



आकाशवाणी एवं दूरदर्शन तकनीकी कर्मचारी संघ A.I.R. & D.D. Technical Employees Association

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(भारत सरकार द्वारा पंजीकृत एवम् मान्यता प्राप्त)
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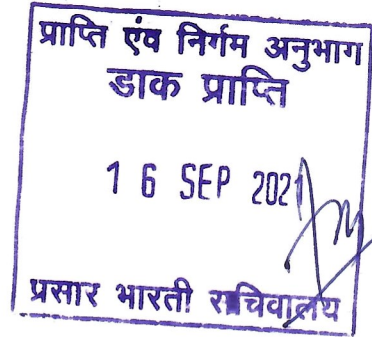
Ref.:ADTEA/2021/18

Date.: 16-09-2021.....

To,

1. Shri. Anurag Thakur,
Hon'ble Minister for Information & Broadcasting & Sports & Youth Affairs
Ministry of Information and Broadcasting,
Shastri Bhawan, New Delhi-110001
2. Shri. Apurva chandra (IAS),
Secretary to Govt. of India,
Ministry of Information and Broadcasting,
Shastri Bhawan, New Delhi-110001
3. Shri Shashi Shekhar Vempati,
Chief Executive Officer, Prasar Bharati,
Prasar Bharti House, Copernicus Marg, New Delhi-110001

O/c 16/9/21
R & I Section
Min. of Information &
Broadcasting
Govt. of India, New Delhi
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Subject:- Request to maintain the Hon'ble Supreme Court established historical parity of Engineering Assistant of AIR & DD with Sound Recordist of DDn in light of the following left out / concealed key facts in MOIB ID Note No.: 503/05/2014 to DOPT dt. 11.02.2016 (for getting adverse recommendation on MACP).

- (a) Hon'ble Supreme Court {Rajshekharan Case, year 1994} judgement to grant the pay scale of Rs. 550-900 (from 01.01.1978) and Rs.2000-3200 (from 01.01.1986) Pay Scale to Engineering Assistant of AIR&DD as a Parity with Sound Recordist of DD,
- (b) Hon'ble Supreme Court {DEEWA case, year 2015} declaration of Rs.6500-10000 as "Replacement Scale" for Engineering Assistant in 5th CPC,
- (c) Govt. of India (vide Resolution dt. 30.09.1997) referral of Vth CPC recommendation of "downgradation" of Engineering Assistant Pay Scale (to Rs.1600-2300 from 01.01.1986) to Fast Track Committee of Secretaries of Govt. of India.
- (d) Govt. of India (vide Resolution dt. 30.09.1997) ordered to grant "normal replacement Scale" to Engineering Assistant till the pendency of Fast Track Committee report,
- (e) Govt. of India Cabinet consideration dt. 06.11.1997 to protect the "Pay Scale" of Engineering Assistant of AIR&DD from 01.01.1986 instead of "Pay",

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(f) DG : DD (dt. 16.04.2001) execution of MOIB decision to grant "Pay Scale protection" to Sound Recordist of DD from 01.01.1996 in the Pay Scale of Rs. 2000-3200 (in IV CPC) & its replacement scale in V CPC,

(g) MOIB confession (in ID note to MOF) that DG:DD order dt. 16.04.2001 has disturbed the Hon'ble Supreme Court established Pay Parity between Sound Recordist of DD and Engineering Assistant of AIR&DD.

Reference: (i) MOIB ID Note No.: 503/05/2014 to DOPT dt. 11.02.2016. (Pages 9-19; Enclosure 01)

(ii) MOIB Id Note:503/S/2014-BA(E) dt.16.06.2017 to Min. of Finance, confessing that EA parity with Sound Recordist has got disturbed. (Pages 81-104; Enclosure 18)

Hon'ble Sir,

With highest respect, we would like to draw your kind attention to the above subjected issue of Engineering Assistant of AIR&DD. Kindly take cognizance of the facts raised in the above referenced MOI&B ID note (received through RTI) to DOPT on MOIB OM dated 25.02.1999. Recommendations of DOPT on the above ID note dt. 11.02.2016 are as follows:

- (a) *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 Bharati is to be treated as one upgradation against the three upgradations allowed under MACP scheme.*
- (b) *It may be noted here that the Hon'ble Supreme Court, on the issue related to Recovery of excess payment to employees, in its verdict dated 18.12.2014 in Civil Appeal no. 242 has clearly stated that recovery from Employees belonging to Class III and Class IV service shall be impermissible whereas, the present matter pertains to the service employees of Class II.*

After pursuing the ID note dt. 11.02.2016 it is found that the main key facts regarding the genesis and developments of the Pay Scales of Engineering Assistant (herein after written as EA) since 1978 has not been represented properly/concealed by BA(E) section of MOIB. This association is presenting here those left out/concealed facts with the clear view that each cadre of AIR&DD has separate identity, separate Recruitment Rules, separate duties & responsibilities, separate functioning in the department as well established by Law and cannot be represented, collectively with other cadres, in a single ID note for any recommendation from the nodal agencies such as DOPT etc..

The genesis and developments of the pay scale of Engineering Assistant of AIR & DD are as follows,

DEVELOPMENT OF CASE

(A). **Establishment of Pay parity of certain posts in Doordarshan & Film Division -**

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(1) On the basis of 3rd CPC recommendation the following pay scales were granted to certain categories of employees of Films Division of MoIB, viz

Cameraman	Rs. 650-960
Recordist / Sound Recordist	Rs. 550-900; and
Assistant Cameraman	Rs. 425-700

(2) The Staff Artists of Doordarshan, comprising Cameraman Gr. II, Sound Recordist and Lighting Assistants/Lightman filled *WP No. 974/1978 titled Y. K. Mehta and others Vs. UOI and others* under Article 32 of the Constitution of India in the Supreme Court pleading parity with the above categories in the Film Division as indicated in the table below on the plea that the nature of work performed by them is similar to that performed by their counterparts in the film division.

FILM DIVISION		DOORDARSHAN		Pay Scale sought by DD employees in the Writ Petition
Designation	Pay Scales in 3 rd CPC	Designation	Pay Scales in 3 rd CPC	
Cameraman	Rs. 650-960	Cameraman Gr. II	Rs. 500-900	Rs. 650-960
Recordist/Sound Recordist	Rs. 550-900	Sound Recordist	Rs. 425-700	Rs. 550-900
Assistant cameraman	Rs. 425-700	Lighting Assistant/Lightmen	Rs. 330-480	Rs. 425-700

(3) **26.08.1988:-** The Hon'ble Supreme Court in its judgement dt. 26.08.1988 in the case of Sh. Y. K. Mehta Vs. UOI allowed the parity as per below table: **(Pages 20-24; Enclosure 02)**

Designation in Doordarshan	Pay Scale given by Hon'ble Supreme Court	Effective Date of Pay Scales
Cameraman Gr. II	Rs. 650-960	01.08.1979
Recordist/Sound Recordist	Rs. 550-900	01.01.1978
Lighting Assistant/Lightmen	Rs. 425-700	01.12.1983

Hence, MOIB vide its order dt. 21.12.1988 gave effect to the Hon'ble Supreme Court Judgement dt. 26.08.1988. **(Pages 25-26; Enclosure 03)**

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(B). Establishment of Pay parity of Engineering Assistant (hereinafter written as EA) with Sound Recordist of Doordarshan-

(4) Thereafter, Shri. Rajshekharan, EA of AIR/DD filed OA 654/1989 before CAT Madras in 1989 by praying that the Pay Scale of EA be revised to Rs. 550-900 w.e.f. 01.01.1978 and Rs. 2000-3200 w.e.f. 01.01.1986 at par with Sound Recordist of Doordarshan on the basis of judgement of Hon'ble Supreme Court in WP(C) 1239/1979, 974/1978 & 1756/1986 in the case of Y. K. Mehta and others.

(5) 29.06.1990:- The OA 654/1989 filled by Shri. Rajshekharan, EA, was allowed by Hon'ble CAT Madras vide its order dt. 29.06.1990 and upheld by Apex Court vide its judgement dt. 25.01.1994 in SLP No. 4307-08/93 and 15206-07/92. **(Pages 27-32; Enclosure 04)**

(6). 15.05.1995:- Consequently, the Ministry of Information & Broadcasting had implemented the revision of the pay scale of EA to Rs. 550-900 w.e.f. 01.01.1978 (in IIIrd CPC), Rs. 2000-3200 w.e.f. 01.01.1986 (in IVth CPC), as Parity with the Sound Recordist of Doordarshan, by MOIB order No.: 310/15/93-B(D). **(Pages 33-34; Enclosure 05)**

Thus, the historical parity granted by Hon'ble Supreme Court in identical Pay Scales, since 1978, of some posts of Film Division, Doordarshan and AIR & DD is tabulated as under :-

Film Division	Doordarshan	AIR & DD
Recordist/Sound Recordist (Rs. 2000-32000/- in 4 th CPC)	Sound Recordist (Rs. 2000-32000/- in 4 th CPC)	Engineering Assistant (Rs. 2000-32000/- in 4 th CPC)

(C). Recommendation of 5th CPC in respect of Sound Recordists of DD and EAs of AIR&DD

(7). 1997:- Surprisingly, the 5th CPC (Para 73.15 & 73.16) recommended the lower replacement pay scale (Rs. 5000-8000) to both Sound Recordist (of DD) and Engineering Assistant of (AIR&DD) i.e. equivalent to Rs. 1600-2660 instead of Rs. 2000-3200. **(Pages 35-37; Enclosure 06)**

It is also pertinent to mention here that 5th CPC had recommended the normal replacement scale (i.e. Rs. 6500-10500) to Recordist/Sound Recordist of Film Division, which was extended after the approval of Govt. Thus the historical parity granted by Hon'ble Supreme Court to Recordist/Sound Recordist of Film Division, Sound Recordist of Doordarshan and EA of AIR & DD had got disturbed. **(Pages 38-40; Enclosure 07)**

(8). 30/09/1997 :- Govt. of India had referred the 5th CPC recommendation, regarding EA, vide Ministry Of Finance Resolution No. 50(1)/IC/97 to the committee of Secy. for examination through Fast Track Mechanism. **(Pages 41-43; Enclosure 08)**

Ministry of Finance Resolution has recommended that separate Orders will be issued in respect of EA, pending which normal replacement scales will apply.

(9). July - October 1997:- On the direction of the Union of India, Fast Track Committee has examined the case of EA and observed serious lapses in recording the educational qualification of EA, nature of duties of EA in Min. of I&B w.r.t. other engineering cadres in other Ministries/Departments by 5th CPC.

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The Fast Track committee had also observed that 5th CPC had also flouted its own policy w.r.t. EA. and reported that "The pay scale of Rs. 2000-3200 granted to them through the judgement of the Hon'ble Supreme Court should not have been downgraded" and hence, "should be protected to avoid discontentment / further litigation".

However Fast Track Committee had left the matter of Pay Scale of EA on Prasar Bharati Board's consideration, since, Prasar Bharati (Broadcasting Corporation of India) Act has become operative with the notification dt 15.09.1997. (Pages 44-47; Enclosure 09)

(10). 05.11.1997 :- On the recommendation of Fast Track Committee, DOP&T submitted a note, to the Union Cabinet, with the observation that decision of Pay Scale of EA cannot be left on Prasar Bharati, because the Pay Scales were to be made operative w.e.f. 01.01.1996. Hence, DOPT had recommended to restore the Pay Scale of Engineering Assistant, by protecting the "pay scale" instead of "pay" as described in Para 5 of Cabinet Note with the approval of MOS(PP) for further consideration of the Union Cabinet. (Pages 48-53; Enclosure 10)

(11). 06.11.1997 :- The Union Cabinet had considered the note in its meeting dt. 06.11.1997 and directed to Ministry of I&B to take the appropriate action in consultation with Ministry of Finance and Ministry of Personnel, Public Grievances and Pensions with reference to the implementation schedule attached to the agenda note. (Pages 54; Enclosure 11)

The above development clearly indicates that **Govt. of India had considered the "protection of the Pay Scale" of EA as Rs. 2000-3200 against the 5th CPC recommendation of protection of "Pay".**

The decision of the Union Cabinet dt.06.11.1997 is due for implementation in letter & spirit.

(12). 05.12.1997:- Surprisingly, On 05.12.1997, an ad-hoc increase in salaries of some grades of Subordinate Engineering Employees including EA was granted, as an interim measure, on the basis of agreement between the Govt. and SSS till the final disposal of the issue by Prasar Bharati Board. (Page 55-56; Enclosure 12)

(13). 25.02.1999:- On 25.02.1999, MOIB OM No.: 310/173/97-B(D) had granted the upgraded scales than those recommended by 5th CPC to 11 categories of employees, including EA, subject to the conditions that

(i) the "upgraded scales" will be allowed not as Govt. Employees per se but as Govt. employees currently in service of Prasar Bharati (Broadcasting Corporation of India).

(ii) as and when the employees are asked to exercise the option, those who do not opt for Prasar Bharati will revert as Govt. Servants and no longer be entitled to above scales.

(Pages 57-61; Enclosure 13)

The above two orders dt. 05.12.1997 & 25.02.1999 of MOIB were not in consonance with the Union Cabinet decision dt. 06.11.1997 regarding Engineering Assistant.

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(D) Restoration of Parity of Sound Recordist of Doordarshan with Recordist / Sound Recordist of Film Division

(14). 16.04.2001 :- Vide office order No. 13/2001-SI(A) from file No. 37/2/99-SI(A), DG:DD had protected the "Pay Scale" of existing incumbents Sound Recordists and thereby granted them the revised pay scale of Rs.6500-10500 on personal basis w.e.f. 01.01.1996 in consultation with MOIB and Ministry of Finance Department of Expenditure secretly, thus had restored the parity with Recordist/Sound Recordist of Film Division. **(Page 62; Enclosure 14)**

This secret action of DG:DD had disturbed the parity between EA and Sound recordist granted by Hon'ble Supreme Court.

(E) DEEWA OA 1867/1998

(15) :- 04.01.2001 :- Hon'ble Principal Bench CAT Delhi allowed OA 1867/1998 with the direction to fix the pay of the applicant-incumbent EAs – in the scale of Rs. 2000-3200/- w.e.f. 1.1.1986 or from the date of their joining and then corresponding scale of Rs. 6500-10500/- w.e.f. 1.1.1996 with all the consequential benefits, but personal to them, with the following observation- **(Pages 63-77; Enclosure 15)**

"11. Govt. has recognised the fact that while EAs could be fixed in the erstwhile grade of 1600-2600/- and granted the replacement scale of Rs. 5000-8000 the pay of the incumbent EAs, who were drawing the pay of Rs. 2000-3200 had to be protected by grant of corresponding scale of Rs. 6500-10500/- but with effect from 01.11.1997 and that a sum equal to 90% of the difference will be given as ad-hoc and adjustment thereof would be subject to the decision of Prasar Bharati. This is not a correct proposition as Prasar Bharati had come into force w.e.f. September 1997, cannot be left to decide upon the scale of pay which has come into effect from 01.01.1996, following the adoption of the recommendations of the 5th CPC. Likewise, providing for the up-gradation of scales, subject to the employees opting for Prasar Bharati and directing those who do not opt would forfeit the right of the upgraded scale and would be liable to refund the benefits of grant of higher scales of pay are also not correct and not justifiable in Law".

Civil Writ 4215/2001 filed against the Hon'ble CAT New Delhi judgement was dismissed on merit in High Court Delhi. **(Page 78; Enclosure 16)**

SLP(C) 2855/2007 filed against Hon'ble HC Delhi judgement was dismissed on merit in Hon'ble Supreme Court. With the dismissal of SLP the case of replacement scale of Engineering Assistant had attained finality. **(Pages 79-80; Enclosure 17)**

Para 11 of Tribunal observation in DEEWA OA 1867/1998 proved that MOIB orders dt. 05.12.1997 and 25.02.1999 were "not justifiable in Law" for Engineering Assistants.

If any particular order/set of orders is "NOT JUSTIFIABLE IN LAW" for a particular set of employees, how it can be "JUSTIFIABLE IN LAW" to the remaining employees when all the employees are recruited under the same Recruitment Rules (RRs) and having same duties and responsibilities in the same office of All India Radio and Doordarshan. This is the deep discrimination and violation of Article 14 & 16 of Constitution of India.

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16/12/21

**MOIB LATEST CONFESSION ON PARITY OF SOUND RECORDIST OF DD
& EA OF AIR&DD**

(E) MOIB Id Note:503/S/2014-BA(E) dt.16.06.2017 to Min. of Finance

(Pages 81-104; Enclosure 18)

(16). MOIB has confessed in Id note dated 16.06.2017 that, the historical parity between cadres of Recordists (Film Division), Sound Recordists (Doordarshan) and EAs (of AIR & DD) was established by Hon'ble Supreme Court right from Y. K. Mehta and others case in 1988, Rajshekharan case dt. 25.01.94 and DEEWA case in CA No. 2855/2007 decided on 22.07.2015. This parity was disturbed in respect of Sound Recordists (DDn) and EAs (AIR&DD) viz-a-viz Recordist (Film Division) by recommendations of 5th CPC by recommending the pay scale from Rs. 2000-3200 to Rs. 1600-2660 to both Sound Recordists & EAs.

It is necessary to state here that Govt. of India had referred the down gradation recommendation of 5th CPC regarding EA, vide Ministry Of Finance Resolution No. 50(1)/IC/97 (Pages 24-25; Enclosure 06), to the committee of Secretaries for examination through Fast Track Mechanism.

(17). MOIB has further confessed that the parity has again been established by DDn in respect of Sound Recordists only by placing them (i.e. Sound Recordist) in the scale of Rs. 6500-10500 as personal to them, vide their (MOIB) order dated 16.04.2001 with the approval of Ministry of Finance, Department of Expenditure. This approval was preceded in compliance to the Hon'ble CAT Hyderabad order dt. 15.03.2000.

(18). In the same note dt. 16.06.2017, MOIB has further confessed that by granting the protection of pay scale to existing incumbents sound recordists from 01.01.1996 by DD DG order dt. 16.04.2001(stated at point no. 14), the historical parity between Sound Recordists of DDn and EAs of AIR & DDn has again been disturbed.

It is very well known to MOI&B that the historical parity between Sound Recordists of DDn and EAs of AIR & DDn has been disturbed, but doesn't take any step to rectify the disturbance.

**MOIB Intimation to Cabinet secretariat on the implementation of Cabinet
decision dt. 06.11.1997**

(19) MOIB intimation from File No.: 503/05/2014-BAE dt. 07.06.2019 :- On a query of DOPT (raised by Cabinet Secretariat) on dated 25.01.2019 (Pages 105-106; Enclosure 19), MOIB has informed DOPT that the decision on the Cabinet Note dated 05.11.1997 has been taken by the MOIB vide OM dated 25.02.1999. (Pages 107; Enclosure 20)

Above elaboration proved that by 25.02.1999 OM, MOIB has twisted the UOI Cabinet decision (dt. 06.11.1997) from "Protection of Pay Scale" to the "Up-gradation of Pay Scales" of incumbents EAs and incumbent EAs are the victims of the up-gradation curse till date.

Incumbent EAs are still paying the cost of UP-GRADATION by sacrificing one MACP as per the recommendation of DOPT on the above referenced note dt. 11.02.2016.

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PRAYER

Hence keeping in view of the above left out/concealed facts like Hon'ble Supreme Court judgements {in Rajshekharan Case, year 1994 & in DEEWA case, year 2015}; Govt. of India Resolution dt. 30.09.1997; Cabinet Note dt. 05.11.1997 (Para "10"), Union Cabinet direction dt. 06.11.1997 (Para "11") and protection/restoration of Pay Scales of Sound Recordist of Doordarshan by DG: DD order (Para "14"), it is humbly requested to kindly declare and issue the order of "Pay Scale Protection" of Rs. 2000-3200 (in IV CPC) and its replacement Scale of Rs. 6500-10500 (in V CPC) for Engineering Assistant (EA) of AIR & DD to maintain Hon'ble Supreme Court established historical parity with Sound Recordist of Doordarshan.

Thanking you sir.

Sincerely Yours

Annexure:- (20) as stated above.

Total (107) pages including application.



(Anil Kumar Gupta)

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