

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2797 of 2014

- =====
1. Narendra Kumar Srivastava, Son of Late Munna Lal Srivastava, R/o DDK Lay Centre, P.O. & P.S. Siwan, District – Siwan, Posted as Engineer Assistant, at Siwan, Now Doordarshan Maintenance Centre, Motihari.
2. Krishna Kumar Gupta, S/o Kamta Prasad Gupta, R/o Bhadurpur, District - Patna
3. Awadesh Kumar Pandey, S/o Murlidhar Pandey, R/o DDK Centre, Now Doordarshan Kendra, Patna.
4. Mahesh Lepcha, S/o Late Lalit Narayan Puri, R/o Lodhipur, Patna, P.O. & P.S. – Fatwh, District – Patna, Posted as Senior Engineering Assistant at DDK, Saharsa Now posted as Senior Engineering Assistant, DDK, Patna.
5. Gyan Prakash Mishra, S/o Late Radha Raman Mishra, Engineering Assistant, DDK, Patna Now All India Radio, Sasaram.
6. Amlendu Kumar Choudhary, S/o N.K. Choudhary Engineering Assistant, DDK, Now LPTV, Sitamarhi Now LPTV, Sitamarhi (Bihar).

.... Petitioner/s

Versus

1. The Union of India, Through Secretary, Ministry of Information and Broadcasting Shastri Bhavan, New Delhi.
2. The Chief Executive Officer, Prasar Bharati, Broadcasting Corporation of India, Doordarshan Bhawan, Mandi House, New Delhi.
3. The Director General, Doordarshan, Doordarshan Bhawan, Mandi House, New Delhi.
4. The Director General, All India Radio, Akashwani Bhawan, New Delhi.
5. The Station Director, Doordarshan Kendra, Patna.
6. The Station Director, Air India Radio, Patna.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. M.P. Dixit
Mr. Sanjay Kumar Coubey

For the Respondent/s : Mrs. Nivedita Nirvikar.

=====

CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

and


HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 29-06-2015


An Interlocutory Application has been filed by the writ petitioners for early disposal of this writ petition, which has been admitted.



The grievance is that Doordarshan Authorities granted Assured Career Progression (hereinafter referred to as 'ACP') to everybody pursuant to earlier directions, as passed the order in Original Application No. 514 of 2002 by the Tribunal's Patna Bench, but, as in the case of the petitioners, no such direction was given, rather in the course of litigation the Tribunal lost site of the issues and did not decide the issue. Petitioners' case for grant of ACP remains a far cry. All their colleagues have by now been granted ACP but there being no positive order by the Tribunal in their case, they have not been granted ACP.


We have heard learned counsel for the petitioners and learned counsel for the respondents at length and instead of passing only an interim order which would serve no or little purpose, with their consent, this writ application is being disposed of at this stage itself.

It appears that once the ACP scheme became applicable to the employees of Doordarshan (Ministry of Information and Broadcasting), Doordarshan has raised various misgivings only with intention to deny ACP. They started treating various incentives and increments as promotional benefits and thus, denying the rightful claims in regard to ACP. The matter was then brought to the Tribunal by the Akashwani and Doordarshan Diploma Engineers Association



through its President Brij Kishore Roy. The Tribunal having examined the case of the applicants, had given a finding therein and issued certain general directions. Doordarshan, being aggrieved, came to this Court in a writ petition. Substantially, the order of the Tribunal was affirmed and the writ petition was dismissed. The only change was that it was held that no sweeping directions could have been given by the Tribunal as case of each employee has to be dealt with individually upon its facts to determine their entitlement with regard to ACP. Not being satisfied, the respondents went to the Hon'ble Apex Court and their SLP was dismissed. In spite of this, the order of the Tribunal and the High Court were not being implemented. Application for initiating contempt proceeding was initiated before the Tribunal. Now, having no option, Doordarsan in purported compliance of order of the Tribunal started examining cases of individuals, but again for the old reasons, started rejecting the claims. This was again brought to the notice of the Tribunal and ultimately, Doordarsan decided to accept the directions and started implementing rightly the ACP Scheme. Curious to note that after more than three years, they then challenged the contempt proceedings and the orders passed therein before this High Court. As noted above, they had already accepted the order and had started implementing it. The High Court once again noticing the above facts in C.W.J.C. No. 1869 of

2015 dismissed the writ petition by order dated 12.05.2015.



In the present case, what happened is that the petitioners had gone to the Tribunal claiming ACP. While the Tribunal discussed every matter though all that was required was to reiterate its earlier order. It passed no operative order at all with regard to ACP. The result is that there being no order of the Tribunal, Doordarshan authorities are refusing to consider the case of the petitioners to grant ACP. We are surprised at the conduct of the Doordarshan Authorities. Once a statutory scheme is framed, then whether a person asked for a benefit thereunder or not, it becomes a statutory duty of the implementing authority to give benefit to the employees or the beneficiaries of the scheme. That is the command of law. No beneficiary has to go with a begging bowl to ask for what he is rightfully entitled to. It is only upon failure of the executive to perform its duty or when the executive disputes the entitlement, does that matter come to the Tribunal, but that does not mean that unless the Tribunal orders, the Executive can hold its hand and sit back without implementing the scheme. The attitude of Doordarshan appears to be that unless you get an order of the Tribunal to give you benefit of ACP, we shall not examine the case nor give you the benefit. A preposterous situation and total abdication of power and authority.

Without saying anything, we direct the authorities of Doordarshan to consider the case of each of the petitioners on its own merits in respect of grant of ACP and pass appropriate orders within two months from the date of filing of representation before the Director General, Doordarshan. The order passed by it, if disentitles them, in any manner, would be a speaking order giving reasons for the same. The matter, being old, it is expected that an early decision is taken, as noted above.

With the above observation and direction, this writ petition is disposed of.

(Navaniti Prasad Singh, J.)

(Rajendra Kumar Mishra, J.)

Shail/-

U			
---	--	--	--