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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)

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Ref. No.: ADTEA/2017/008

Date: 08.09.2017

To,

Smt. Smriti Zubil Irani

Hon'ble Minister for Information & Broadcasting,

Ministry of Information & Broadcasting,

Shastri Bhawan, New Delhi-110001



**Subject: Request to consider the pay scale given to AIR & DD subordinate engineering employees vide order dtd. 25.02.1999 as replacement scale along with consideration of ACP/MACP benefit.**

Respected Madam,

With warm regards, we want to submit our view, on above subject, among you for consideration before taking any decision, on the pay scale of 11 cadres of AIR & DD, granted up-gradation them by order dated 25.02.1999. Overlooking the following facts will be very unfortunate & discriminatory and may lead to further litigations resulting huge loss to the Government and Employees as well.

- 1) Hon'ble High court Delhi in W.P. (C) 18034/2004 & 18035/2004, UOI & ORS. Vs Doordarshan Programme Professional Union & ANR. **(Judgement Copies enclosed 01)**, dismissed the Govt. Writ, and pronounced the judgement on 27/10/2014, to uphold the Hon'ble PB CAT judgement in OA 322/2001 dated 05/12/2012 and RA 339/2003 dated 13/07/2004, in which benefit of three ACP/MACP may be granted along with upgraded pay scale by 25/02/1999 order to Floor Asstt. & Floor Managers of Doordarshan. The verdict of Hon'ble HC Delhi was upheld by the Hon'ble Supreme Court and implemented by

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SOUTH ZONE  
P.B. No. 2995  
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MIB and Doordarshan to the cadres of Floor Asstt. and Floor Managers.

- 2) Before the judgement pronounced by High Court Delhi in above mentioned case, MIB had issued an order No. 503/5/2014-BA(E) dated 08.09.2014 to CEO with the advice of DOPT vide its ID No.: 47539/13/CR dated 10/07/2013 which states that **“any up-gradation availed during their service would be counted against the three up-gradation permissible under the MACPs” (Copy enclosed 02)**. The advice of DOPT came much before than the above judgement and MIB issued a favourable decision after the judgement in favour of Floor Assistant and Floor managers. Such favourable decision was not taken in case of subordinate engineering employees till date.
- 3) In another case, Hon'ble High court Delhi in W.P.(C) 4151/2003, UOI & ORS. Vs Programme Staff Association & ORS. **(Judgement Copies enclosed 03)**, disposed of the Govt. Writ on dated 13.07.2017, by directing the Deptt. to grant TWO ACP financial up-gradation to PEx cadre along with pay scale of 25/02/1999, despite the two opposite advices of Law Ministry and DOPT. as narrated by Deptt. counsel in High Court during proceeding in court on dated 20.01.2017-----

*“We are informed by Mr. Sharma, learned counsel for petitioners, that Law Ministry has given opinion in favour of the respondent. However, the DOPT has differed. The matter now rests with the Department of Expenditure. At request, list on 7<sup>th</sup> March, 2017.” (Copy enclosed 04)*

DG: AIR too took favourable decision for extending the ACP/MACP benefit on dated 04/08/2017 for direct recruit PEx and on 09/08/2017 for promote PEX. **(Copy enclosed 05 & 06)**

- 4) With the MIB order, dated 25.02.1999, higher pay scales of Rs. 6500-10500 was granted to EA with another 10 categories under the subject “Up-gradation of Pay Scale”. The upgraded pay scales were allowed *not as a Govt. employees per se but as Govt. Employees in service of Prasar Bharati*. But this order is only to provide the rest 10% of pay in the scale Rs.6500-10500 from 01.01.1996, in continuation of 05/12/1997 order by which MIB granted the pay scale of Rs. 6500-10500 with 90% of pay prom 01.11.1997. Details of

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various court orders and decisions of the Deptt. which support the EA pay scale Rs.6500-10500 as a replacement pay scale in 5<sup>th</sup> CPC are given below.:---

- i) The historic pay scale parity of scale Rs. 2000-3200 in the 4<sup>th</sup> CPC had been granted to Engineering Assistant with Sound Recordist by the Hon'ble CAT Madras OA No. 654/1989 judgement which was upheld by Hon'ble Supreme Court. The Hon'ble Court judgement was implemented by MIB by the order No. 310 / 15 / 93 – B(D) dated 15/05/1995.

**(Enclosure-07)**

- ii) Hon'ble CAT Hyderabad had restored the downgraded pay scale of Sound Recordist on dated 15.03.2000, which was downgraded by 5<sup>th</sup> CPC, vide its judgement in OA 1616/1998 to Rs.6500-10500 as a replacement scale of Rs2000-3200 (of 4<sup>th</sup> CPC). **(Copy enclosed- 08)**

- iii) 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. **(Copy enclosed- 09)**

Since EA has the pay parity with Sound Recordist (well established by Apex Court), Hence EA are eligible for Rs.6500-10500 as a replacement scale of 2000-3200(of 4<sup>th</sup> CPC).

- iv) 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 4<sup>th</sup> CPC) to -incumbent EA- which was upheld by Apex court. **(Copy enclosed-10)**

**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 5<sup>th</sup> CPC as *replacement scale* of Rs.2000-3200 in 4<sup>th</sup> CPC.**

- v) The department has issued offer of appointment to EA in pay scale of Rs. 2000-3200 i.e. Rs. 6500-10500 to all

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candidate of direct recruitment (DR-93 Batch) in East Zone after due clearance from all concerned authorities and many of them joined this department by quitting their job (at that time) only due to offered scale i.e. Rs2000-3200 and corresponding scale Rs.6500-10500 which is now being **termed as upgraded pay scale** and they are being denied consequential benefits in the name of up-gradation. **(Copy enclosed-11)**

- vi) Department of Legal Affairs advices on 04.01.2016 **(Copy enclosed-12)** is given below w.r.t. 25/02/1999 up-gradation as-----

*"point 25 - In view of the above stated examination of matter, we are of view that upgraded scales vide 25.02.1999 order have different connotations altogether for the reasons as stated above and cannot be termed as 'availed financial upgradations' and 'ACP inbuilt in 25.02.1999' for the purpose of depriving of ACP/MACP benefits to these employees/effecting recoveries thereof pursuant to 2012 Act, these employees being central Govt. Employees appear to be eligible for ACP/MACP benefits in term of ACP Patna case and Professional Union case which have attained finality."*

- vii) In our association's view point, "replacement" scale instead of "upgraded" pay scale was endorsed by clarification of MIB to Prasar Bharti vide M.I.B. Dy No. F-122/6-BA(E) dated 22/12/2006 on audit objection related to upgraded pay scale. Where it is stated in para 3 that **"that upgrading in pay scale was in continuation of recommendations made by 5<sup>th</sup> pay commission. These recommendations were made only after consultation with DOP&T and Ministry of Finance"**. **(Copy enclosed-13)**

- 5) Another subordinate Engineering Cadre, who is among the beneficiaries by the up-gradation of 25/02/1999 order, is Technician and Sr. Technician cadre. On the direction of I&B Ministry by order No.: 515/87/2015 BA-E dated 09/05/2017, DG AIR has extended the

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pay parity of Tech. to Lighting Assistant, vide Order No. 8/20/2015-S-IV(A) dated 12.05.2017 (**Copy enclosed 14**), in the pay scale of Rs.5000-8000 on the direction of Hon'ble High Court Madras by WP(C) No. 27155/2009 dated 24.11.2010 judgement which was upheld by Hon'ble Supreme Court in SLP(C) No. 33048/2011 dated 10.01.2013. Since this is the pay parity of Tech. cadre of AIR & DD with Lighting Assistant of Doordarshan, so it is the revision of pay scale to remove of anomaly between the cadres in the department.

But some PAOs are directing the AIR and DD offices to snatch the MACP in the light of the Min. of I&B order dated 25.02.1999 in the name of **upgraded pay scale**. In the letter (No.: PAO/FD/MUM/IA/2017-18/927 dated 24.07.2017) of PAO Film Division Mumbai, Sr. Accounts Officer has passed directions to DDK Bhopal to snatch the MACP granted to Shri. Ashok Dorwal (Tech.). (**Copy enclosed-15**)

- 6) It is our Association's view that rest of the cadres, who are the beneficiary of 25/02/1999 order, must be treated for ACP/MACP benefit exactly similar as the principle laid by Hon High Court Delhi in the WP(C) 18034/2004 & 18035/2004 and in W.P.(C) 4151/2003, UOI & ORS. Vs Programme Staff Association & ORS, to give benefit to Doordarshan Programme Professional Union people i.e. Floor Assistant & Floor Manager and Programme staff Association people i.e. PEXs.

*It is very strange and unfortunate that while granting ACP/MACP to PEX department is ignoring the adverse advice of DOPT and following the favourable advice of Law Ministry but in the case of Subordinate Engineering Employees, Department is acting in completely opposite direction (i.e. accepting the adverse advice of DOPT and ignoring the favourable advice of Law Ministry).*

*In Subordinate Engineering Cadre, EA/<sup>SEA</sup> and Tech/Sr.Tech. has got the parity through court orders and hence can not be treated as UPGRADATION. Hence, In the name of "up-gradation" refixation and recovery of pay at the retirement should be stopped immediately. Our association's view is that All employees should be treated equally in the eyes of Law.*

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Hence, In view of the submission made above it is a request to your goodself to kindly have a sympathetic look on the facts and save the Subordinate Engineering Cadre, who are deprived for 25+ years of cadre stagnation and on the door of heavy recoveries, in case of 25/02/1999 order withdrawal, by issuing the corrigendum letter that **scales granted by 25/02/1999 are NORMAL REPLACEMENT SCALE.**

Thanking you Madam,

Encl.: (15) as stated above

Total pages.

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*8/9/17*  
(Shyam Vir Singh)

President

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*12/9/17*

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*8/9/17*  
(Shyam Vir Singh)  
President ADTEA