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# 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)  
No. 2298/63

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Date: 21/01/2019

Ref. No.: ADTEA/2019/004

To,

Sent  
24/01/19

Sri. Binod Kumar,  
Chief Controller of Accounts,  
O/o Chief Controller of Accounts,  
Principal Account Office,  
Ministry of Information & Broadcasting,  
7<sup>th</sup> Floor, 'A' Wing, Shastri Bhawan, New Delhi-110001

**Subject: (i) Modified Assured Career Progression Scheme (MACPS) for the Central Govt.  
Civilian Employees- reg.**

**(ii) Request to desist various PAOs against one MACP recovery in the name of  
25/02/99 up-gradation.**

**Reference: Ministry of Finance latest order from File No.: A-26017/166/2018- Ad.IIA dated  
9<sup>th</sup> Jan., 2019 to all Cadre Controlling Authorities. (Enclosure 01)**

Respected Sir,

We want to draw your kind attention on the above referenced Ministry of Finance latest order. In the Modified Assured Career Progression Scheme for the Central Government Civilian Employees, Ministry of Finance states-

**"(iv) the MACP is a condition of service and, hence, cannot be given retrospective effect. It is up to Government to take a conscious decision to implement it uniformly from a certain date".**

This association has the view that "if MACP cannot be given retrospectively than as per the Principle of Natural Justice how can, MACP, be treated retrospectively (from 20 years long back) against the three up-gradations allowed under MACP Scheme" as directed in MOIB order Dated 31<sup>st</sup> January 2018 and DG AIR order dated 26.06.2018.

Ministry of Finance further states--

**"(v) It is not feasible to extend the benefits of MACP during 01.01.2006 to**

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31.08.2008, as more than nine years of time has passed since the implementation of MACP and the issues have been settled as per the extant instructions. The change of effective date will lead to surge of litigation particularly from employees who availed the benefits of ACP scheme during 01.01.2006 to 31.08.2008".

Kindly see this observation, in the light of the MOIB BA (E) Section note Dy No. F-122/06-BAE dated 12/12/2006 (Copy enclosed as Enclosure 02) with "Subject:- Fixation of Pay in respect of Technical Staff- audit objection", in which it is stated that pay scale given to the employees vide OM dated 25/02/1999 are apart from the recommendations of Vth Pay Commission is untenable",

Note states-

"3. The up-gradation of the pay scale was given in continuation of the recommendations made by the Vth Pay Commission. These recommendations were made only after consultation with DOP&T and Ministry of Finance. As such, the contention of the audit that the pay scales given to the employees vide O.M. dated 25.02.1999 are apart from the recommendations of Vth Pay Commission is untenable".


The above two observations (i.e. Min. of Finance latest order dated 09.06.2019 and MOIB note dated 12/12/2006) clearly states that MACP cannot be counted retrospectively and reversal of implemented MACP may attract surge of litigations. This act is against the humanity and Principle of Natural Justice too.

Hence, this Association strongly demands that kindly desist various PAOs, under your control, against one MACP recovery in the name of 25/02/99 up-gradation, in light of Min. of Finance latest order dated 09.01.2019.

With warm regards.

Enclosures: (02) as stated above

Yours' Faithfully

  
(Anil Kumar Gupta)  
General Secretary  
M 9450395298



Encl. (1)

(3)

F. No. A-26017/166/2018-Ad.IIA  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs

North Block, New Delhi  
Dated the 9<sup>th</sup> January, 2019

To,

All Cadre Controlling Authorities under CBIC

**Subject: Modified Assured Career Progression Scheme (MACPS) for the Central Government Civilian Employees -regarding**

Madam / Sir,

The Modified Assured Career Progression Scheme (MACP) for the Central Government Civilian Employees was introduced on the recommendation of the 6<sup>th</sup> Central Pay Commission vide Department of Personnel and Training (DoP&T) OM No.35034/3/2008-Estt(D) dated 19.05.2009 w.e.f. 01.09.2008.

2. The Board has been receiving a number of references from individuals/Commissionerates/CBN, CBIC, seeking clarification on the applicability of the judgment dated 08.12.2017 of the Hon'ble Supreme Court in Civil Appeal Diary No. 3744 of 2016, in case of UOI and Ors. Vs. Balbir Singh Turn & Anr. on grant of MACP from 01.01.2006 instead of 01.09.2008.

3. DoP&T is the nodal Department for regulation of MACP Scheme. The matter has been examined in the Board in consultation with DoP&T. DoP&T has, inter alia, observed that: -

The Order dated 08.12.2017 of the Hon'ble Supreme Court in Civil Appeal Diary No. 3744 of 2016, in case of UOI and Ors. Vs. Balbir Singh Turn & Anr is in the context of MACP Scheme issued by Ministry of Defence (MoD) with regard to Personnel below Officer Rank (PBOR) and hence the order of Hon'ble Apex Court is directly not applicable to the MACP Scheme issued by DoP&T for civilian employees. Therefore, request for grant of MACP benefits w.e.f. 01.01.2006 may not be agreed to on the following grounds: -

(i) The VI Pay Commission recommended separate Schemes for civilian and the Defence Personnel. After the recommendations were considered and approved by the Cabinet, D/o Expenditure issued Resolution dated 29.08.2008 in respect of civilian employees. M/o Defence issued resolution dated 30.08.2008 regarding extension of VI CPC benefits to Armed Forces Personnel. Thus, the Civilian and the PBOR personnel are governed by two different Resolutions.

Cond...2/-

(ii) The recommendations of the 6<sup>th</sup> CPC were accepted by the Government only on 29.08.2008 (30.08.2008 in case of PBOR). The recommendations of the 6<sup>th</sup> CPC were required to be examined and a scheme was to be formulated in consultation with Department of Expenditure and the same took considerable time for its implementation. Before implementation of the Scheme, a cut off date had to be decided/fixed. Accordingly, the Government has taken a conscious decision for implementing the MACPS w.e.f. 01.09.2008. Though the MACPS came into existence only w.e.f. 01.09.2008, the benefits of the existing ACP Scheme of August, 1999, was allowed to the Government servants upto 31.08.2008.

(iii) Changing the effective date of implementation of MACP from 01.09.2008 to 01.01.2006 may be beneficial to certain employees, but this would also place certain other employees at a disadvantage thereby entailing huge recoveries from them. It may be difficult to make recoveries from the employees who have availed higher financial benefit under ACP during 01.01.2006 to 31.08.2008 and retired from service.

(iv) The MACP is a condition of service and, hence, cannot be given retrospective effect. It is upto Government to take a conscious decision to implement it uniformly from a certain date.

(v) It is not feasible to extend the benefits of MACP during 01.01.2006 to 31.08.2008, as more than nine years of time has passed since the implementation of MACP and the issues have been settled as per extant instructions. The change of effective date will lead to surge of litigation particularly from employees who availed the benefits of ACP scheme during 01.01.2006 to 31.08.2008.

(vi) Vide Order dated 14.02.2017, Hon'ble High Court of Judicature at Madras in Writ petition Nos. 33946, 34602 and 27798 of 2014 has held that the benefit of erstwhile ACP Scheme cannot be negated by bringing a new Scheme i.e. MACP Scheme with retrospective effect.

4. Based on the above, you are requested to take appropriate action on the references received on this issue.

5. This issues with the approval of Competent Authority.

Yours faithfully,



03/01/2019

(M. K. Gupta)

Under Secretary to the Government of India

Tele. No. 011-23095528

✓ Copy: DG Systems, CBIC with a request to upload it on the website.



Encl. (2)

(5)

Ministry of Information & Broadcasting  
BA(E) Section

Subject:- Fixation of pay in respect of Technical Staffs – Audit Objections regarding.

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Reference notes at pre-page.

2. The pay scales of certain categories of employees in Prasar Bharati were upwardly revised vide Ministry of I&B's letter no. 310/173/97-B(D) dated 25.02.1999. The very first paragraph of the letter reads as under:-

"The employees belonging to certain cadres in All India Radio and Doordarshan (particularly, subordinate engineering and programme cadres), had been agitating for grant of higher scales of pay than those recommended by the Vth Central Pay Commission and accepted vide Government of India Resolution of 30<sup>th</sup> September, 1997. The matter has been carefully considered by the Government and it has been decided to further upgrade the scales of pay of the categories of employees of All India Radio and Doordarshan of Prasar Bharati (Broadcasting Corporation of India) as indicated against each category in Annexure-I."

3. The upgradation of the pay scale was in continuation of the recommendations made by the Vth Pay Commission. These recommendations were made only after consultation with DOP&T and Ministry of Finance. As such, the contention of the audit that the pay scales given to the employees vide O.M. dated 25.02.1999 are apart from the recommendations of Vth Pay Commission is untenable.

4. We may accordingly clarify to Prasar Bharati that the upgraded pay scales have to be considered in the light of the Vth Pay Commission's recommendations only as the pay scales recommended and accepted by the Government vide Resolution dated 30.09.1997 stand amended in the light of the O.M. dated 25.02.1999 in respect of the employees of Prasar Bharati. Accordingly, the revised pay granted to the employees in accordance with O.M. dated 25.02.1999 has to be fixed as provided in CCS(RP) Rules 1997 as indicated in the above stated O.M.

Ruchika  
19/12/06

US (BAE)

20/12/06

19/12/06

RV 2/12  
DATE

DA: AR (S.P. Pat, DDAB)

H/o IAB Pay No. F. 122/02 - BAF dt 22/12/02

2/12/06