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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)
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Ref. No.: ADTEA/2018/021

Date: 28.03.2018

To,

✓ Smt. Smriti Zubin Irani,
Hon'ble Minister for Information & Broadcasting,
Ministry of Information & Broadcasting,
Shastri Bhawan, New Delhi-110001

Subject: Clarification on admissibility of ACP/MACP to EA- additional information.

Reference: MIB communication F. No.: 503/5/2014-BA(E) dated 31.01.2018.

Respected Madam,

We are grateful to the Hon'ble madam Minister for the meeting that she listened us patiently yesterday (i.e. 27.03.2018), keenly, regarding our issue of one MACP in light of Hon'ble MIB order dated 25.02.1999. During the meeting respected Madam desired some additional papers issued after 2012, regarding the issue. We are hereby enclosing those additional papers with the brief summary of the issue.

In the communication (referenced above), MOIB has directed to CEO Prasar Bharti to adjust the up-gradation given by the 25.02.1999 executive order against one ACP/MACP by ignoring the following facts.

- 1) Govt. revised the pay scale of Engineering Assistant to Rs. 2000-32000 through MIB order No. 310/15/93-B(D) dated 15.05.1995, at par with Sound Recordist after the Hon'ble Apex Court order dated 25.11.1994, upholding the CAT, Madras Judgement passed in O.A. No. 654/89 dated 29.6.90.
- 2) But surprisingly, 5th CPC proposed to down grade the pay scale of Sound Recordist and thereby the same to Engineering Assistant. In Para 73.16 stated that "**A demand has been made for up-gradation of the posts of Senior Engineering Assistant (Rs. 1640-2900) and Asstt. Engineer (Rs. 2000-3500) in view of the up-gradation of the**

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pay scale of Engineering Assistant (Rs. 2000-3200). We have recommended elsewhere the scale of Rs. 1600-2660 for Sound Recordist. We recommend that the same scale be extended to Engineering Assistant in order to maintain the existing parity between the Sound Recordists and Engineering Assistants. The Engineering Asstts on promotion as Sr. Engineering Asstts be given the present scale of Sr. Engineering Asstts i.e. Rs. 1640-2900. Similarly the post of Asstt. Engineer may continue in the existing scale of Rs. 2000-3500 and be given the replacement scale thereof. However, the existing pay of Engineering Assistant as given pursuant to the Court's order will be fully protected and will be personal to them only."

- 3) As per Govt. of India resolution vide letter no.: G.I.M.F no.: 50(1)/IC/97 dated 30/09/1997 on para -2, it is stated that " **The pay scale of Engineering Assistant in the Ministry of I&B has been referred to the committee of Secretaries for examination through Fast Track Mechanism. The matter is under consideration of committee and separate orders will be issued in respect of these categories, pending which normal replacement scale will apply.**
- 4) On dated 16.04.2001, vide office order No. 13/2001-SI(A) from file No. 37/2/99-SI(A). DG DD granted the revised pay scale of Rs.6500-10500 to incumbent sound recordists on personal basis w.e.f 1.1.96 with the approval of Ministry of Finance, Dept. of Expenditure (IC) and concurrence of IFD of MIB.
Since EA has the pay parity with Sound Recordist (well established by Hon'ble Apex Court, by order dated 25.11.1994), but it could not be restored till date due to unknown reason.
- 5) The PB CAT Delhi in DEEWA case, OA1867/1998, granted the pay scale of Rs.6500-10500 as normal replacement scale of Rs.2000-3200 (of 4th CPC) to -incumbent EA- which was upheld by Apex court.
This judgement states the natural principle of justice for incumbent Engineering Assistant cadre of AIR & DD, should have the pay scale of Rs.6500-10500 in 5th CPC as replacement scale of Rs.2000-3200 in 4th CPC.

→ In addition to above, As desired by Hon'ble Ma'am Minister, we want to add the following speaking order No.: 8/3/2011-SIV(B)/Voll. VI, dated 13.10.2015 issued by DG AIR and submitted in Hon'ble Principal Bench CAT Delhi in compliance the direction in various OAs mentioned. As per para "9(a)" states---

- " 9. Where, after deliberations, the screening Committee also noted that:
- a. Since all the employees except EAs mentioned in category II above are enjoying higher scales than their counterparts (category I)

ca/wg/w

- i. **Category-I.** Those who had not accepted the upgraded payscales granted by the Ministry of I&B but were granted the payscale of Rs.6500-10500 through court verdict in OA No.85/1997 linked with OA No.662/2004 before the Patna Bench of CAT as replacement scale for IV CPC, payscales for EAs, SEAs and AEs w.e.f 1.1.1996. And,
- ii. **Category-II.** Those who had accepted the upgraded payscales of Rs.6500-10500, Rs.7450-11500 and Rs.7500-12000 respectively in the posts of EA, SEA and AE w.e.f 1.1.1996 vide Ministry of I&B order dated 25.2.1999.

9. Whereas, after deliberations, the Screening Committee also noted that:

- a. Since all the employees except EAs mentioned in category II above are enjoying higher payscales than their counterparts (category I) who had not accepted these scales, so they are not similarly situated with applicants of OA No.514/2002 as far as their payscales are concerned.
- b. Once a higher payscale has been granted to an employee on his promotion in the

(Copy of Speaking order Annexure-1)

Hence Present statistics of Category- I and Category- II

Sr. No.	Designation	Scale In Vth CPC Category –I (Without 25.02.1999)	Scale In Vth CPC Category-II (With 25.02.1999)
<u>1</u>	<u>EA</u>	<u>Rs 6500-10500</u>	<u>Rs. 6500-10500</u>
<u>2</u>	<u>SEA</u>	<u>Rs. 6500-10500</u>	<u>Rs. 7450-11500</u>
<u>3</u>	<u>AE</u>	<u>Rs. 6500-10500</u>	<u>Rs. 7500-12000</u>

“ It is clear now by the above submission that the scale granted to EA through MOIB order dated 25.02.1999 is not the higher scale (i.e. Upgraded scale), as are being projected again and again in all communication of MOIB and DG AIR, only to deprive EA by one ACP/MACP”. It is the clear view of this association that scale granted to EA as Rs. 6500-10500 (termed as upgraded scale in MOIB order dated 25.02.1999) is the replacement scale of Rs. 2000-3200 (4th CPC) as on 01.01.1996.

Ma'am, it is a matter of deep unfortunate for EAs that, at that time, NFADE (National Faderation of Akashwani & Doordarshan Employees) did not represent the case of 11 categories, in which EA is also available, before COJS, as it is clear by the minutes of meeting of COJS given below.

(Copy of relevant page as Annexure-2)

COJS

11.	<p>NFADE</p> <p>There was no representation from NFADE who have also been called for NFADE in their earlier representations had stated that if the administrative staff are granted upgraded scales, then the administrative and programme staff have to be given one more scale higher.</p>	<p>These are part of the 11 upgraded categories.</p>
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Due to non representation of EA case, unfortunate decision of withdrawing the 25.02.1999 scale from EA (which was its normal replacement scale to establish the parity with Sound Recordist) was recommended by COJS, thereby thrown the future of all EAs into deep dark.

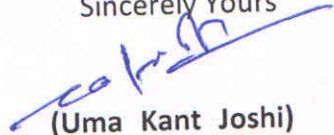
Hence, In light of the submission made above, it is a request to you to kindly intervene in the matter to stop any derogatory decision, of withdrawal of 25.02.1999 order against one ACP/MACP from EAs and save them, who are deprived for 25+ years of cadre stagnation and on the door of heavy recoveries. We will be grateful to your good self if an additional early hearing may be granted to this association as per your convenience.

Thanking you sir.

Annexure: (2) as stated above.

Total (9) pages including application.

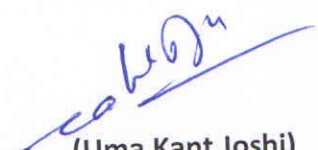
Sincerely Yours


(Uma Kant Joshi)

Jt. Secy. ADTEA
for President ADTEA
Ph: 9871053111

Copy To: (Through E-mail)

1. Shri. N. K. Shinha, Secretary (I&B), Ministry of I&B, Shastri Bhawan, New Delhi-110001
2. Shri. S. S. Vempati, Chief Executive Officer, Prasar Bharti, Coparnicus Marg, New Delhi-01
3. DG:AIR {Kind Attn. Dr. Shailendra Kumar ADG(A)}, Akashwani Directorate, Akashwani Bhawan, Sansad Marg, New Delhi-110001


(Uma Kant Joshi)

No.8/3/2011-SIV(B)/Vol.VI

Akashvani Bhawan, New Delhi,
dated the 13.10.2015

SPEAKING ORDER

Whereas the following Original Applications were filed by many EAs, SEAs and AEs of DG:AIR and DG:Doordarshan before the Hon'ble Principal Bench of CAT, New Delhi for 1st ACP benefits in the payscale of Rs.8000-13500 as granted to the applicants of OA No.514/2002.

OA No.	Filed by S/Shri	Total No. of applicants
757/2013	Umesh Chandra & others	11
3400/2012	Vinod Kumar & others	7
350/2013	H.K.Mishra & others	3
4191/2013	Anil Kumar Sharma & others	40
4462/2013	Union of AV&DDn	93
879/2013	S.K.Mishra & others	6
4439/2013	Pradeep Gupta & others	35
4249/2014	ARTEE	4
1147/2014	Thomas Mathew & others	9
3675/2014	MRC Reddy & others	23
4028/2014	A.K.Bhatnagar & Others	99
4280/2014	A.M.Sharma & others	43
305/2014	Niraj Tirkey & others	116
58/2015	K.K.Sharma & others	66
2608/2015	S.K.Singh & others	74
1156/2013 (CAT, Chennai)	Smt.S.Selvaraju	1
1155/2013 (CAT, Chennai)	K.Kannan	1
200/2014(CAT, Jabalpur)	N.K.Parmar & others	20

2. Whereas the following Contempt Petitions were also filed before the Principal Bench of CAT, New Delhi due to non-implementation of the Hon'ble CAT orders.

CP No.	Filed by S/Shri	Total No. of applicants
CP 68/2015 in OA No.215/2014	Sushil Kumar Aggrawal & others	154
CP 445/2015 in OA No.2852/2013	Ashutosh Kumar & others	6
CP No.197/2015 in OA No.4520/2013	Pradeep Galhotra & others	56
CP No.396/2014 in OA No.854/2014	Y.P.Singh & others	177

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CP No.357/2015 in OA No.2591/2013	Vinod Kumar & others	7
CP No.68/2015 in OA No.3580/2014	Joginder Singh & others	16
CP No.560/2014 in OA No.51/2014	Pradep Kumar & others	24
CP No.540/2014 in OA No.3106/2013	M.K.Gupta & others	26

(6)

3. Whereas the Hon'ble Tribunals had ordered in all the cases mentioned above to *consider the cases of the applicants if they are found similarly placed with the applicants of OA No.514/2002, they shall also be extended the benefits therein.*, Thereafter, the Directorate General, All India Radio decided to examine the service records of all the petitioners in the OAs and CPs mentioned in para 1 & 2 above. It was also decided to examine the service records of all other EAs, SEAs and AEs who have so far not approached any Tribunals. Since there are approximately 4950 serving/retired EAs, SEAs and AEs, it was considered not possible to bring their service records to the Directorate for verification within the short time frame allowed by the Hon'ble Tribunals. All the 5 zones were asked to constitute Zonal Screening Committees in their respective Zones under the Chairmanship of the respective Zonal ADGs to verify the service records of all EAs, SEAs and AEs who were drawing pay and allowances in the pre-revised payscale of Rs.6500-10500 and/or in the upgraded payscales granted by the Ministry of I&B vide their order dated 25.2.1999.

4. Whereas the zonal offices provided the certified service details of the applicants of all the OAs/CPs mentioned in para 1&2 above and also the service details of other EAs, SEAs and AEs of North Zone who were not applicants in any OAs/CPs filed till now.

5. Whereas the Screening Committee constituted in the Directorate to examine the certified service records thus received from the zones met on 12.10.2015 under the Chairmanship of Shri Animesh Chakraborty, Engineer-in-Chief, All India Radio to consider the cases of all the employees as mentioned in para 4 above. The other members of the Committee were Shri J.Bhagat, Chief Engineer, CCW, Shri R.Ghosh Dastidar, ADG(E-Dev), DG:AIR and Shri O.K.Sharma, ADG(E), Doordarshan.

6. Whereas the Hon'ble CAT, Patna in OA No.514/2002 had observed that the applicants are working as EAs, SEAs and AEs in Prasar Bharti in the payscale of Rs.6500-10500 since the implementation of the 5th Pay Commission in 1996 by virtue of implementing the order of Hon'ble Tribunals in OA No.85/1997 linked with OA No.662 of 2004 and had directed the Respondents to grant the applicants the payscale of Rs.8000-13500 as and when they have completed 12 years of service in the payscale of Rs.6500-10500 within a period of 2 months.

7. Whereas the order of the Hon'ble Tribunal was challenged before the Hon'ble High Court, Patna, observing that "*on merits, there is no dispute that the tribunal has correctly appreciated the clarification contained in DOPT OM dated 10.2.2000 which is fully discussed in para 4 of the impugned order of the learned CAT, Patna*

air

Bench dated 7.9.2010 in OA No.514 of 2002". The operative para of the Hon'ble High Court verdict dated 25.8.2010 was as under: (7)

We find some substance in the submissions advanced on behalf of petitioners that the learned Tribunal in paragraph 9 of the impugned order should have directed the authorities only to consider the case of the applicants for grant of benefits under the ACP on completing 12 years of service in accordance with scheme of ACP and the clarification contained in DOPT dated 10.2.2010(sic)(2000). In our view also the learned Tribunal should not have issued a general direction to cover cases of all the individuals because under the ACP scheme cases of individuals require consideration. Now once the doubts relating to cases of the employees have been cleared, they are directed to consider the grant of benefit of ACPS to the applicants before the Tribunal within a period of 3 months from today in accordance with law and the observations made in this order and the order of the learned Tribunal.

8. Whereas the Hon'ble High Court had modified the order of CAT, Patna and directed to consider the grant of benefit of ACPS to the applicants of OA No.514/2002 before the Tribunal within a period of 3 months in accordance with law and the observations made in its order and the order of the learned Tribunal, the Screening Committee examined the cases keeping view the order of the Hon'ble Patna High Court which had attained finality. The Committee, after examination of the service details of the applicants of the OAs/CPs as mentioned in para 1&2 above and the service details of other EAs, SEAs & AEs from North Zone whose details were placed before it for consideration, observed that subsequent to the grant of upgraded payscales by the Ministry of I&B vide its order dated 25.2.1999, two categories of EAs, SEAs and AEs exist in Prasar Bharati. These are:

- i. **Category-I.** Those who had not accepted the upgraded payscales granted by the Ministry of I&B but were granted the payscale of Rs.6500-10500 through court verdict in OA No.85/1997 linked with OA No.662/2004 before the Patna Bench of CAT as replacement scale for IV CPC payscales for EAs, SEAs and AEs w.e.f 1.1.1996. And,
- ii. **Category-II.** Those who had accepted the upgraded payscales of Rs.6500-10500, Rs.7450-11500 and Rs.7500-12000 respectively in the posts of EA, SEA and AE w.e.f 1.1.1996 vide Ministry of I&B order dated 25.2.1999.

9. Whereas, after deliberations, the Screening Committee also noted that:

- a. Since all the employees except EAs mentioned in category II above are enjoying higher payscales than their counterparts (category I) who had not accepted these scales, so they are not similarly situated with applicants of OA No.514/2002 as far as their payscales are concerned.
- b. Once a higher payscale has been granted to an employee on his promotion in the hierarchy and he has accepted it, no additional benefit in the form of financial upgradation under the ACP Scheme can be granted to him as per the ACP Rules.
- c. All the 1832 employees whose data has been placed for consideration have been granted upgraded payscales as per Ministry of I&B order dated 25.2.1999 so they are not similarly situated as in the case of the applicants of OA No.514/2002 (Category-I). Shri B.K.Roy, SEA who was an applicant of OA No.514/2002 and had initially opted for upgraded payscales granted by the Ministry of I&B as per

Signature

its order dated 25.2.1999, subsequently opted for the scales as per category-I, only then he was granted the benefits under the ACP scheme.

- d. None of the applicants of the above mentioned OAs & CPs filed before various Tribunals have apparently disclosed before the Hon'ble Tribunals that they are beneficiaries of upgraded payscales as per Ministry of I&B order dated 25.2.1999 and, therefore, are not similarly placed with the applicants of OA No.514/2002 on this count.
- e. The applicants of CP No.68/2015 filed by Shri Joginder Singh and 15 others and CP No.197/2015 filed by Shri Pradeep Galhotra and 60 others are also beneficiaries of upgraded payscales granted by the Ministry of I&B vide order dated 25.2.1999 and as such they belong to category-II described in para 8 above and therefore they are not entitled for upgradation under the ACP Scheme.

10. Whereas the Committee after careful examination of the service details and detailed deliberations found that the cases of all the candidates placed before it including the applicants of OAs & CPs listed in para 1 & 2 above falls under Category II mentioned in para 6 above and therefore they are not similarly placed as compared to the applicants of OA No.514/2002. Therefore, the Committee did not find them fit for further financial upgradation in the payscale of Rs.8000-13500 under the ACP Scheme as they have already been granted the benefits existing in the promotional hierarchy.

11. Whereas the recommendations of the Screening Committee has been accepted by the competent authority.

12. Therefore, the applicants of all the OAs/CPs as mentioned in para 1 & 2 above are hereby informed accordingly.

13. This issues with the approval of the competent authority.



(Ajaya Kumar K.P)
Deputy Director (Administration)
Tel:23421544

Copy to:

1. Addl. Director General(A&E), Prasar Bharati Secretariat, PTI Building, New Delhi w.r.t PB Sectt. letter No.4/17/2014-LC dated 12.10.2015.
2. Shri Sanjay Dhar, Under Secretary(BA-E Section), Ministry of I&B, Shastri Bhawan, New Delhi w.r.t Ministry's letter No.515/18/2013-BAE dated 21.1.2015.
3. PS to DG, AIR/PS to E-in-C, DG:AIR
4. DDG(A&F), DG:AIR/Dir(AII), DG:AIR

of administrative staff was extended in the case of BSNL, Loks Sabha and Rajya Sabha Sectt and in the Judiciary. With deemed deputation, they are also ceased with Doordarshan and Akashvani, there is clear cut case of discrimination. Earlier Engineering Assistants, TREC were also in the scale of pay of Rs 5000-8000 which was available for administrative staff but they have got scale of Rs 6500 (Pre-revised) and they are getting MACP also on Rs 6500/-

11.

NFADE

There was no representation from NFADE who have also been called for. NFADE in their earlier representations had stated that if the administrative staff are granted upgraded scales, then the administrative and programme staff have to be given one more scale higher.

These are part of the 11 upgraded categories.