

IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C)No.3787/2000

Date of Decision: 08.07.2011

ASSOCIATION OF RADIO & TELEVISION ENGG. EMPLOYEES ... Petitioner

Through: Mr. M.M. Sudan, Advocate.

Versus

UNION OF INDIA & ORS..... Defendants

Through: Ms. Barkha Babbar, Advocate for the respondent/UOI.

**CORAM: HON'BLE MR. JUSTICE A.K.SIKRI
HON'BLE MR. JUSTICE M.L.MEHTA**

1. Whether the Reporters of local papers may be allowed to see the judgment? No
2. To be referred to Reporter or not? No
3. Whether the judgment should be reported in the Digest? No

A.K. SIKRI, J. (Oral)

1. The petitioners No. 2 to 4 were working as Technicians, at the relevant time, with All India Radio and Doordarshan. Petitioner No. 1 is the Association of Employees of this category which is formed for the benefit of these Technicians. These Technicians were granted Pay Scale of Rs 330-480/- on the recommendation of 3rd Pay Commission which came into effect on 01.01.1973. The Lighting Assistants working in All India Radio and Doordarshan were also given the same pay scale. In contrast, the Assistant Cameramen working in Film Division, which came under the administrative control of Ministry of Information and Broadcasting, were given pay scale of Rs 425-700/-.

2. On the implementation of 4th Pay Commission with effect from 01.01.1986, pay scale of these Technicians was revised to Rs 1200-1800/- and that of Cameramen in Film Division upward to Rs 1400-2300/-. The Lighting Assistants in All India Radio and Doordarshan who were given pay scale of Rs 1200-1800/- wanted parity with the Cameramen in Film Division on the principle of equal pay for equal work. They accordingly approached the Supreme Court by way of a Writ Petition filed under Article 32 of the Constitution of India with the relief that they be also given the same pay scale of Rs 1400-2300/-. This Writ Petition was allowed by the Supreme Court in the case title as **Y.K. Mehta Vs. UOI**, 1989 (1) Service Law Journal 97 (SC). The Supreme Court directed the Union of India to accord the same pay scale of Rs 1400-2300/- to the Lighting Assistants as well working in All India Radio and Doordarshan with effect from 01.01.1986.

3. This judgment was implemented by the Government giving pay scale of Rs 1400-2300/- to the Lighting Assistants.

4. Predicating their claim on the basis of the same judgment, the Technicians i.e. the petitioners also demanded pay scale of Rs 1400-2300/-. As initially this request was not acceded to by the Government, the petitioners approached the Tribunal by filing an OA. While this OA was still pending, the Government of India issued orders granting the same pay scale which were admissible to the Lighting Assistants in Film Division. It so happened that in the meantime the pay scales were further revised with effect from 01.01.1996 on the basis of recommendation of the 5th Pay Commission. At the time when the orders were passed, since this revision had taken place, the Government in its administrative OM dated 05.12.1997 granted parity in pay scale with the Lighting Assistants, but with effect from 01.01.1996.

5. When the matter came up before the Tribunal for final hearing, taking note of the aforesaid aspect, the Tribunal took the view that the petitioners were given relief administratively by putting them at par with the Technicians of All India Radio/Doordarshan and therefore, no further grievance survived. The argument of the petitioners, however, was that they were granted the revised pay scale only with effect from 01.01.1996 whereas Lighting Assistants had got benefit with effect from 01.01.1986. This limited grievance was thus pressed before the Tribunal claiming the same pay scale with effect from 01.01.1986. The Tribunal further did not accede to this prayer of the petitioners observing as under:

“In view of the above, the relief sought by the applicants is to be moulded in terms of the time frame in which they have approached this Tribunal. Further we also find from the aforesaid quoted preamble of the order that the said order has been issued in agreement with the applicants. We are also of the view that the matter lies within the domain of the executive as regards the date of revision of pay scale. The applicants having approached this Tribunal in 1996, having consented to the agreement by which the orders have been made effective from 01.01.1996, we are not inclined to consider the argument that the applicants’ revision of pay should be with retrospective effect from 01.07.1983.”

6. Challenging this part of the order of the Tribunal, present Writ Petition is filed by the petitioners invoking extraordinary jurisdiction of this Court under Article 226 of the Constitution.

7. The grievance discussed above would clearly demonstrate that the petitioners when they were given the lesser pay scale of Rs 1200-1800/- as well on the implementation of the 4th Pay Commission, never made any grievance about the same rather they accepted this position. It is the Lighting Assistants, working in their organization who were also given the pay scale of Rs 1200-1800/-, felt aggrieved by the grant of this pay scale which was lesser than the pay scale granted to the Cameramen in the Film Division and thus they were the Lighting Assistants who approached the Supreme Court claiming the pay scale of Rs 1400-2300/-. Even at the time when the said Writ Petition was filed by the Lighting Assistants in the Supreme Court, the petitioners did not approach any forum. It was only after the judgment was rendered by the Supreme Court on 26.08.1988, that the petitioners woke up and tried to take advantage of this. In such circumstances, when it was found that they could claim parity with the Lighting Assistants, no doubt the same pay scale could be given to them as given to the Lighting Assistants, but, for approaching the Court belatedly it was up to the Government to give them the said parity with effect from 01.01.1996 when the recommendations of the 5th Pay Commission were implemented in the mean time. The Tribunal, in these circumstances, exercised its discretion of not interfering with the benefit given vide OM dated 05.12.1997 giving the revised pay scale to the petitioners, at par with Lighting Assistants with effect from 01.01.1996.

8. Having regard to the aforesaid facts, in exercise of extra-ordinary jurisdiction under Article 226 of the Constitution, we would not like to interfere with such a discretion which is exercised on the basis of reasoned consideration.

9. We, thus, do not find any merits in this writ petition which is accordingly dismissed.

A.K.SIKRI (JUDGE)

M.L.MEHTA (JUDGE)

JULY 08, 2011