



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

(भारत सरकार द्वारा पंजीकृत एवम् मान्यता प्राप्त)
(Registered and Recognised by Govt. of India)
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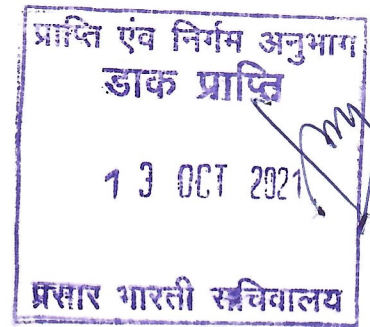
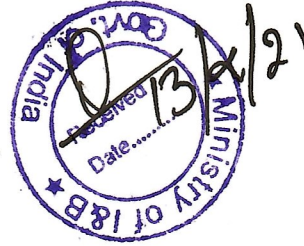
General Secretary
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Ref No.: ADTEA/2021/21

Date: 12.10.2021

To,

1. Shri. Anurag Thakur,
Hon'ble Minister for Information & Broadcasting,
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



सचिव का कार्यालय (सू.प्र. मंत्रा.)
Secretary Office (I & B)
डा. सं./Dy. No.....
दिनांक/Date.....

Subject: (i) Request to rectify the DOPT recommendations to adjust one MACP against benefit granted by OM 25.02.99 on ID Note No.: 503/ 05 / 2014 dt. 11.02.16 for Technician/ Sr. Tech. Cadre of AIR& DD, in light of the following missed/concealed key facts.

- (a) Hon'ble Supreme Court {ADTEA Case, SLP No. 33048/2011} upheld the Pay Scale {Rs. 425 - 700 (in III CPC) and Rs. 1400 - 2300 (in IV CPC), granted by Hon'ble HC Madras} notionally from 01.07.1983 to Technician / Sr. Technician Cadre of AIR&DD as a Parity with Lighting Assistant grade I & grade II of DD,
- (b) Hon'ble Supreme Court {ADTEA Case, SLP No. 33048/2011} said that "by ordering revision of pay scales of Technicians at par with the Lighting Assistants, the High Court has acted in consonance with the spirit of Articles 14 and 16 of the Constitution
- (b) Dismissal of SLP (No. 17169/2017 filed by Mr. Sheheryar) by Hon'ble Supreme Court filed against the Contempt order of Hon'ble HC Madras (CONTP No. 664/2015) on merit with the direction to implement the judgement in letter and spirit to Technician/Sr. Technician Cadre.
- (c) Hon'ble Principle Bench CAT Delhi conclusion (in OA 1861/2014) that "it is clear that matter has been settled at the level of the Hon'ble Supreme Court that Technician and Sr. Technician be treated at par with Lighting Assistants as far as their pay scales are concerned" and directed to grant the benefits of Higher scale of Rs. 5000-8000 w.e.f. 01.01.1996 on notional basis to the applicants Technician/Sr. Technician of AIR & DD in 5th CPC,
- (d) DG : AIR clarification through the order No. 14 / 44 / 2017 - SIV(A) /494 dated

(Handwritten signature)

ADTEA ZONAL HEADQUARTERS :-

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4th August 2017, at Sr. No. 3 that "The pay scale of Rs 5000-8000 granted to Technicians, on Notional Basis, is not upgraded".

Reference: MOIB ID Note: 503/05/2014, dt. 11.02.2016 to DOPT. (Pages 07-17; Enclosure 01)

Hon'ble Sir,

Kindly take cognizance of the facts raised in the above referenced MOI&B ID note (received through RTI Act) to DOPT. It is most unfortunate that the main facts regarding the genesis and developments of the Pay Scales of Technician/Sr. Technician, since 01.07.1983, had been missed/concealed by BA(E) section of MOIB in the ID note to DOPT. This association is presenting those missed/concealed facts with the clear view that each cadre of AIR&DD has separate identity, separate Recruitment Rules, separate duties & responsibilities, separate functioning as well established by Law and cannot be represented in a single ID note for any recommendation from the nodal agencies. This association has strong view that MOIB should have raised a separate ID note for Technician cadre for recommendation on MACP.

Therefore, this association is presenting the genesis and developments of the pay scale of Technician cadre of All India Radio & Doordarshan as follows, with the request to move a separate note to DOPT for recommendation on MOIB executive order 25.02.1999 for Technician cadre only, as earlier done in the case of Assistant Engineer cadre of CCW through ID note dt. 10.07.2013.

DEVELOPMENT OF CASE

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

(1) That is, on the basis of 3rd CPC recommendation the following pay scales were granted to certain categories of employees of Films Division of MIB, viz

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

(2) That is, 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
Designation	Pay Scales in 3 rd CPC	Designation	Pay Scales in 3 rd CPC	by DD employees in the Writ Petition
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
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(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 18-22; 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 23-24; Enclosure 03)**

Thus, Govt. of India, with Hon'ble President pleasure, had revised the pay scale of Lighting Assistant/Lightmen, since 01.12.1983, to Rs. 425-700 (in 3rd CPC) and Rs. 1400-2300 (in 4th CPC), through MIB order No. 2(7)/89-S.I(Vol. II)/YV(A) dated 17.07.1990, at par with Assistant Cameramen in the Film Division.

(B). Establishment of Pay parity of Technician cadre of AIR&DD w.r.t. Lighting Assistant DDn-

(4) That is, there are analogous posts in programme and Engineering wing in Doordarshan like Lighting Assistant/Lightmen and Technicians in AIR and Doordarshan. Till the year 1983, there had been pay parity in the pay scale of Tech. and Sr. Tech. with that of Lighting Assistant Gr. II and Gr. I respectively. In the 3rd CPC, Technicians and Lighting Assistants were placed in the same pay scale of Rs. 330-480.

(5) That is, the Technicians who were doing superior job and shouldering more responsibility than Lighting Assistants, made representations to the competent authority for parity with Lighting Assistants. The competent authority and respective employees Associations had represented to 5th CPC for consideration of the demand.

(6) That is, 5th CPC did not address the demand of Tech. Grade II & I, with the view, that, "the restructuring of the cadre is already under process in the MOIB". **(Pages 25-26; Enclosure 04)**

(7) That is, Govt. of India had formed the Fast Track committee of Secretaries, through Govt. of India resolution, vide letter no.: G.I.M.F no.: 50(1)/IC/97 dated 30/09/1997, for examination of the matter of scale of Engineering Assistant of Ministry of &IB. On the request of the then Hon'ble Minister of I&B, pay parity matter of Tech. Grade II & I and Lighting Assistants Grade II & Grade I was also examined by Fast track Committee.

(8) That is, Fast Track committee had observed that
(i) "the education qualification required for the post of Technicians is higher than the one prescribed for Lighting Assistant".

(ii) "the job content of the Technicians is also more arduous, multifarious and requires high technical/specialised skills than the Lighting Assistants and as

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such the parity of Technicians Grade II & I ought to be maintained with Lighting Assistants Gr. II and Gr. I respectively, i.e. to grant of pay scale of Rs.4500-7000 to Technician Gr.II and Rs.5000-8000 to Technician Gr. I.

(Pages 27-30; Enclosure 05)

With above observation, the Fast Track Committee has left the matter on Prasar Bharati Board to decide, because, Prasar Bharati (Broadcasting Corporation of India) had notified on 15.09.1997 and had become operative.

(9) That is, Prasar Bharati, granted the parity of Lighting Assistant Gr. II & Gr. I to Technicians Gr. II & Gr. I, respectively, i.e. granted the pay scale of Rs. 4500-7000 to Technician Gr. II and Rs. 5000-8000 to Technician Gr. I, from 01.01.1996 onward, through the MOIB orders dated 25.02.1999, but as "up-gradation given for working in Prasar Bharati". While the demand was from 1983.

(Pages 31-35; Enclosure 06)

(10) That is, being aggrieved, this association (ADTEA) filed the OA 390/2006, in Hon'ble CAT Madras, for the Parity with Lighting Assistant with retrospective effect from 01.07.1983, but Hon'ble CAT Madras bench dismissed the OA on 10/07/2008.

(Pages 36-38; Enclosure 07)

(11) That is, this association, then, filed the Writ Petition No. 27155 of 2009 in Hon'ble High Court Madras against Hon'ble CAT Madras order in OA 390/2006. Hon'ble High Court Madras had passed the Judgement on merit, on dated 24.11.2010, by set aside the Hon'ble CAT Madras order dated 10/07/2008, in OA 390/2006 and directed the respondent department to extend the parity with effect from 01.07.1983, notionally.

(Pages 39-51; Enclosure 08)

(12) That is, Department filed an SLP (Civil) No. 33048/2011 in Hon'ble Supreme Court against the judgement of Hon'ble High Court Madras in WP(C) No. 27155/2009, which was dismissed on merit, on dated 10.01.2013, with the judgement that "by ordering revision of pay scales of Technicians at par with the Lighting Assistants, the High Court has acted in consonance with the spirit of Articles 14 and 16 of the Constitution".

(Pages 52-58; Enclosure 09)

(13) That is, DG AIR through order No.: 8/8/2006-SIV(A)/Part-1/107 dated 11.03.2014, had implemented the order of Hon'ble Supreme Court dated 10.01.2013 in SLP(C) No.: 33048/2011 in accordance with the approval of Ministry of Finance and Ministry of I&B, but the implementation wasn't in letter and spirit of HC Madras Judgement.

(Pages 59; Enclosure 10)

(14) That is, being aggrieved with the implementation, this association had filled the contempt petition No. 664/2015 (Writ Petition No. 27155 of 2009) in Hon'ble HC Madras. During the proceedings, Hon'ble HC Madras had passed an interim order dtd. 24.04.2017 that "the respondents have not complied with the order in its letter and spirit and that they should implement the proceedings dtd. 6 June 2011". Learned Additional Solicitor General sought reasonable time to pass fresh order in compliance to the interim order dtd. 24th April 2017.

(Pages 60-65; Enclosure 11)

(12) That is, instead of passing fresh order, DG AIR filled fresh SLP No.: 17169/2017 in Hon'ble Supreme Court against the interim order dtd. 24.04.2017 of Hon'ble High Court Madras in CONTP No. 664/2015 (Writ Petition No. 27155 of 2009), which was again disposed of on merit, on dated 17.01.2018, with the direction "to pass the order and produce the same before the High Court".

(Pages 66-67; Enclosure 12)

(13) That is, finally DG AIR had issued the modified order No.: 8/8/2006-SIV(A)/Part-1/157 dated 06.08.2021 in compliance to the interim order dtd. 24.04.2017 of CONTP No. 664/2015 (Writ Petition No. 27155 of 2009) of Hon'ble HC Madras..

(Pages 68; Enclosure 13)

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(C). Revision of Pay Scales of Lighting Assistant of DDn on Hon'ble HC Delhi judgement and thereafter extension of Pay Scales to Technician cadre of AIR&DD to maintain parity:-

(14) That is, Union of India through its order dated 19.04.2012, in compliance of Judgement passed by Hon'ble HC Delhi in WP(C) No. 6544/2007, extended the pay scale of Rs. 5000-8000 to Lighting Assistant from 01.01.1996 to maintain historical parity with Asstt. Cameramen of Film Division with the approval of Ministry of Finance and MOIB.

(15) That is, in the OA 1861/2014 filled by Ashok Yadav and others Vs. UOI, Hon'ble Principle Bench CAT Delhi concluded that **"it is clear that matter has been settled at the level of the Hon'ble Supreme Court that Technician and Sr. Technician be treated at par with Lighting Assistants as far as their pay scales are concerned"**. Hence, Hon'ble Principle Bench CAT Delhi allowed the OA 1861/2014, and directed the respondents to grant the benefits of Higher scale of Rs. 5000-8000 w.e.f. 01.01.1996 on notional basis to the applicants. (Pages 69-75; Enclosure 14)

(16) That is, in compliance to the Principle Bench CAT Delhi order in OA 1861/2014, DG AIR extended the Rs. 5000-8000 scale through its order No. 8/6/2014-SIV(A)/671 dated 8.7.2016 to the applicants of OA 1861/2014. (Pages 76; Enclosure 15) and again by order No. 8/20/2015-SIV(A) dated 12.05.2017 had extended the Rs. 5000-8000 pay scale to other applicants of 5 OAs, i.e. OA 1858/2015, OA 4101/2015, MA 2096/2015 in OA 4424/2014, OA 1553/2016 of Principle Bench CAT Delhi and OA 690/2015 of CAT Jabalpur with the advice of DOLA, Min. of finance and MOIB. (Pages 77-78; Enclosure 16) and finally had generalised for all the remaining Technicians who joined the service on or before 05.10.2007 through Order No. 8/20/2015-SIV(A)/778 dated 18.12.2017. (Pages 79; Enclosure 17)

(17) That is, DG AIR clarified to the various Stations/Kendras through the order No. 14/44/2017-SIV(A)/494 dated 4th August 2017, at Sr. No. 3 that **"The pay scale of Rs 5000-8000 granted to Technicians, on Notional basis, is not upgraded"**. (Pages 80-81; Enclosure 18)

(18) That is, the pay scale granted to Technicians/Sr. Tech. through MOIB executive order dated 25.02.1999, granted as **"upgradation"** for working in Prasar bharti, with the undertaking, has now no meaning, as through **Prasar Bharati amendment act 2012, S-11 "all the employees up to 05.10.2007 are conferred with the status of Central Govt. Employees working in Prasar Bharati on deemed deputation till retirement"**. (Pages 82-84; Enclosure 19)

(D). Ministry of Law and Justice opinion dt. 04.01.2016 on the recovery issue against Scale granted by MOIB OM dt. 25.02.1999:-

(19) That is, as per the components submitted by MOIB, matter was examined in Department of Legal Affairs (DOLA) Ministry of Law. **Dy. Legal Adviser had opined that upgraded scales vide OM 25.02.1999 have different connotations altogether for the reasons as stated above and cannot be termed as "availed financial up-gradations" and "ACP inbuilt in 25.02.1999" for the purpose of depriving of ACP/MACP benefits to these employees/affecting recoveries thereof. Pursuant to Prasar Bharati amendment Act 2012, these employees being central Govt. Employees appears to be eligible for ACP/MACP benefits.** (Pages 85-87; Enclosure 20)

(E). MOIB ID Note No.: 503/05/2014 dt. 11.02.2016 to DOPT :- (Pages 7-17; Enclosure 01)

(20) That is, on getting refusal of any recovery against 25.02.1999 order from Ministry of Law, MOIB raised a consolidated ID note for all 11 beneficiary cadres of OM 25.02.1999 to DOPT for getting recommendation on recovery. Surprisingly, MOIB missed/concealed the developments in Technician cadre after Hon'ble Supreme verdict of restoration of historically parity between Lighting Assistant and Technician cadre of AIR & DDn while MOIB officials were very well aware with these developments. Having no mentioning of key facts regarding Technician cadre in ID note, **DOPT had advised to adjust one MACP against 25.02.1999 benefit. This association has strong view that for Technician cadre, DOPT advice doesn't hold good as the parity had been established by Hon'ble HC Madras from 01.07.1983 onward and was upheld by Hon'ble Supreme Court.**

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(F) MOIB Id Note No.: 503/S/2014-BA(E) dt. 16.06.2017 to Ministry of Finance :-

(21) That is, in similar way, MOIB had also missed/concealed the developments in Technician cadre after Hon'ble Supreme verdict of restoration of historically parity between Lighting Assistant and Technician cadre of AIR & DDn from the Ministry of Finance. Having no mentioning of key facts regarding Technician LA parity in ID note, Ministry of Finance hold the DOPT advice to adjust one MACP against 25.02.1999. (Pages 88-111; Enclosure 21)

(G) Legal opinion of the Government Counsel of DG AIR panel:-

(22) That is, along with missed/concealed key facts of AIR & DD Technician cadre historical parity before Nodal Agency DOPT & MOF, MOIB had also ignored the legal opinion of another important Nodal Agency i.e. DOLA, who had opined that "25.02.1999 cannot be termed as availed financial upgradations". And MOIB had directed to take legal opinion from the Govt. Counsel of DG AIR. (Pages 112-114; Enclosure 22)

(23) That is, DG AIR had submitted the legal opinion from Govt. Counsel Mr. S. M. Arif to MOIB. The opinion of Government Counsel was purely based on the case belong to Engineering Assistant/Sr. Engineering Assistant/Assistant Engineer cadres and have no relation with the development of Technician/Sr. Technician cadre pay scale development after Hon'ble Supreme Court Judgement. (Pages 115-116; Enclosure 23)

(24) That is, finally with the approval of Hon'ble Minister of Information & Broadcasting, MOIB had directed to Prasar Bharati to take the action by treating MOIB OM 25.02.1999 as one upgradation and accordingly make recovery of wrongful/excess payment made to Govt. servants in pursuance of Hon'ble Supreme Court judgement dtd. 18.12.2014, in 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. (Pages 117-118; Enclosure 24)

During the movement of both ID notes to DOPT (2016) and MOF (2017), MOI&B was very well conversant with the development of historical parity between Lighting Assistant of DDn and Technician of AIR&DD, but had missed/concealed the key facts in both ID notes to the nodal agencies. Also the priority given to Departmental Counsel (who may have vested interest during disputes) opinion over the opinion of third important Nodal agency i.e. DOLA (Ministry of Law and Justice) for the issuance of MOIB order dt. 31.01.2018 has hampered the Principle of Natural of Justice of Technician cadre employees.

PRAYER

Under the facts and circumstances of the case explained above, there is no need to consider the other contentions as Hon'ble Supreme Court ruling is final and binding, it is humbly requested to kindly move a fresh note to DOPT and MOF to get the fresh direction on OM 25.02.1999 only for Technician cadre employees of AIR&DD, similarly, as taken earlier for AE CCW cadre. Till the direction, in the interest of Principal of Natural Justice, kindly withheld the operation of MOIB order dt. 31.01.2018 also. For the kind act we shall ever pray.

Thanking you sir.

Sincerely Yours

Enclosure:- (24) as stated above.

Total (118) pages, including application.


(Anil Kumar Gupta)

President

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