

No. 515/04/2014- BA (E)
Government of India
Ministry of Information and Broadcasting
Shastri Bhawan, New Delhi- 1100 01

Dated 16th April, 2014

To,

The Director General, AIR,
DG:AIR,
Akashwani Bhawan,
New Delhi.

(Kind Attn. Sh. Rajeev Saraswat, DDA (Engg.))

Subject:- Filing of Writ Petition in lieu of Review Application No. 141/2012 filed against Hon'ble Tribunal CAT, Patna in CCPA No. 22/2011 in OA No. 514/2002 after withdrawal of Review Application vide High Court order dated 23-10-2013 for challenging the CAT order dated 07-09-2009 in OA No. 514/2002 - Request for seeking extension of time in the Original Applications received in the Ministry for 12 weeks.

Sir,

I am directed to refer to your letter No. PAT-33(4)/2012-G (ADDEA)/2223 dated 14-11-2013, letter No. 8/3/2011-S.IV (B)/01 dated 02-01-2014 and letter of even number dated 16-01-2014 regarding filing of Writ Petition before Patna High Court on the above mentioned subject.

2. In this connection it is stated that the issue of filing of Writ Petition was taken up with Ministry of Law, who, in turn, have advised to seek the advice of DOP&T in the first instance. After obtaining the advice of DOP&T the matter may be referred again to the Ministry of Law taking into consideration the due opinion of DOP&T in the matter. Accordingly, it is felt appropriate that respective Tribunals who have admitted the applications or passed order thereon for considering extension of the benefit of ACP to the Engineering Assistant / Sr. Engineering Assistant on the basis of Tribunal Patna

order dated 07-09-2009 in OA No. 514/2002 may be suitably approached in the backdrop of following through the Govt. Counsel :-

"The Government on the basis of an agreement between the Government and Sanyukt Sangharsh Samiti representing All India Radio and Technical Employees (ARTEE) and AIR and Doordarshan Technical Employees Association (ADTEA) upgraded the pay scales to some of the subordinate engineering cadres. Initially, this was an ad-hoc arrangement adopted w.e.f. 01-01-1996 vide Ministry of I&B OM dated 5.12.1997 but later as part of a policy decision, it was decided by Ministry of I&B with the approval of Cabinet to provide upgraded pay scale to 11 categories of staff of Doordarshan and AIR including Engineering Assistant w.e.f. 01-01-1996 vide Ministry of I&B order dated 25-02-1999 from Rs.5000-8000 to Rs.6500-10500 subject to certain conditions out of which the following two conditions are relevant in the instant case:

(i) *The upgraded scales will be allowed not as Govt. employees as per se but as Government employees currently in service of Prasar Bharati Corporation. As and when the employees, presently working in AIR and Doordarshan are asked to exercise their option, those employees who do not opt for Prasar Bharati will revert as Government servants and will no longer be entitled to above scales. They will also have to refund all benefits availed of by them as a result of the grant of higher scales of pay. They will be liable to recovery of all such benefits. An undertaking in the given proforma to this effect has to be submitted by each and every employee concerned before availing the benefit of upgraded scales of pay. This is in accordance with their agreement with the Government to avail these upgraded scales on this condition only.*

(ii) *The benefit of the upgraded pay scales will be available to existing incumbents only and those new direct recruits who join after issuance of these orders will not be entitled to these scales, but will be governed by pay scales recommended by the 5th CPC.*

Advice of Ministry of Law amongst other grounds was sought mainly on the applicability of MIB order dated 25-02-1999 in the wake of situation arisen after amendment to Section-11 of Prasar Bharati Act vide notification dated 08-01-2012.

"Whereas according to Para 4 of the Ministry of I&B order dated 25-02-1999 it was made clear that the benefit of the upgraded pay scales will be available to existing incumbents only and those new direct recruits who join after issuance of these orders will not be entitled to these scales, but will be governed by pay scales recommended by the 5th CPC. In other words those EAs recruited on direct basis after 25-02-1999 will be Central Govt. Employees;

And Whereas according to amendment to Section – 11 of Prasar Bharati Act vide Para 2 (11) (1) (2) of notification dated 08-01-2012 "all officers and employees recruited during the period on or after the appointed day till the 5th day of October, 2007, shall be on deemed deputation to the corporation with effect from the 1st day of April, 2000 or the date of their joining service in the Corporation, whichever is later and until their retirement." and vide Para 2 (11) (1) (3) "the officers and employees referred to above shall be entitled to the pay and all other benefits as admissible to an employee of the Central Government;

And Whereas vide 2 11(1) (5) all officers and employees recruited after the 5th day of October, 2007 shall be officers and employees of the Corporation shall be governed by such conditions of service as may be specified in the regulations in the process of being formulated it is self explanatory that all the officers and employees who had been on the strength of AIR/Doordarshan of Prasar Bharati on or before 05.10.2007 shall be government employees and governed by the pay scale recommended by the 5th and 6th Pay Commission and existing rules applicable to all Central Government employees."

Therefore, in the wake of statutory notification dated 08-01-2012 amending Section-11 of Prasar Bharati Act retrospectively the executive order of Ministry of I&B dated 25-02-1999 seems to have become ineffective and redundant.

3. Thus in the given situation this Ministry is not in a position to extend the benefit of higher pay scale of Rs. 6500-10500/- to the applicants in the following OAs which have either been admitted or interim or other orders has / have been passed as indicated

against the respective OAs or to file WP before High Court , Patna, as suggested by
 DG AIR:-

S. No.	Particular of OA	Briefs of the order passed if any in the OA	Remarks
	<p>Sh. Pradeep Kumar & 23 other have filed OA No. 51/2014 before CAT, Delhi praying for extending them the benefit of judgment dated 07-09-2009 passed by CAT, Patna (Ref. Ministry File No. 515/07/2014-BA(E))</p>	<p>The Hon'ble Tribunal Delhi directed to extend them the benefit already granted to the applicant in OA No. 753/2013 (Umesh Kumar & Ors. Vs. UOI) vide Tribunal order dated 04-03-2013 which was followed by order dated 20-12-2013 in OA No. 4439/2013 filed by Sh. Pradeep Gupta & Ors, if they were covered under the orders of Tribunal order dated 07-09-2009 in OA No. 514/2002. Accordingly, the Tribunal in the case of Sh. Pradeep Galhotra & ors directed on 08-01-2014 to examine the case of the applicants and if their case is also covered under the above mentioned OAs then the applicants in this case may also be considered for extending the benefit of OA No. 514/2002.</p>	<p>Since the matter has been taken with Ministry of Law and DOP&T it is unlikely to comply with the Tribunal order dated 08-01-2014 of a decision to file WP in the case atleast by another 3 months. As such DG: AIR may seek extension in the case by 30th June, 2014.</p>
2	<p>(Ref. Ministry File No. 515/04/2014-BA(E))</p>	<p>The Hon'ble Tribunal in its order dated 24.12.2013 has directed the respondent to examine the case of the applicants and if it is covered by the order dated 07-09-2009 of CAT Patna in OA No. 514/2002.</p>	<p>-do-</p>
	<p>Sh. Anil Kumar Sharma & 39 Ors. have filed OA No. 4151/2013 before CAT, Delhi praying for direction to the respondents to grant them the benefit of ACP Scheme in accordance with the direction passed by CAT, Patna dated 07-09-2009 in OA No. 514/2002. (Ref. Ministry File No. 515/91/2013-BA(E))</p>	<p>Ministry is not aware of the next date of hearing</p>	<p>-do-</p>

4.	<p>Union of AIR & Doordarshan (PB) Engineering Employees through its General Secretary Sh. Debashish Choudhary & 92 Ors. have filed OA No. 4462/2013 before CAT, Delhi praying for a direction to the respondents to extend them the benefit already granted to the applicant in OA No. 514/2002 before CAT, Patna.</p> <p>(Ref. Ministry File No. 515/02/2014-BA(E))</p>	<p>Ministry is not aware of the next date of hearing</p>	<p>-do-</p>
5.	<p>Sh. Pradeep Gupta & 34 Ors. have filed OA No. 4439/2013 before CAT, Delhi for a direction to the respondents to extend them the benefit already granted to the applicant in OA No. 514/2002 before CAT, Patna.</p> <p>(Ref. Ministry File No. 515/95/2013-BA(E))</p>	<p>The Tribunal CAT,PB, New Delhi has passed interim order dated 20-12-2013 to examine the case and grant them the necessary benefit if covered under OA No. 514/2002.</p>	<p>-do-</p>
6.	<p>Sh. Neeraj Tirkey & 115 Ors have filed OA No. 305/2014-MA No. 270/2014 before CAT, PB, New Delhi for a direction to the respondents to extend them the benefit already granted to the applicant in OA No. 514/2002 before CAT, Patna.</p> <p>(Ref. Ministry File No. 515/14/2014-BA(E))</p>	<p>Ministry is not aware of the next date of hearing</p>	<p>-do-</p>
	<p>Sh. Y.P.Singh & Ors. have filed OA No. 854/2014 – MA No. 763/2014 before CAT, PB, New Delhi for a direction to the respondents to extend them the benefit already granted to the applicant in OA No. 514/2002 before CAT, Patna. The date for admission of OA was 01-01-2014</p>	<p>The Tribunal in its interim order dated 11-03-2014 have not passed any direction to extend them the benefit already granted to the applicant in OA No. 514/2002 before CAT, Patna. The Tribunal has however, in its interim order dated 11-03-2014 directed the court registry to issue notice to the respondents for admission of the</p>	<p>-do-</p>

(Ref. Ministry File No. 515/24/2014-BA(E))	case on 01-01-2014.	
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4. In the wake of situation arising out of amendment to Section-11 of the Prasar Bharati Act indicated vide Para 2 above and as per the advice of Ministry of Law. DG:AIR may seek extension of time of 12 weeks in all the cases enumerated above or any other similarly situated OA pending with the DG:AIR for advice of Ministry. Further, Ministry of Law has also desired that the opinion of Central Govt. Counsel who appeared in OA No. 514/2002 before CAT, Patna may also be furnished urgently.

Yours faithfully,


(Sanjay Dhar)
Under Secretary, BA(E)
Ph: 23384754
