

Central Administrative Tribunal
Principal Bench
New Delhi

C.P.No.357/2015
in
O.A.No.2591/2013

Order Reserved on: 07.03.2016
Order pronounced on 10.03.2016

Hon'ble Shri V. Ajay Kumar, Member (J)
Hon'ble Shri Shekhar Agarwal, Member (A)

1. Vinod Kumar, Age 51 years
S/o Shri Narayan Das Soni,
R/o D-7/11, Radio Colony,
Kingsway Camp, Delhi-09.
2. K. Narayanan, Age 49 years
S/o Shri S. A. Kopandaraman,
R/o DB-401, Block 4A, Prasit Flat,
HUDCO Place, New Delhi-49.
3. Ms. Priyanka Kappor, Age 46 years
D/o Sh. Bharat Kumar,
R/o B-107, Pandara Road, Delhi-1.
4. Harish Chandra Joshi, Aged 49 years
S/o Sh. Devi Dutt Joshi,
R/o D-2/6, R. Colony, Kingsway Camp, Delhi.
5. Durgesh Kumar, aged 47 years
S/o Sh. Vijay Singh,
R/o C-220/1, Defence Enclave,
Meerut Cantt.(UP).
6. Uma Kant Joshi, aged 46 years
S/o Late Shri M.N. Joshi,
R/o C-9/13, Radio Colony, Kingsway Camp
Delhi-09.
7. Ram Prakash Sharma, aged 46 years

S/o Shri Shiv Dayal Sharma,
R/o E-555, Gaur Home, Govindpuram,
Ghaziabad (UP). ... Applicants

(By Advocate: Sh. A.K.Bhakt)

Versus

1. Sh. Bimal Julka
Secretary,
Ministry of Information and Broadcasting,
Govt. of India, Shastri Bhawan, New Delhi-110001.
2. Sh. Vijaya Lakshmi Chhabra
Director General,
Doordarshan,
Mandi House, Copernicus Marg,
New Delhi.
3. Sh. Fiaz Shaharyar
Director General,
All India Radio,
Akashwani Bhawan, Sansad Marg,
New Delhi. ... Respondents

(By Advocate: Shri S. M. Arif with Sh. Sameer Agrawal)

ORDER

By V. Ajay Kumar, Member (J):

The OA No.2591/2013 filed by the applicants was disposed of by this Tribunal by its order dated 28.01.2015, as under:

"The prayer made in the OA is for issuance of directions to the respondents to grant financial upgradation under ACP Scheme. For easy reference, the prayer clause is reproduced hereinbelow :-

"(i) That the Honble Tribunal may graciously be pleased to pass an order of quashing the impugned order dated 19.10.2012 (colly) (Annex.A/1), declaring to the effect that the same is illegal, arbitrary and discriminatory and consequently, pass an order directing the respondents to consider the case of the applicants for granting first financial up-gradation under ACP Scheme on completion of 12 years of service in the grade of Rs.8000-13,500/- from due date and granting 2nd financial up-gradation on completion of 24 years of service in the pay scale of Rs.10000-15200 from due

date with all consequential benefits including the fixation of pay and arrears of difference of pay and allowances with interest, by way of extending the benefit of judgment dated 07.09.2009 passed by Honble Patna Bench in OA No.514/2002.

(ii) That the Honble Tribunal may graciously be pleased to pass an order declaring to the effect that the whole action of the respondents not extending the benefit of judgment of Patna Bench is illegal, arbitrary and discriminatory in the eyes of law.

(iii) Any other relief which the Honble Tribunal deem fit and proper may also be granted to the applicants."

2. The learned counsels for the parties are ad idem that the issue involved in the present OA is in all fours of the order dated 07.09.2009 passed by the Patna Bench of this Tribunal in OA No.514/2002 - Akashwani & Doordarshan Diploma Engineers Association through its President Vs. UOI & Ors. The operative part of the said order reads thus:-

"9. This O.A. is, therefore, allowed. The respondents are directed to grant the applicants the pay scale of Rs.8000-13500 as and when they have completed 12 years service in the pay scale of Rs.6500-10500. The arrears should also be paid to the applicants. The respondents are directed to issue orders regarding ACP promotion to the applicants within a period of two months from the date of receipt of a copy of this judgment. The arrears may be calculated and paid to them within one month thereafter.

10. With these directions, this O.A. stands disposed. No costs."

3. In view of the stand taken by the learned counsel for respondents, the OA is disposed of with a direction to the respondents to extend the aforementioned benefits to the applicants herein as expeditiously as possible preferably within a period of eight weeks from the date of receipt of a copy of this order. No costs."

2. Alleging non-implementation of the aforesaid orders, the applicants in the OA filed the present CP.

3. Heard the learned counsel appearing on behalf of both the parties and perused the pleadings on record.

4. The learned counsel for the respondents while drawing attention of this Tribunal to the Minutes of the Screening Committee held on 12.10.2015 to consider the cases of Engineering Assistants (EAs),

Senior Engineering Assistants (SEAs) and Assistant Engineers (AEs) for 1st Financial Upgradation under the ACP Scheme and to the consequential Speaking Order dated 13.10.2015 submits that they have fully complied with the orders of this Tribunal and accordingly prays for dismissal of the CP.

5. This Tribunal, by observing that in the identical circumstances the Patna Bench of this Tribunal in **Akashwani and Doordarshan Diploma Engineers Association through its President v. Union of India & Others** in OA No.514/2002 granted similar reliefs by its order dated 07.09.2009, disposed of the OA No.2591/2013 also by directing the respondents to extend the same benefits.

6. This Tribunal in various other identical OAs issued directions to the respondents to consider the cases of the applicants therein and to pass appropriate orders by keeping in view the decision in OA No.514/2002 (supra) of Patna Bench. The respondents by conducting a Screening Committee considered the cases of the various identically placed persons, including the applicants, and by way of passing speaking order on 13.10.2015, rejected the claims of the applicants and others by holding that they are not identically placed like the applicants in OA No.514/2002 of the Patna Bench. It is also further submitted on behalf of the respondents that they have filed CWJC No.6451/2010 before the Hon'ble Patna High Court against the orders of the Patna Bench in OA No.514/2002 and that the same was disposed of on 25.08.2010 as under:

“We find some substance in the submissions advanced on behalf of petitioners that the learned Tribunal in paragraph 9 of the impugned order should have directed the authorities only to consider the case of the applicants for grant of benefits under the ACP on completing 12 years of service in accordance with scheme of ACP and the clarification contained in DOPT dated 10.2.2010(sic) (2000). In our view also the learned Tribunal should not have issued a general direction to cover cases of all the individuals because under the ACP scheme cases of individuals require consideration. Now once the doubts relating to cases of the employees have been cleared, they are directed to consider the grant of benefits of ACPS to the applicants before the Tribunal within a period of 3 months from today in accordance with law and the observations made in this order and the order of the learned Tribunal.”

7. In view of the same, they have independently scrutinized all the cases including the applicants' case and accordingly rejected their claim, on merits, by passing the speaking order on 13.10.2015, as, according to them, they are not identically placed like the applicants in OA No.514/2002.

8. The learned counsel for the petitioners while not disputing the aforesaid fact, however, submits that in other OAs the direction to the respondents was to consider whether they are indentially placed like the applicants in OA No.514/2002 and whereas in their OA No.2591/2013, the direction was to extend the benefits of OA No.514/2002 to the applicants, and hence, the action of the respondents cannot be treated as valid compliance of the orders of this Tribunal.

9. It is to be seen that this Tribunal disposed of the OA No.2591/2013, summarily and without going into the merits of the case and that the Hon'ble High Court of Patna while disposing of the CWJC No.6451/2010 (supra) also observed that the direction should

only be to consider the cases of the applicants but not to grant the same, without examining each case on its own merits.

10. This Tribunal, noticing the speaking orders dated 13.10.2015 passed by the respondents, dismissed various identical CPs, i.e., C.P.No.68/2015 in OA 3580/2014 on 16.10.2015, C.P.No.197/2015 in OA 4520/2013 on 16.10.2015 and C.P.No.445/2015 in O.A.No.2852/2013 on 5.11.2015.

11. In the circumstances, and in view of the substantial compliance of the orders of this Tribunal by the respondents, we do not see any merit in the CP, and accordingly the same is closed and notices are discharged. No costs.

12. However, the petitioners are at liberty to question the speaking orders dated 13.10.2015 in accordance with law, if so advised.

(Shekhar Agarwal)
Member (A)

(V. Ajay Kumar)
Member (J)

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