

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.03.2015

Coram :

THE HONOURABLE MR.JUSTICE V.RAMASUBRAMANIAN
and
THE HONOURABLE MR.JUSTICE P.R.SHIVAKUMAR

W.P.No.1910 of 2015

1. Y.M.I.Farooq
2. I.Ramanujam .. Petitioners

vs.

1. Union of India
rep.by the Director General
Directorate General
All India Radio
Prasar Bharti (Broadcasting Corporation of India)
Akashvani Bhawan
Parliament Street
New Delhi 110 001.
2. The Chief Executive Officer
Prasar Bharati
P.T.I.Building
Parliament Street
New Delhi 110 001.
3. Secretary
Ministry of Information and Broadcasting
Shastri Bhawan
New Delhi 110 001.
4. The Registrar
Central Administrative Tribunal
Chennai Bench, High Court Compound
Chennai 600 104.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified mandamus to call for the records relating to the impugned order passed by the Central Administrative Tribunal, Chennai Bench [4th respondent herein] in O.A.No.824 of 2012 dated 28.11.2014; to quash the same and to consequently direct respondents 1 to 3 to extend to the petitioners the Grade Pay of Rs.4,600/- in Pay Band-2 with effect from 01.01.2006, in terms of OM No.1/1/2008-IC dated 13.11.2009 and 16.11.2009 issued by the Ministry of Finance with consequential arrears of monetary benefits within a time frame.

For Petitioners : Mr.K.M.Ramesh
For Respondents : Mrs.R.Maheswari
for RR1 to 3 Senior Central Government
Standing Counsel

R-4 - Tribunal

ORDER

(Order of the Court was made by V.RAMASUBRAMANIAN, J.)

The petitioners, have come up with the above writ petition challenging the order of the Central Administrative Tribunal, rejecting their request for the grant of Grade Pay of Rs.4,600/- in Pay Band-2 in terms of two office memoranda issued by the Ministry of Finance.

2. Heard Mr.K.M.Ramesh, learned counsel for the petitioner and Mrs.R.Maheswari, learned Senior Central Government Standing Counsel for respondents 1 to 3.

3. The petitioners herein are working as Assistants respectively in the Doordarshan and the All India Radio. They filed an application in O.A.No.824 of 2012 on the file of the Central Administrative Tribunal, Chennai Bench seeking a direction to the respondents to extend the benefits of grant of Grade Pay of Rs.4,600/- in Pay Band-2 in terms of the office memorandum dated 13.11.2009 and 16.11.2009 issued by the Ministry of Finance. Their application was dismissed by the Tribunal by order dated 28.11.2014. As against the said order, the petitioners are before this Court.

4. The posts of Head Clerk/Assistants working in the Prasar Bharati, under which the All India Radio and Doordarshan come, were placed in the pay scale of Rs.5500-9000 prior to the recommendation of the VI Pay Commission. After the implementation of the recommendation of the VI Pay Commission, the petitioners were granted the Grade Pay of Rs.4200/- in Pay Band-2.

5. But after implementation of the recommendations of the VI Pay Commission, it was found that the Assistants employed in the Central Excise and Income Tax Departments, were granted Grade Pay of Rs.4,600/- in Pay Band-2, on par with those in the Central Secretariat, by virtue of an office memorandum dated 11.11.2009. This was done on the ground that the recruitment to those posts was done on the basis of an All India Competitive Examination conducted by the Staff Selection Commission and that there was an element of direct recruitment. The Office Memorandum claimed that, insofar as the posts of Assistants in the Field Offices was concerned, there was no element of direct recruitment.

6. On the basis of the said office memorandum, two more office memorandums were issued on 13.11.2009 and 16.11.2009. By the Office Memorandum dated 13.11.2009, the Government ordered in terms Rule 6 of CCS[RP] Rules, 2008 that those in the pre-revised scale of Rs.6500-10500/-, who were earlier granted Grade Pay of Rs.4200/-, will be fixed again in accordance with Illustration 4A. On account of such pay fixation in the revised pay structure, the office memorandum stated that arrears of pay will be granted on the basis of the Grade Pay of Rs.4600/-. By the next office memorandum dated 16.11.2009, the Ministry of Finance, indicated that the VI Pay Commission had recommended parity in terms of hierarchical structure of office staff in the Field and Secretariat Officers upto the level of Assistants and that this was taken into account while granting upgraded Grade Pay of Rs.4600/- to the Assistants. The previous communication which spoke about the element of direct recruitment to the post was also incorporated in the office memorandum.

7. Therefore, the only basis on which, the petitioners approached the Central Administrative Tribunal was that if the same logic is applied to their cases, they are also entitled to the grant of Grade Pay of Rs.4,600/- in the Pay Band-2 as there was an element of direct recruitment in their cases also. The Tribunal rejected the said claim on the ground that the case will not come within the parameters of Article 14 or the Directive Principle of State Policy relating to 'equal pay for equal work'. This is why the petitioners are before us.

8. As rightly pointed out by the Tribunal, the rationale for the grant of Grade Pay of Rs.4,600/- in Pay Band-2 to the Assistants in the other offices, need not necessarily be adopted in the case of persons like the petitioners working in the other offices. Fundamentally, the claim such as the one on hand, should emerge out of inequality of treatment offending Article 14 or at least the Directive Principle of State Policy mandating 'equal pay for equal work'. The claim of the petitioners do not fall under either of these two categories. The claim of the petitioners is to direct the respondents to adopt the same logic as they had adopted in the case of Assistants working in the Central Secretariat or those working in the Income Tax and Central Excise Departments. But this cannot form the basis for claim for equal pay. Therefore, we are of the view that the Tribunal had rightly taken note of the decisions of the Supreme Court relating to a claim such as the one on hand and rejected the same.

9. Accordingly, we find no reason to interfere with the order of the Tribunal. Hence, the writ petition is dismissed. No costs.

vj2

-s/d-

Assistant Registrar (CS-II)

Dt:8/4/2015

True Copy

Sub-Assistant Registrar

To

1. The Director General
Union of India
Directorate General
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Chennai Bench, High Court Compound
Chennai 600 104.

+ 1 cc to M/s.R.Maheswari SCGSC SR 17422

+ 1 cc to Mr.K.M.Ramesh, Advocate SR 17109

su(co)

prk9/4

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