & is clear from vigilance angle.

(ii) Applicants who have not completed 4 years regular service as Assistant Engineers shall be entitled to this pay scale immediately on completion of 4 years regular service in the AE cadre provided they are cleared from vigilance angle.

It is further clarified that the non-functional Grade Pay of Rs.5400/- in PB-2 will not be granted to such of those Group B officers who have got the Grade Pay of Rs.4800/- on up-gradation under the modified assured career progression scheme.

This issued with the approval of the Competent Authority.

(N. Srivastava)
Dy. Director of Admn.(E)

4. Thereafter, the respondents filed a Review Application No.12/2012 in the aforesaid OA but the same was also dismissed on 17.04.2014.

5. The respondents have filed their reply. They have not disputed the fact that the applicants are similarly placed as the applicants in OA No.2662/2009(supra). They have, in fact, stated that this OA is liable to be allowed.

6. In view of the above position, we allow this OA and direct the respondents to grant grade pay of Rs.5400 in PB-2 to the applicants after completion of four years of regular service as in the case of similarly situated persons and pass appropriate orders within a period of two months from the date of a copy of this order. There shall be no order as to costs.

(Shekhar Agarwal)
Member(A)

(G. George Paracken)
Member (J)

/vb/