

CENTRAL ADMINISTRATIVE TRIBUNAL : BANGALORE BENCH
BANGALORE

ORIGINAL APPLICATION NOS. 983 OF 1998 & 22 OF 1999.

WEDNESDAY, THIS THE 16TH DAY OF FEBRUARY, 2000

Shri Justice S Venkataraman. Vice-Chairman

Shri V Srikanth. Member(A)

1. Mrs. Sasikala Selvaraju.
Aged 34 years.
W/o Mr. Selvaraju.
working as Sr. Engineering Assistant.
Doordarshan Kendra.
Bangalore-560 006. Applicant
in O.S.No.983 of 1998.
2. N.Rangaiah.
Aged 54 years.
S/o late Pullaiah.
Assistant Engineer.
Doordarshan.
Bangalore-560 006.
3. H.S.Govindarajan.
Aged 54 years
S/o Rangachar.
Assistant Engineer.
AIR. Bangalore-560 001
4. K.R.Seetharama.
Aged 54 years.
S/o K.S.Rajagopala Iyer.
Assistant Engineer.
AIR. Bangalore-560 065.
5. D.Hariharan.
Aged 51 years.
S/o Darmarayan.
Assistant Engineer.
Doordarshan.
Bangalore-560 006.
6. K.E.Siddalingappa.
Aged 38 years.
S/o K.T.Sasivannappa.
Assistant Engineer.
Doordarshan.
Bangalore-560 006.



7. Smt. Shankuntala N. Swamy,
Aged 48 years.
W/o K. Narayanaswamy.
Assistant Engineer,
Doordarshan,
Bangalore-560 006.

.. Applicants 1 to 6
in O.A.No.22 of 1999.

(By Advocate Dr.M.S.Nagaraja)

v.

1. Union of India
represented by Secretary to
Government of India.
Ministry of Information and
Broadcasting, New Delhi-110 001. .. Respondent-1
in both O.As.
2. The Director General,
Doordarshan, Mandi House,
New Delhi-110 001. .. Respondent-2 in O.A.
983/98 & Respondent-3 in O.A.22/99
3. Director General,
All India Radio,
Parliament Street,
New Delhi-110 001. .. Respondent-2 in O.A.
No.22/1999.
4. Chief Executive Officer,
Prasarbharathi,
(Broadcasting Corporation of
India), DD Bhawan,
New Delhi - 110 002. .. Respondent-4 in O.A.
No.22/1999.

(By Standing Counsel Shri Vishnu Bhat for
Rs in O.A.No.983/98 & Shri S.Chelliah for Rs in O.A.No.22/99)

O R D E R

Justice S.Venkataraman, Vice-Chairman:-

The applicants joined Doordarshan as Engineering Assistants. The applicant in O.A.No.983 of 1998 has been promoted as Senior Engineering Assistant while the applicants in O.A.No.22 of 1999 after being promoted as Senior Engineering Assistants have further been promoted as Assistant Engineers. Prior to 1-1-1986 the pay scales of Engineering Assistants, Senior Engineering Assistants and Assistant Engineers were Rs.425-750, Rs.550-900 and

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Rs.650-1200 respectively. In pursuance of the recommendations of the Fourth Pay Commission those pay scales were revised with effect from 1-1-1986 as Rs 1400-2600, Rs.1640-2900 and Rs.2000-3500 respectively. On the application filed by some Engineering Assistants, the Madras Bench of the Tribunal held in its order dated 29-6-1990 that Engineering Assistants were entitled to the pay scale of Rs.550-900 with effect from 1-1-1978. This order was challenged before the Apex Court and the Apex Court upheld that order of the Madras Bench. In compliance with the decision of the Supreme Court the Government issued an order dated 15-5-1995 revising the pay scale of Engineering Assistants as Rs.550-900 with effect from 1-1-1978 and at Rs.2,000-3200 with effect from 1-1-1986. This created an anomaly inasmuch as the pay scale of the posts of Senior Engineering assistants which are promotional posts for Engineering Assistants continued to carry the pay scale of Rs.1640-2900. However, the Government allowed the same revised scale of pay of Rs.2000-3200 to Senior Engineering Assistants as personal to them on a provisional basis. The pay scale of Senior Engineering Assistants continued to be Rs.2000-3200 with effect from 1-1-1986. The applicants



No.22 of 1999 and some others filed O.A.No.203, 310 to 314 of 1996 praying for suitable upgradation of the scales of pay of the promotional posts of Senior Engineering Assistants and Assistant Engineers. The respondents initially contended that since the entire revision of pay structure was before the 5th

Central Pay Commission, that application was premature. However, the applicants produced a copy of the letter dated 17-1-1996 sent by the Secretary of the 5th Pay Commission to show that the 5th Pay Commission had declined to go into anomalies which existed previously. Subsequently, the respondents also produced a copy of the letter dated 19-9-1996 issued by the Directorate General All India Radio which confirmed the receipt of the letter dated 17-1-1996 from the 5th Pay Commission. The respondents in their memo stated that the Ministry of Information and Broadcasting (respondent -6 in those applications) had sent a proposal to the Ministry of Finance proposing higher pay scales for the post of Senior Engineering Assistants and Assistant Engineers of All India and Doordarshan and that this proposal was under consideration in the Ministry of Finance. In view of that memo, the Tribunal passed the following order:

"3. In the light of the letter of the Directorate General, All India Radio cited above, we find that the Government is conscious of the existence of anomalies which have crept in as a result of the upward revision of the scale of pay of the posts of Engineering Assistant and it is because of this that the Ministry of Information and Broadcasting has sent a proposal to the Ministry of Finance for upward revision of the scales of pay of the posts of Senior Engineering Assistant and Assistant Engineer.

4. In view of the foregoing, we consider it appropriate to direct the sixth respondent to take a decision as to the higher pay scales to be given to the higher posts, namely, Senior Engineering Assistant and Assistant Engineer with the concurrence of the Ministry of Finance within a period of 3 months from the date of receipt of a copy of this order.

5. At this stage Dr. M.S.Nagaraja, counsel for



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the applicant makes a submission that liberty be given to the applicants to approach the Tribunal in case they are aggrieved by any decision to be taken by the Government in pursuance of the direction given above. We grant this prayer."

2. The respondents had filed a miscellaneous application seeking extension of time for implementing the direction and in the course of hearing of that application they had submitted that the proposal for higher pay scales to Senior Engineering Assistant and Assistant Engineer had not found favour with the 5th Central Pay Commission and that the recommendations were being processed by the Government. During the hearing of that Miscellaneous Application, the respondents had filed a rejoinder stating that the revision of pay of Senior Engineering Assistants from 1-1-1978 had already been considered in consultation with the Ministry of Finance and that the same has not been agreed to and that the Ministry had already allowed the pay scale of Rs.2000-3200 to Senior Engineering Assistants as personal to them on provisional basis to remove anomaly that had crept in with effect from 1-1-1986. As the respondents had indicated that they had decided not to grant any retrospective or prospective revision of pay scales for Senior Engineering Assistants, the Tribunal took it that the order already passed had been implemented and that liberty was given to the applicants for taking further action if they were aggrieved. The applicants in O.A.No. 22 of 1999 have now filed the application to direct the respondents to grant higher pay scales to Senior Engineering Assistants and Assistant Engineers



with effect from 1-1-1978 and 1-1-1986 respectively till 31-12-1995 together with interest. The applicant in O.A.No.983 of 1998 who was not a party to the earlier case and who had given a representation seeking a higher pay scale has also sought for a similar relief.

3. It is contended on behalf of the applicants that when the pay scale of Engineering Assistants was raised to Rs.550-800 with effect from 1-1-1978 and to Rs.2000-3200 with effect from 1-1-1986, the respondents as a consequential measure ought to have revised the pay scales of the promotional posts of Senior Engineering Assistants and Assistant Engineers from those dates, that all that the respondents have now done is to equate the pay scale of the senior Engineering Assistants to that of Engineering Assistants which is the feeder cadre, that a promotional post must necessarily have a higher grade and that in spite of the direction given by the Tribunal in the earlier case to take a decision with regard to the higher scale to be given to the promotional posts, the respondents have not given higher scales.



4. The respondents have contended that the 4th Pay Commission had not recommended any higher pay scale to Senior Engineering Assistants and Assistant Engineers as compared to the pay scale which was fixed for the post of Engineering Assistants, but on the other hand, the 5th Pay Commission has prescribed different pay scales for all the three cadres, that after the acceptance of the

recommendations of the 5th Pay Commission the anomalies stood settled. They have also pleaded that with the establishment of Prasar Bharati as an autonomous statutory Corporation it is for the Prasar Bharati to consider the demand for parity by the staff and that subsequently an upward revision of pay scales for certain categories of Engineering and Programme staff in Prasar Bharati including Senior Engineering Assistants and Assistant Engineers has been allowed as per Annexure-R3 subject to certain conditions and that the applicants have no locus standi to approach this Tribunal now.

5. In these proceedings we are not concerned with the question as to whether the pay scales recommended by the 5th Pay Commission and accepted by the Government with effect from 1-1-1986 requires any change. The prayer of the applicants is restricted to the period upto 31-12-1995. The respondents did not dispute the fact that when the pay scale of Engineering Assistant was raised to Rs.2000-3200 with effect from 1-1-1986 by their order dated 15-5-1985 in pursuance of the decision of the Supreme Court, anomaly arose in view of the fact that the post of Senior Engineering Assistant which was a promotional post was having a lesser pay scale of Rs.1640-2900. As a provisional measure the Government brought the pay scale of Senior Engineering Assistant also on par with the pay scale of Engineering Assistant at Rs.2000-3200. When the post of Senior Engineering Assistant was a promotional post, it is obvious that the



scale of that post should be little higher than the feeder post of Engineering Assistant In TARSEM SINGH AND ANOTHER v. STATE OF PUNJAB AND OTHERS [1995 (1) SLJ 187 (SC)] the Supreme Court has observed that promotion as understood under the service law jurisprudence means advancement in rank, grade or both, that promotion is always a step towards advancement to a higher position, grade or honour. In LALIT MOHAN DEB AND OTHERS v. UNION OF INDIA AND OTHERS (AIR 1972 SC 995 at para 7) the Supreme Court has observed that it is well recognised that promotional post is a higher post with a higher pay. In K.B.RAMA RAO v. THE CHIEF CONSERVATOR OF FORESTS ETC. [1986(1) SLJ 405] the Karnataka High Court has observed that if both the lower and promotional cadres carry the same duties and responsibilities, there is no necessity to constitute a promotional cadre and also to give a higher scale of pay. The respondents do not dispute that the post of Senior Engineering Assistant which is a promotional post to that of Engineering Assistant carries with it greater responsibility and duties and the very fact that till 15-5-1995 when the new pay scale was given to Engineering Assistant, the post of Senior Engineering Assistant carried a higher pay scale and this shows that the post of Senior Engineering Assistant was a promotional post with a higher pay scale. In the earlier case, the respondents themselves filed a memo before the Tribunal stating that the Ministry had sent a proposal proposing higher pay scales to the posts of Senior Engineering Assistants and Assistant Engineers and that



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that proposal was under consideration with the Ministry of Finance. In effect, the respondents did not dispute the fact that when once the pay scale of Engineering Assistant was raised with effect from 1-1-1978 and 1-1-1986 they had to raise the pay scales of the promotional posts also. In fact the Tribunal also has specifically noted the need for revision of the pay scales in para 3 of the order which has been extracted above. When the Tribunal directed the 6th respondent therein to take a decision as to the higher pay scales to be given to the higher posts viz., Senior Engineering Assistants and Assistant Engineers, what was meant was that the 6th respondent had to take a decision with regard to the higher pay scales which had to be given. That direction did not mean that the 6th respondent was free to take a decision not to give any higher pay scales at all. Learned counsel for the respondents submitted that though proposals had been sent up for giving higher pay scales, the Finance Ministry did not agree for the same. Union of India was a party to the proceedings and we are unable to understand as to how the Union of India can express its helplessness because the Finance Ministry did not agree with the proposal. Finance Ministry is a part of the Union of India and when a direction was given to take a decision with regard to the higher scale to be given to the promotional post, the only discretion that was left was to take a decision with regard to the appropriate higher scale which had to be given and not to refuse to give any higher scale.



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6. The learned counsel for the respondents submitted that an understanding has been arrived at between the employees and the Government as per Annexure-R3 and that certain upgradation of scales has been given in pursuance of that understanding. Annexure-R3 is with regard to the demand by the employees for higher scales of pay than those recommended by the 5th Central Pay Commission and accepted by the Government. Those pay scales have come into effect from 1-1-1996 and even Annexure-R3 refers to the upgradation of the pay scales with effect from 1-1-1996 and that is subject to certain conditions. As already pointed out, we are not concerned with the pay scales from 1-1-1996. The applicants are claiming the higher pay scales for the promotional posts consequent to the revision of the pay scale of Engineering Assistants prior to 1-1-1996.

7. The respondents have referred to the decision of the Supreme Court in UNION OF INDIA AND ANOTHER v. HARIHARAN (C.A.No.7127 of 1993). In that case, the Supreme Court has observed that it is the function of the Government which normally acts on the recommendations of the Pay Commission and that Tribunal should realise that interfering with the prescribed pay scales is a serious matter and that change of pay scale of a category has cascading effect. If the applicants were seeking a different pay scale on the basis that the pay scale given to some category of employees was more or that they should be equated to another category of employees in the



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matter of pay scale, it is obvious that the Tribunal should be slow in giving directions. But, this is a case where the promotional posts which were having a higher pay scale than the feeder post of Engineering Assistant till 15-5-1995 are now equated to the pay scale of the feeder post on account of the revision of the pay scale of the feeder post as per the decision confirmed by the Supreme Court. The respondents themselves had realised this anomaly and had submitted before the Tribunal in the earlier case that proposal for higher pay scales for the promotional posts had already been sent up and were under examination. No tenable explanation is forthcoming as to why a corresponding revision of the pay scale of the promotional posts for the period upto 1-1-1996 has not been given.

8. The learned counsel for the applicants pointed out that in Annexure-R3 from 1-1-1996 the respondents have again maintained the relativity between the pay scales of Engineering Assistants, Senior Engineering Assistants and Assistant Engineers. Though we do not want to specify as to what extent the pay scale of Senior Engineering Assistants has to be revised, we are convinced that the pay scale of Senior Engineering Assistants should be higher than that of Engineering Assistants. It is for the purpose of determining the extent to which the revision has to be made a direction had been given in the earlier cases. But, the respondents appear to have been under the impression that



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they have been given liberty to decide not to give any higher pay scale at all.

9. The learned counsel for the respondents submitted that so far as the post of Assistant Engineer is concerned, as the pay scale is Rs 2,000-3,500 as against the pay scale of Rs.2,000-3,200 of Engineering Assistants, it cannot be said that there is any anomaly. If the pay scale of Senior Engineering Assistant is revised from Rs.2,000-3,200 to a higher scale, then necessarily the pay scale of Assistant Engineer will also have to be revised.



For the above reasons these applications are allowed in part directing the 1st respondent to revise the pay scale of Senior Engineering Assistants consequent to the revision of the pay scale of Engineering Assistants with effect from 1-1-1978, 1-1-1986 and upto 31-12-1995. Depending upon such revision the question of revising the pay scale of Assistant Engineers also as a consequence thereof shall be considered. The applicants shall be given the consequential benefits on such revision of the pay scales from appropriate dates. This shall be done within a period of 4 months from the date of receipt of a copy of this order. No costs.

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N. Dutt
Section Officer,
Central Administrative Tribunal
Bangalore Bench
Bangalore

(V. SRIKANTAN)

MEMBER (A) (Advisory)

(S. VENKATARAMAN)
VICE-CHAIRMAN.

Orth Commissioner