

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No. 2449/2018

M.A. No. 2735/2018

New Delhi, this the 1st day of August, 2019

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)

1. Association of Akashvani & Doordarshan Engineering Employees (AADEE), New Delhi
Through its President
Shri Pulak Ray, Aged 55 years,
S/o Late Shri S.D. Ray,
R/o Quarter No.Q70, Nivedita Kunj,
Sector 10, R.K. Puram, New Delhi
Working as Assistant Engineer,
P&D, DG : AIR New Delhi.
2. Shri M. Chandrasekhar, Aged 52 years,
S/o Mahalinga Maniyani,
R/o 1-17-563, 4H-118,
Girinagar, Landlinks,
Konchady, Derebail P.O.
Mangalore, Karnataka-575008
Working as Engineering Assistant,
AIR Mangalore.
3. Shri Debasish Kumar, Aged 52 years,
S/o Dr. Baidyanath Kumar,
Malancha Apartment, Block C/5,
Flat No.6/1, 211 B.T. Road,
Baranagar, Kolkata-700036
Working as Engineering Assistant,
AIR Kolkata.
4. Shri P.K. Anilkumar, Aged 51 years,
S/o P.C. Karappan,
13 Silver Crest, Angelore CHS,
4 Pestom Nagar,

Chembur, Mumbai-400089
Working as Engineering Assistant,
DDK Mumbai.

5. Shri Manoj Kumar, Aged 51 years
S/o Shri Uday Veer Sharma
R/o H.No.11A/1, New Layal Pur,
Near Krishna Nagar,
Delhi-110051
Working as Engineering Assistant,
AIR BH, New Delhi.
6. Arvind Arora, Aged 52 years
S/o Shri Jang Bahadur Arora,
R/o B-2/49-C, Keshav Puram,
Delhi-110035
Working as Sr. Engineering Assistant,
DDK New Delhi.
7. Shri Sudhir Nayyar, Aged 50 years
S/o Shri P.C. Nayyar,
R/o A-3/3, Shivaji Apartments,
Plot-4/1, Sector-14, Rohini
New Delhi-110085
Working as Sr. Engineering Assistant,
AIR BH, New Delhi.
8. Shri Dip Bordoloi, Aged 57 years,
S/o Late Shri N.C. Bordoloi,
R/o Quarter No.14, Type-4,
Staff Quarter Complex,
All India Radio, Chandmari,
Guwahati-781003
Working as Sr. Engineering Assistant,
DDK Guwahati.
9. Shri Ashok Kumar Yadav,
Aged 49 years,

S/o Shri P.L. Yadav,
R/o Quarter No.360, F Block,
Type 3, Nanak Pura, Moti Bagh-II,
New Delhi-21
Working as Technician, DTP&S,
DG : AIR New Delhi.

10. Shri Gyanandra Muni Tyagi,
Aged 45 years,
S/o Shri R.S. Tyagi,
R/o C-11/7, Radio Colony,
Kingsway Camp, Delhi-110009
Working as Technician,
IT Divn., DG : AIR New Delhi.

11. Shri Shailendra Shah,
Aged 55 years,
S/o Shri Nand Lal Shah,
R/o 54B, Pocket A,
Mayur Vihar Phase 2,
Delhi-110091
Working as Assistant Engineer,
DD News, New Delhi.

.. Applicants

(By Advocate : Shri M.K. Bhardwaj)

Versus

1. Union of India
Through the Secretary
Ministry of Information & Broadcasting,
6th Floor, Shastri Bhawan,
New Delhi-110001.
2. The Secretary,
Department of Personnel & Training,
Ministry of Personnel, Public Grievances & Pensions

North Block, Raisina Hills,
New Delhi.

3. The Secretary,
Department of Legal Affairs,
Ministry of Law & Justice,
4th Floor, 'A' Wing,
Shastri Bhawan, New Delhi.
4. The Secretary,
Department of Expenditure,
Ministry of Finance, North Block,
Raisina Hills, New Delhi.
5. Prasar Bharti Broadcasting Corporation,
Through its Chief Executive Officer,
Prasar Bharti House,
Copernicus Marg, Mandi House,
New Delhi.
6. Director General,
All India Radio, Akashwani Bhawan,
Parliament Street, New Delhi.
7. Director General,
Doordarshan, Doordarshan Bhawan,
Copernicus Marg, Mandi House,
New Delhi.
8. Chief Controller of Accounts,
Ministry of Information & Broadcasting,
7th Floor, Shastri Bhawan,
New Delhi.

.. Respondents

(By Advocates : Shri Gyanendra Singh for R-1 to 4 & 8 and
Shri S.M. Arif with Shri S.M. Aatif and
Ms. Shabnam Perween for R-5 to 7)

O R D E R (ORAL)**Justice L. Narasimha Reddy, Chairman**

The Doordarshan was created and being operated by the Ministry of Information and Broadcasting (for short, M/o I&B), Government of India. The Government thought that it would be better if a separate entity is created for operating the Doordarshan with an element of autonomy. Accordingly, it was contemplated to create an autonomous body, known as Prasar Bharati. Then came the question of drawing the employees from M/o I&B to work in Prasar Bharati. It appears that many Technicians were reluctant to make their services available to Doordarshan under independent agency. With a view to attract such skilled staff, the M/o I&B issued an Order dated 25.02.1999, after undertaking prolonged discussion and negotiation with the Associations of the employees.

2. According to this, 11 categories of employees mentioned therein would be extended the benefit of scales of pay, in excess of the pay scale determined for the

concerned posts in the Ministries and establishments, on acceptance of the recommendations of the 5th Central Pay Commission (for short, 5th CPC). This, however, was subject to several conditions, such as, the employees being agreeable to be absorbed in the service of Prasar Bharati and filing an undertaking that they would refund the differential amounts, in case, the absorption does not fructify. The upgraded pay scales were extended and even arrears were paid to the employees of 11 categories, who opted to work in Prasar Bharti. The categories of employees, their number, the pay scales as per the 5th CPC and the upgraded scales of pay are reflected in a table appended to the said order.

3. The arrangement referred to above, however, was subject to the approval by the Department of Personnel & Training (for short, DoPT) and other concerned Ministries. It appears that once the higher scales of pay were allowed to 11 categories of posts, employees holding the similar posts in other Departments and Ministries started making

claims that they too are entitled for the same. Taking this and other aspects into account, the DoPT expressed the view that the extended scales of pay need not be continued and, if necessary, the difference of pay shall be adjusted against one of the MACPs of the concerned employees. It is, in this background, that M/o I&B issued an Order dated 31.01.2018. Reference was made to the opinion expressed by the DoPT and, ultimately, it was directed that the pay scales allowed through Order dated 25.02.1999, be treated as constituting an upgradation for MACP, for the concerned employees.

4. Before a final decision was taken in the matter, the issue was examined by a Committee of Joint Secretaries (for short, CoJS), that in turn, submitted a report recommending the withdrawal of upgraded scale. At that stage, an O.A. No. 691/2013 was filed before the Madras Bench of this Tribunal. Through an Order dated 09.01.2017, the Tribunal took note of the recommendations of CoJS and disposed of the O.A., directing the respondents

to pass a reasoned and speaking order on the recommendations made, by duly taking into account the representations made by the applicants. In compliance with the same, the respondents passed a speaking order dated 05.02.2018, directing that the recommendations of CoJS for withdrawal of the upgraded pay scales was not accepted, but the upgradation be treated as holding good and adjusted against one of the MACPs. It was also directed that if occasion arises for effecting any recovery, the principle laid down by the Hon'ble Supreme Court in **State of Punjab and others Vs. Rafiq Masih (White Washer) etc.**, (2015) 4 SCC 334, shall be followed.

5. This O.A. is filed challenging the speaking order dated 05.02.2018, the impugned order dated 31.01.2018 and for implementation of the order dated 25.02.1999. Reliefs are also claimed for merger of different posts into one, in several combinations.

6. The applicants contend that the impugned orders have the effect of withdrawing the benefit that was

extended to them through an Order dated 25.02.1999, and that it was done without any notice to them. It is also pleaded that the entitlement of the employees of different categories for the respective pay scales was decided by the Tribunal/Hon'ble High Courts and the Hon'ble Supreme Court in various cases and it was not open to the respondents to withdraw such benefits unilaterally.

7. The applicants further pleaded that the Order dated 25.02.1999 is the result of the recommendations made by the Anomaly Committee and a conscious decision was taken by the Government; and it ought not to have been withdrawn on the basis of the opinion expressed and dealt with in the manner provided in the orders. They contend that by drawing comparison and parity on the basis of the upgraded pay scale, other employees not covered by the 11 categories, have also got the benefits.

8. The Respondents filed a detailed counter affidavit in the O.A. It is stated that the Order dated 25.02.1999 was issued with a view to attract the talented employees in the

Ministry, at a time when the Prasar Bharati was constituted. It is stated that though higher pay scales were stipulated for limited categories of employees, drawn for the activities of Doordarshan and All India Radio, it so happened that other categories of employees started drawing comparison and similarity and it was becoming difficult for the Government to handle the situation. It is also stated that the concerned Ministry did not approve the proposal and, accordingly, the impugned orders were passed in such a way that no hardship is caused to the employees, who were extended the benefits.

9. Shri M.K. Bhardwaj, learned counsel for the applicants, has argued on the same lines, as indicated above. He pleaded that the arrangement in the Order dated 25.02.1999 is not an extraordinary benefit and it was based on the result of the deliberations in the Anomaly Committee for the employees concerned, and the very approach of the respondents is improper. He further submits that though the respondents pretend as though

some arrangements are made, in effect, it is nothing but withdrawal of benefit granted in the year 1999 in its entirety. Other contentions are also urged by him.

10. Shri Gyanendra Singh, learned counsel for respondents No.1 to 4 and 8, on the other hand, submits that in addition to challenging the said order, the applicants made prayers for the merger of different categories of posts under one scale of pay and for the extension of benefits.

11. Shri S.M. Arif, learned counsel for respondents No.5 to 7, raised an objection as to the maintainability of the O.A. claiming the multiple reliefs, which are unrelated to each other. He further submits that challenge to the impugned orders dated 31.01.2018 and 05.02.2018 has nothing to do with the merger of the posts and the O.A., to that extent, is liable to be rejected. Both of them submit that it was proposed to extend the benefit of higher scale of pay for 11 categories of employees, subject to the approval

of the concerned Ministry, but it so happened that operation of the pay scales resulted in several complications and, accordingly, an impugned order was passed, balancing the interest of the respondents, on the one hand, and the interest of the employees, on the other hand.

12. The 11 categories of employees, who were identified for the purpose of absorption into the proposed Prasar Bharati, their number, the pay scales which were fixed for the posts on the basis of the recommendations of the 5th CPC, as well as the pay scales offered to them through order dated 25.02.1999, are reflected in the following table:-

S. No.	Category of Posts	No. of Posts	Pay Scale as per Pay Commission recommendations (Rs.)	Upgraded Scale of pay (Rs.)
ENGINEERING CATEGORY				
1.	Assistant Engineers (including AEs in CCW)	1756 (+) 1322	6500-10500	7500-12000
2.	Sr.Engineering Assistant	2054	5500-9000	7450-11500

3.	Engineering Assistant	4246	5000-8000	6500-10500
4.	Senior Technician	1680	4500-7000	5000-8000
5.	Technician	2946	4000-6000	4500-7000
6.	Diesel Technician	140	4000-5000	4000-5000 (15% of Posts) 4500-7000 (20% of Posts)
7.	Mast Technician	70		5000-9000 (65% of Posts)
8.	Diesel Engine Driver	130	3050-4590	3050-4590 (75%) 3250-4900 (25%)
9.	Meloer	1312	2650-4000	2650-4000 (75%) & 3050-4590 (25%)
PROGRAMME CATEGORY				
10	Programme Executive	1961	5500-10500	7500-12000
11	Transmission Executive	1841	5000-8000	6500-10500

13. To understand the scheme properly, it becomes necessary to reproduce the entire order and it reads as under:-

“SUBJECT : UPGRADATION OF PAY SCALES OF
CERTAIN CATEGORIES OF
EMPLOYEES WORKING IN PRASAR
BHARATI.

1. The employees belonging to certain cadres in All India Radio and Doordarshan (particularly,

Subordinate engineering and programme cadres), had been agitating for grant of higher scales of pay than those recommended by the 5th Central Pay Commission and accepted vide Government of India Resolution of 30th September, 1997. The matter has been carefully considered by the Government and it has been decided to further upgrade the scales of pay of the categories of employees of All India Radio and Doordarshan, of Prasar Bharati (Broadcasting Corporation of India) as indicated against each category in Annexure-I.

2. The grant of revised pay scales as mentioned in para 1 above will be subject to the following conditions:

(i) The upgraded scales will be allowed not as Govt. employees per se but as Government employees currently in service of Prasar Bharti (Broadcasting Corporation of India). As and when the employees, presently working in All India Radio and Doordarshan are asked to exercise their option, those employees who do not opt for Prasar Bharti will revert as government servants and will no longer be entitled to above scales. They will also have to refund all benefits availed of by them as a result of the grant of higher scales of pay. They will be liable to recovery of all such benefits. An undertaking, in the proforma given at Annexure II to this effect has to be submitted by each and every employee concerned before availing the benefit of upgraded scales of pay. This is in accordance with their agreement with the Government to avail these upgraded scales on this condition only.

(ii) Upgraded pay scales would be effective from 01.01.1996 but payment of salary to employees as per upgraded scales of pay will be made with effect from 1st March, 1999.

(iii) The employees concerned will be entitled to arrears with effect from 1st January, 1996 and these arrears will be paid in instalments. The first instalment of arrears pertaining to the period from November, 1997 till February, 1999 will be paid by April, 1999. The second instalment pertaining to remainder of the arrears (i.e. arrears from 01.01.1996 to October, 1997) will be paid by April, 2000. The payment of arrears

shall be made after adjustment of the amount already paid to the categories of Technicians, Senior Technicians, Engineering Assistants and Senior Engineering Assistants on the basis of this Ministry's Office Memorandum No. 310/173/97-B(d) dated 05.12.1997.

(iv) In addition, the pay of those employees of All India Radio and Doordarshan who had been working as Transmission Executives as on 01.01.1978 or afterwards would be notionally fixed in the pay scale of Rs. 550-900 with effect from 01.01.1996. But as per their agreement with the Government, this will not entitle them to any payment of arrears for the period prior to 01.01.1996 and will be limited to fixation of their current pay as on 01.01.1996.

3. The pay fixation in the upgraded scales of pay shall be done as provided in CCS (RP) Rules, 1997.

4. The benefit of the upgraded pay scales will be available to existing incumbents only and those new direct recruits who join after issuance of these orders will not be entitled to these scales, but will be governed by pay scales recommended by the 5th pay Commission. However, all promotions of existing incumbents shall be made in upgraded scales only.

5. Further, Prasar Bharti (DG: AIR and DG:DD) are also requested to identify the posts in the grades of Helper, Diesel Engine Driver, Diesel Technicians and Mast Technicians, zone wise, for placing them in the upgraded scales of pay in order of seniority as per the percentage of posts shown against each category in Annexure-I. The number of posts in higher scales of pay shall be with reference to the sanctioned strength indicated in Annexure-I against each post.

6. This issues with approval of Integrated Finance Wing vide their u.o No. 245/99/Fin.I dated 23.02.1999."

14. From the perusal of this, it becomes clear that the proposal for the enhanced pay scales for the 11 posts mentioned above, was made to attract the employees for absorption. Conditions were also stipulated to the effect that in case the absorption does not materialise, the employee shall be liable to refund the differential amount.

15. Once the pay scale at a higher rate, as compared to those allowed to the similar employees in other Ministries and other establishments was noticed, claims started pouring in for extension of the benefits in those establishments also. The matter was referred to the DoPT and other Ministries, for their approval. The manner in which the DoPT reacted, is reflected in the order dated 31.01.2018. It reads as under:-

“Subject: Clarification on admissibility of MACP to TREX and some other cadres (Programme & Engineering Staff) – in pursuance of MIB order dated 25-02-1999-reg.

Sir,

In continuation of this Ministry's letter No. 503/5/2014-BA (E) dated 08-09-2014 and No. 515/04/2014-BA (E) dated 17-02-2015 on the above mentioned subject, I am directed to say that the Ministry

of Information & Broadcasting vide its letter No. 310/73/97-B(D) dated 25-02-1999 had issued order of upgradation of pay scales of certain categories of employees working in Prasar Bharti.

2. The issue regarding treatment of MIB's order dated 25.2.99 granting one scale above the scale recommended by Vth CPC to 11 categories of employees belonging to subordinate cadres of Programme and Engineering employees, as one upgradation against three upgradation under MACP Scheme or otherwise was referred to DOP&T and Department of Expenditure from time to time. DoPT vide its last advice dated 4th March, 2016 has advised that:-

“The DoPT has already given its advice. Since, now there are no new facts in this case, our earlier advice holds goods. As such it is stated that upgraded scales granted to 11 categories of employees of subordinate Engineering & programme cadre of Prasar Bharti is to be treated as one upgradation against the three upgradations allowed under MACP Scheme.”

The above views of DOP&T have been endorsed by the Department of Expenditure, Ministry of Finance.

3. In view of above advice of DOP&T, it is clarified that upgraded scales granted to 11 categories of employees of subordinate Engineering & programme cadre of Prasar Bharti is to be treated as one upgradation against the three upgradations allowed under MACP scheme and accordingly Prasar Bharti may take necessary action urgently in terms of DOP&T OM dated 02-03-2016 on recovery of wrongful/excess payments made to Govt. servants in pursuance of Hon'ble Supreme Court judgement dated 18-12-2014 in the case of State of Punjab & Ors. vs. Rafiq Masih (White Washer) etc. in CA No. 11527 of 2014 arising out of SLP (C) No. 11684 of 2012.

4. The necessary action to be taken by Prasar Bharti shall be subject to the outcome of WP No. 2034/2017 in the matter of DG:AIR Vs. Smt. Syamali Biswas filed in Hon'ble High Court, Delhi.

5. This issues with the approval of Hon'ble Minister of Information & Broadcasting."

16. This was preceded by the exercise undertaken by the Ministry itself. The CoJS was constituted to examine the issue. They recommended as under:-

- "i) The upgraded pay scales granted to 11 categories vide orders dated 25.02.1999 may be withdrawn. This is in consonance with the spirit of the then Cabinet decision according to which the employees were not to be entitled to the upgraded pay scales in the event of their not getting absorbed in Prasar Bharati. It may also be mentioned in this context that new recruits were, in any case, not being granted the upgraded pay scales. These 11 categories would, therefore, be entitled to pay scales drawn by direct recruits.
- ii) As far as the other categories are concerned, they have been given the pay scales recommended by the Fifth Pay Commission based on their qualifications and other criteria. Any disturbance of these pay scales may generate demands from various other categories in the Central Government which have similar qualifications. The demands for higher pay scale in the case of these categories has arisen due to the higher scales granted to the 11 categories and since, in the case of the 11 categories, it is proposed to withdraw the upgraded scales which was the basis of their demand for higher pay scales, this issue would be settled.
- iii) In view of the fact that the 11 categories which were granted higher pay scales have been drawing these pay scales for a long period and the sudden withdrawal of these scales would lead to a drop in their emoluments, it is recommended that treating these as cases of hardship, their basic pay may be protected till their next promotion/retirement,

whichever is earlier. Many of the employees may have already retired and recovery of pension would not be possible. This would also mean that no recoveries of any amount already paid due to grant of higher pay scales earlier would be required to be made.

- iv) Some of the Associations referred to stagnation in their cadres. The specific requirements of various cadres can be taken care of by cadre restructuring and better cadre management without altering the pay scales.
- v) Any other issues related to withdrawal of the higher scales can be examined on file by Ministry of I&B in consultation with DoPT/Ministry of Finance.”

From this, it is evident that the Committee noticed that the continuance of higher scales of pay for the 11 categories of employees turning out to be more problematic than serving the proposed object and, accordingly, recommended withdrawal of the same. The Ministry, however, decided not to withdraw the benefit but to adjust it against one of the MACPs. The conclusion arrived by the Ministry is reflected in paras 13 and 14 of the speaking order 05.02.2018. It read as under:

“13. Now, therefore, in compliance of the order of Hon’ble CAT, Madras dated 09.01.2017 in No.691/2013, the matter has been considered in the Ministry keeping in view above facts and circumstances and the competent

authority has decided not to accept the recommendations of CoJS for withdrawal of the upgraded pay scales of MIB order No.310/173/97-B(D) dated 25.02.1999. However, it has been decided in consultation with Department of Legal Affairs, Department of Personnel & Training and Department of Expenditure that the upgraded pay scales granted by MIB order dated 25.02.1999 will be counted as one financial upgradation against the three upgradations admissible under MACP Scheme.

14. Recovery of excess payment, if any, will be regulated by DOP&T OM No.F.No.18/03/2015-Estt. (Pay-I) dated 02.03.2016 issued in pursuance of Hon'ble Supreme Court judgment dated 18.12.2014 in the case of State of Punjab & Ors. Vs. Rafiq Masih etc. in CA No.11527 of 2014 (Arising out of SLP (C) No.11684 of 2012)".

17. What emerges from the above is that the pay scales mentioned in the order dated 25.02.1999 were subject to the approval of the concerned Ministry and fulfilment of several other conditions; but apart from not serving the objectives sought to be achieved, it was becoming source of trouble for various Ministries.

18. It is not uncommon that once a section of employees in the State and Central Governments get a higher rate of emoluments, other similarly situated employees working in the other Departments demand the extension of similar

benefits. Therefore, it was decided to discontinue the same. Then, arose the question about the method of undoing what was proposed in the order dated 25.02.1999.

19. The MACP Scheme contemplates the extension of benefit of next higher scale of pay, on completion of 10 years of service subject to fitness. The difference of the pay scales allowed to the 11 categories of employees was treated as holding good against one such MACP. For instance, the pay scale for the post of Assistant Engineer as per the 5th CPC, as allowed to all the concerned employees in other Departments is of Rs.6500-10500, what was allowed to the employees in Doordarshan was Rs.7500-12000. This is naturally the next higher scale of pay. Instead of withdrawing that, it was decided as holding good and to be adjusted against one of the MACPs.

20. The applicants, no doubt, would be subjected to some disadvantage on account of the steps contemplated under the impugned order. However, it would not result in any

recovery of amount already paid. At the most, it may lead to a situation where the future benefit may be reduced to certain extent. We can also stipulate the necessary safeguards in this behalf.

21. Once it emerges that what was allowed through the order dated 25.02.1999 is over and above the pay scales attached to the employees of similar nature with similar hierarchy in other establishments of the Government, the applicants cannot claim that benefit as of right. What can, however, be done is that the arrears whatever paid to them can be prohibited from being recovered and in future, the benefit can be adjusted against one of the MACPs, which either has already become due or becomes due in future. Learned counsel for the applicants sought to rely on certain judgements in support of his contention. Those, however, pertain to extension of benefits to other categories of employees and they do not have a direct bearing on this issue. He did not cite any precedent which prohibits the Government from correcting an anomaly or from taking the

corrective steps. This much can be stated that in the course of implementation of the impugned orders, the respondents cannot put the applicants or similarly situated employees in a condition which is disadvantageous compared to the counterparts in the other departments, with a similar hierarchy. For instance, an Assistant Engineer working in the Doordarshan or All India Radio, cannot be put in a condition which is disadvantageous, as compared to the one in which an Assistant Engineer of similar Department, such as Film Division, is working.

22. The reliefs claimed in the O.A. read as under:-

- “(i) Quash the impugned speaking orders dated 05.02.2018 and directive dated 31.01.2018 and other order consequential thereof;
- (ii) Direct the respondents to implement the recommendations of the 5th CPC to the extent that it recommends merger of the cadres of Engineering Assistant, Senior Engineering Assistant & Assistant Engineer to the single cadre of Senior Broadcast Engineer w.e.f. 01.01.1996 with the pay scale of Rs.6500-10500;
- (iii) Direct the respondents to implement the recommendations of the 5th CPC to the extent that it recommends merger of the cadres of Technician,

Senior Technician, Mast. Technician, Diesel Technician and Diesel Engineer Driver in the single cadre of Junior Broadcast Engineer in the pay scale of Rs.5000-8000 w.e.f. 01.01.1996;

- (iv) Direct the respondents that consequent upon such merger of the Engineering Assistant, Senior Engineering Assistant and Assistant Engineer to the single cadre of Senior Broadcast Engineer with effect from 01.01.1996 in the pay scale of 6500-10500, grant the benefit under the ACP/MACP scheme to the applicants herein;
- (v) Direct the respondents that consequent upon such merger of Technician, Senior Technician, Mast. Technician, Diesel Technician and Diesel Engine Driver in the single cadre of Junior Broadcast Engineer in the pay scale of Rs.5000-8000 w.e.f 01.01.1996, grant the benefit under ACP/MACP scheme to the applicants herein; and
- (vi) Pass such other further order(s), direction(s) as be deemed just and proper to meet the ends of justice”

23. The discussion undertaken above is referable to relief (i). Reliefs (ii), (iii), (iv) and (v) are totally unconnected to the relief (i). It is fairly settled that the applicant cannot claim unrelated and unconnected reliefs in the same O.A. In all fairness, the learned counsel for the applicants, not pressed the reliefs (ii) to (v) and submitted that a liberty be given to pursue these remedies separately.

24. We, therefore, dispose of the O.A. by :

(a) upholding the impugned orders dated 31.01.2018 and 05.02.2018, but directing that:

(i) The amounts paid to the applicants and similarly situated persons towards arrears as are mentioned in the order dated 25.02.1999, shall not be recovered;

(ii) The difference of the pay scale extended to them through the said order shall be adjusted towards the MACP that becomes due for them;

(iii) If the MACPs are yet to accrue to them, the recovery shall be deferred till the same is extended to them;

(b) If inspite of exercise referred to above, any recovery becomes inevitable, the principle laid down by the Hon'ble Supreme Court in **State of Punjab and others Vs. Rafiq Masih (White Washer) etc.**, (2015) 4 SCC 334, shall be followed.

(c) The pay scales of the applicants shall be re-determined in the light of the above, within a period of four weeks from the date of receipt of a certified copy of this order, subject to the conditions referred to above. In the course of implementation of the impugned orders, the respondents shall ensure that the applicants and similarly situated employees are not in a condition disadvantageous to the one compared to the employees of similar category working in the other establishments with similar avenues of promotion.

(d) So far as the reliefs (ii), (iii), (iv) and (v) in the O.A. are concerned, they are rejected leaving it open to the applicants to pursue the remedies, in accordance with law.

There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/Jyoti/