



PRASAR BHARATI
(India's Public Service Broadcaster)
Directorate General : All India Radio
Akashvani Bhawan, New Delhi-110001

No.8/7/2014-S-IV(B)/431

Dated the 06 July, 2016

NOTICE

On the recommendation of the Screening Committee of the Ministry of I&B and in compliance of Court orders in OA No.514/2002, OA No.597/2011 and OA No.477/2011, as conveyed vide Ministry of I&B communication No.503/23/2012-BA(E) dated 26.2.2003, No. 503/07/2011-BA(E) dated 5.1.2012, No.503/15/2012-BA(E) dated 12.2.2012 and No.503/06/2012 BA(E) dated 20.7.2012, the following Engineering Assistants, Senior Engineering Assistants and Assistant Engineers were granted 1st ACP benefit in the Pay Scale of Rs.8000-13500.

Sl. No.	Name S/Shri	Designation (at the time of granting ACP)	DG:AIR order No. and date
1	H.K.Mishra	Sr.EA	No.8/3/2011-SIV(B)/ Pt.II dt.17.1.2012
2.	Manoranjan Kumar	AE	No.8/3/2011-SIV(B)/ Pt.II dt.17.1.2012
3.	Nagina Singh	AE	No.8/3/2011-SIV(B)/ Pt.II dt.17.1.2012
4.	Smt.Manju Kumari Sainy	AE (Retd.)	No.8/3/2011-SIV(B)/ Pt.II dt.17.1.2012
5.	Sudhansu Kumar	Sr.EA	No.8/3/2011-SIV(B)/ Pt.II dt.17.1.2012
6.	Vinod Kumar	Sr.EA	No.8/3/2011-SIV(B)/ Pt.II dt.17.1.2012
7.	Radhika Ram Prasad Singh	AE	No.8/3/2011-SIV(B)/ Pt.II dt.17.1.2012
8.	R.N.Sinha (late)	AE	No.8/3/2011-SIV(B)/ Pt.II dt.17.1.2012
9.	B.K.Roy	Sr.EA	No.8/7/2012-SIV(B)/97 dated 4.3.2013
10.	Ajay Verma	EA	No.8/7/2012-SIV(B)/95 dated 28.2.2013
11.	Smt. AlkaBhatnagar	EA	No.8/7/2012-SIV(B)/95 dated 28.2.2013
12.	Smt. Anju Dhar Kachroo	EA	No.8/7/2012-SIV(B)/95 dated 28.2.2013
13.	DashrathVishwanath	EA	No.8/7/2012-SIV(B)/95 dated 28.2.2013
14.	Kuldeep Sharma	EA	No.8/7/2012-SIV(B)/95 dated 28.2.2013

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15.	Mahesh Chand Sharma	Sr.EA	No.8/7/2012-SIV(B)/95 dated 28.2.2013
16.	Manish Kumar Jain	Sr.EA	No.8/7/2012-SIV(B)/95 dated 28.2.2013
17.	Smt. Narinder Kaur Sandhu	AE	No.8/7/2012-SIV(B)/95 dated 28.2.2013
18.	PrasantShyngle	AE	No.8/7/2012-SIV(B)/95 dated 28.2.2013
19.	Raj Kumar Sharma	Sr.EA	No.8/7/2012-SIV(B)/95 dated 28.2.2013
20.	Ram Chander Sati	Sr.EA	No.8/7/2012-SIV(B)/95 dated 28.2.2013
21.	Smt.RuchikaSethani	Sr.EA	No.8/7/2012-SIV(B)/95 dated 28.2.2013
22.	Smt.Sangita Sinha	EA	No.8/7/2012-SIV(B)/95 dated 28.2.2013
23.	SanjeevJamwal	Sr.EA	No.8/7/2012-SIV(B)/95 dated 28.2.2013
24.	Sreekumar M.S	Sr.EA	No.8/7/2012-SIV(B)/95 dated 28.2.2013
25.	Yogendra Singh Pawar	Sr.EA	No.8/7/2012-SIV(B)/95 dated 28.2.2013
26.	Praveen Kumar	EA	No.8/5/2011-SIV(B)/338 dated 6.8.2012

2. While considering the eligibility of the applications of CP No.555/2015 in OA No.164/2014, the Screening Committee of DG:AIR had found that the applicants are not eligible for grant of 1st financial upgradation under the ACP Scheme in the Scale of Rs.8000-13500 under the ACP Scheme. The Committee had also recommended DG:AIR to review the cases of employees, who have been granted similar financial upgradations under the ACP Scheme by the Ministry of I&B pursuant to various Court orders.

3. As recommended by the Screening Committee, DG:AIR proposes to review and rectify all the Cases relating to grant of 1st ACP benefits in the payscale of Rs.8000-13500 pursuant to Court orders in OA No.514/2002, OA No.597/2011 and OA No.477/2011 and has found that the benefits have been granted in violation of the ACP Rules. As per the modified Order of the Hon'ble Patna High Court in CWJC 6451/2010 arising out of OA No.514/2002, the respondents were to consider eligibility of each of the applicant for ACP benefit as per the ACP Scheme and to grant the benefits as per law (ACP Scheme). This order has attained finality in view of the dismissal of SLP by the Hon'ble Apex court.

4. Subsequently, the Patna Bench of the Hon'ble Tribunal, vide its Order dated 13.2.2013 in OA No.173/2009 filed by Shri N.K. Srivastava and others for ACP benefits as per order dated 7.9.2009 in OA No.514/2002, had said that while considering OA No.514/2002, the Tribunal was made to believe that EAs, SEAs and AEs were all in a same Pay Scale before

1996 and in the same payscale of Rs.6500-10500 after 1.1.1996, whereas it was not so.

5. The Tribunal also said that the clarifications contained in DOPT OM dated 10.2.2000 for granting ACP benefits were also not brought to its notice earlier. It also said that the more formidable barrier to the case of the applicants is the separate identity of the three posts in the hierarchy (that is, there has been no merger of the posts at any time) and the fact that the Promotional hierarchy from EA to Sr. EA and Sr. EA to AE, was never changed.

6. The Tribunal also said that financial upgradation cannot be allowed in a Scale higher than the next Promotional Grade in the hierarchy and this fact was not taken cognizance of by it in OA No.514 of 2002.

7. Considering the above facts, the Tribunal issued a detailed Order not granting the Scale of Rs.8000-13500 as 1st ACP benefit to the applicants of OA No.173/2009, who are similarly situated to the applicants of OA No.514/2002, and directed to consider their eligibility for ACP benefits in the same scale as per clarification point 52 of DOPT.

8. The above Order of the Hon'ble Tribunal unambiguously conveys that its Order dated 7.9.2009 in OA No.514/2002 was flawed as certain crucial aspects/facts, which would have made a world of difference in the conclusion were not brought to the notice of/taken cognizance by it while deciding OA No.514/2002.


9. The Hon'ble Supreme Court in Civil Appeal Nos.5153-5157 of 2009 filed by the Govt. of the National Capital Territory of Delhi versus the Grade I DASS Officers Association has said that the financial upgradation under the ACPs is not only in lieu of but also in anticipation of regular promotion and in case of regular promotion in future, employees like the Respondents would have to be reduced in their pay scale because actual or functional promotion as per established hierarchy can be only on a post in Grade II (Group B) in DANICS".

10. As per DOPT OM dated 10.2.2000, cases where the ACP Scheme has been implemented should be reviewed/rectified if the same are not found to be in accordance with the Scheme/clarifications. ACP Rules stipulate that financial benefits under the ACP Scheme cannot exceed the payscale attached to the promotion post. The post of Assistant Executive Engineer is not a post in the hierarchy of subordinate engineering cadre. The payscale of Rs.8000-13500 is also not the payscale attached to the posts of SEAs and AEs. Granting ACP benefits to an employee in a scale that cannot be granted to him on his promotion is violation of ACP Rules. DOPT has clarified that its clarification for granting ACP benefit by ignoring promotions granted earlier in cases where the pre revised scales have been merged is not applicable to EAs and SEAs. As given in the AIR Manual, the posts of EAs, SEAs and AEs have distinct duties and

responsibilities attached to the posts and promotion to the posts of SEA and AE require discharge of higher duties and responsibilities attached to the posts. As per clarification point 52 of DOPT OM dated 18.7.2001, *if it is inescapable to retain both feeder and promotional grades as two distinct levels in the hierarchy though in the same scale of pay, thereby making a provision for allowing promotion to a higher post in the same grade, it is inevitable that benefit of financial upgradation under ACPS has also to be allowed in the same scale. This is for the reason that under the ACPS, financial upgradation has to be allowed as per the 'existing hierarchy'. Financial upgradation cannot be allowed in a scale higher than the next promotional grade.* Taking into consideration this clarification, the Hon'ble Patna CAT had denied to grant the pays scale of Rs.8000-13500 to the applicants of OA No.173/2009. All the EAs, SEAs and AEs belong to the subordinate engineering cadre and are governed by the same Recruitment Rules, Service Conditions and are included in the same seniority lists.

11. Taking into consideration all the facts mentioned in the preceding paras, as per DOPT's OM dated 10.2.2000, it has been decided to review the benefit of 1st ACP granted in the payscale of Rs.8000-13500 to 26 EAs/SEAs/AEs mentioned in page 1 of this Notice and rectify the same in accordance with the ACP Scheme of DOPT. Accordingly, this notice is hereby given to submit their objections/representations, if any, within a period of 30 days from its receipt.

12. This issues with the approval of DG, AIR.



(Ajaya Kumar KJP)

Deputy Director (Administration)

Tel:23421544

To:

(All the 26 EAs/SEAs/AEs mentioned in page 1 of this notice - by name)

Copy for information to:

1. PPS to Member (P), Prasar Bharati Secretariat, New Delhi.
2. PPS to DG(AIR), Akashvani Bhawan, New Delhi
3. PPS to DG(Doordarshan), Doordarshan Bhawan, New Delhi.
4. ADG(A&E), Prasar Bharati Secretariat, New Delhi
5. ADG(A&P), DG:AIR, New Delhi
6. ADG(Admn), DG:Doordarshan
7. ADG(E), North Zone, AIR& Doordarshan, Jamnagar House, New Delhi
8. ADG(E), East Zone, Kolkata
- ✓ 9. Deputy Secretary, BAE Section, Min. of I&B, Shastri Bhawan, New Delhi.