

No. 515/143/2009-BA-E
Government of India
Ministry of Information & Broadcasting
'A' Wing, Shaastri Bhawan,

New Delhi, dated 4th November, 2011

To,

Sh. Om Prakash Ram,
S/o Tuntun Ram,
Sr. Engineering Assistant,
Doordarshan Kendra,
Patna.

Subject: Implementation of the order dated 07-09-2009 passed by CAT, Patna in OA No. 514 of 2002.

Sir,

I am directed to refer to the Contempt Petition No. 22/2011 arising out of OA No. 514/2002 filed by Akashwani & Doordarshan Diploma Engineers Association and 11 other applicants including you before the Hon'ble CAT, Patna alleging non-implementation of the impugned order dated 07-09-2009 passed by the Hon'ble Tribunal and praying for a direction to the respondents to show cause as to why contempt proceedings should not be initiated against them and state as under:-

(i) Whereas you alongwith 11 others filed OA No. 514 of 2002 before the Hon'ble CAT, Patna praying, inter-alia, for a direction to the respondents to grant the benefit of Assured Career Progression Scheme to you;

(ii) Whereas the Hon'ble CAT, Patna had been pleased to allow the OA and direct the respondents in the OA vide its order dated 07-09-2009 to grant you, inter-alia, the pay scale of Rs. 8000-13500/- as and when you had completed 12 years service in the pay scale of Rs. 6500-10500/- and also to pay arrears to you;

(iii) Whereas the respondents in OA No. 514/2002 had challenged the impugned order dated 07-09-2009 passed by the Hon'ble CAT, Patna by filing CWJC No. 6451 of 2010 before the Hon'ble High Court of Judicature at Patna,

(iv) Whereas the Hon'ble Patna High Court had observed vide its order dated 25-08-2010 in CWJC No. 6451 of 2010 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 10-02-2010 and should not have issued a general direction to cover cases of all the individuals because under the ACP scheme, cases of individuals required consideration and directed the petitioners in the CWJC to consider grant of benefit of ACPs to the applicants before the Tribunal in accordance with law and the observations made in that order and the order of the learned Tribunal,

(v) Whereas the petitioners in the CWJC No. 6451 of 2010 had challenged the impugned order dated 25-08-2010 passed by the Hon'ble Patna High Court by filing the SLP (C) CC20212/2010 before the Hon'ble Supreme Court of India;

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(vi) Whereas the SLP (C) CC20212/2010 mentioned at (v) above had been dismissed on facts by the Hon'ble Supreme Court vide its order dated 10-01-2011;

(vii) Whereas you alongwith 11 other have filed the Contempt Petition No. 22/2011 arising out of OA No. 514/2002 before CAT, Patna alleging non-implementation of the impugned order dated 07-09-2009 passed by the Hon'ble Tribunal and praying for a direction to the respondents to show cause as to why contempt proceedings should not be initiated against them ;

(viii) Whereas the details of your service records as mentioned in your service book including the benefits of scales of pay / pay, provided to this Ministry by DDG (Engg.), AIR Patna, had been placed before the duly constituted Screening Committee in the Ministry in its meeting held on 24-10-2011 for considering your suitability for grant of 1st financial upgradation under the ACP scheme introduced by Govt. vide DOP&T's OM No. 35034/1/97/Estt. (D) dated 09-08-1999 to raise your pay scale to Rs. 8000-13500/- (Pre-revised) on completion of 12 years service in the pre-revised pay scale of Rs. 6500-10500/-.

(ix) Whereas the Screening Committee was informed that the pay scale attached to the post of Engineering Assistant was revised to Rs. 550-900/- w.e.f. 01-01-1978 and Rs. 2000-3200/- w.e.f. 01-01-1986 in pursuance of the Hon'ble Supreme Court order dated 25-11-1994 in SLP (C) No. 15206-07/92 and SLP (C)-4370-05/93 upholding the CAT, Madras judgment dated 29-06-1990 in OA No. 854/69 but the 5th CPC, while recommending the pay scale of Rs. 5000-8000/-, Rs. 5500-9000/- and 6500-10500/- for the posts of Engineering Assistant, Senior Engineering Assistant and Assistant Engineer respectively, had also recommended protection of pay of the Engineering Assistants drawing the pre-revised pay scale of Rs. 2000-3200/-;

(x) Whereas the Screening Committee was also informed that the Ministry of I&B had decided to take the following interim measures pending a final decision on the issues relating to pay scales of some grades of Sub-ordinate Engineering Service of AIR & Doordarshan to be taken by Prasar Bharati under Section 11(4) and (5) of the Prasar Bharati Act, 1990:-

(a) The pay of Engineering Assistant will be fixed in the scale corresponding to the scale of Rs. 1600-2660/- i.e. Rs. 6000-8000/- w.e.f 01-01-1996 in accordance with the procedure laid down in para 7 of the CCS (RP) Rules, 1997..... While so fixing the pay, the pay of incumbent EAs who were drawing pay scale of Rs. 2000-3200/- will be protected as recommended by the 5th CPC. Arrears of pay from 01-01-1996 to 31-10-1997 calculated on the above basis will be paid. Pay will also be notionally calculated in the scale corresponding to the scale of Rs. 2000-3200/- i.e. Rs. 6500-10500/- in the case of existing incumbents only with reference to 01-11-1996. A sum equal to 90% of the difference between the emoluments so calculated will be paid as an adhoc amount in addition w.e.f 01-11-1997. However new recruits to the post of Engineering Assistant will be appointed in the pay scale of Rs. 5000-8000/- i.e. the pay scale recommended by 5th CPC.

(b) The pay of Sr. Engineering Assistant will be fixed in the scale corresponding to the scale of Rs. 1640-2900/- i.e. Rs. 5500-9000/- w.e.f 01-01-1996 in accordance with the procedure laid down in para 7 of the CCS (RP) Rules, 1997..... While so fixing the pay, the pay of incumbent SEAs who were drawing pay scale of Rs. 2000-3200/- as

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personal to them, will also be protected. Arrears of pay from 01-01-1996 to 31-10-1997 calculated on the above basis will be paid. Pay will also be notionally calculated in the scale corresponding to the scale of Rs. 2000-3200/- i.e. Rs. 6500-10500/- in the case of existing incumbents only with reference to 01-11-1996. A sum equal to 90% of the difference between the emoluments so calculated will be paid as an adhoc amount in addition w.e.f. 01-11-1997.

(xi) Whereas the Screening Committee was also informed that the scales of pay of 11 categories of employees of AIR & Doordarshan including Engineering Assistant, Sr. Engineering Assistant and Assistant Engineer (including Assistant Engineers in CCW), had been further upgraded as under subject to stipulated conditions vide Ministry of I&B's letter No.310/173/97-B(D) dated 25-02-1999 and a large number of Engineering Assistants, Sr. Engineering Assistants and Assistant Engineers of AIR & Doordarshan had been allowed the upgraded pay scale subject to their exercising option for Prasar Bharati, as and when called for :

Sr. No.	Name of Post	Pay scale recommended by 5 th CPC	Upgraded pay scale.
1	2	3	4
1.	Assistant Engineer (including Assistant Engineers in CCW)	Rs. 6500-10500/-	Rs. 7500-12000/-
2.	Sr. Engineering Assistant	Rs. 5500-9000/-	Rs. 7450-11500/-
3.	Engineering Assistant	Rs. 5000-8000/-	Rs. 6500-10500/-

(xii) Whereas the Screening Committee was also informed that the recommendation made by the 5th CPC reducing the pay scale of Engineering Assistants in AIR & Doordarshan from the pre-revised Rs. 2000-3200/- to 1600-2860/- was challenged by Doordarshan Engineering Employees Welfare Association (DEEWA) and 14 others by filing OA No. 1867/1998 before Principal Bench of CAT, New Delhi and the Hon'ble Tribunal, while allowing the said OA, had directed the respondents vide its order dated 04-01-2001 to fix the pay of the applicants- Incumbent Engineering Assistants - in the scale of Rs. 2000-3200/- w.e.f. 01-01-1996 or from the date of their joining and grant them the corresponding scale of Rs. 6500-10500/- w.e.f. 01-01-1996 with all consequential benefits, but as personal pay to them.

(xiii) Whereas the Screening Committee was also informed that the Hon'ble CAT, Patna, while allowing the two OAs viz. OA No. 85 of 1998 filed by Sh. Anil Kumar and 13 other officials and OA No. 662/2004 filed by Sh. Narendra Kumar Srivastava and 7 other officials, all similarly placed as the applicants in the OA No. 514/2002, had taken note of the order dated 04-01-2001 passed by the Hon'ble CAT, Principal Bench, New Delhi in OA No. 1867/1998 mentioned at (xii) above before directing the respondents to follow the said order;

(xiv) Whereas the Screening Committee was also informed that (a) the Engineering employees who had opted for upgraded pay scales in terms of the decision contained in Ministry of I&B letter dated 25-02-1999 would be governed by the hierarchical pay structure mentioned in column-4 of the table below point no. (xi) above, (b) the employees who were applicants in OA No. 1867/1998 and in other OAs decided by directing the respondents to extend similar benefits, would be in the uniform pay scale of Rs. 6500-10500/- (pre-revised) on personal basis, (c) those employees who were in

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service as on 05-12-1997 but were not covered under (a) and (b) above would be drawing the pay scale / pay as stipulated in the Ministry of I&B OM No. 310/173/97-B(D) dated 05-12-1997 and (d) the remaining EAs, SEAs and AEs who joined the respective posts on direct recruitment basis subsequently would be drawing the pay scale / pay recommended by the 5th CPC;

(xv) Whereas the Screening Committee was further informed that the applicants in the above mentioned 3 posts viz. Engineering Assistant, Sr. Engineering Assistant and Assistant Engineer in All India Radio & Doordarshan providing for hierarchical promotion, had never been placed in the same pay scales as result of rationalization of pay scales, thereby resulting into any change in the hierarchy. Therefore the clarification of points of the doubt mentioned in DOP&T's OM dated 10-02-2000 is not really applicable for considering grant of ACP benefits to these applicant Engineering Assistants etc. ;

(xvi) Whereas the Screening Committee took note of following relevant information before assessing your suitability for grant of 1st financial upgradation to you under the ACP scheme introduced by the Govt. vide DOP&T OM dated 09-08-1999 to raise your pay scale from Rs. 6500-10500/- to Rs. 8000-13500/- (pre-revised) :-

(a) You were promoted on 11-05-1992 to the post of Sr. Engineering Assistant in the pre-revised pay scale of Rs. 1640-2800/-.

(b) Your pay was re-fixed in the pre-revised pay scale of Rs. 2000-3200/- w.e.f the date of your joining the post of EA i.e. 08-07-1988 and in the same pay scale (applicable to the post of SEA) w.e.f 11-05-1992.

(c) On the basis of your undertaking to accept the upgraded pay scales granted vide Ministry of I&B's order No.310/173/97-B(D) dated 23-02-1999 on the terms and conditions stipulated in para 2 of the order and to opt for becoming an employee of Prasar Bharati, as and when such option is called for, your pay has been fixed under CCS (RP) Rules, 1997 in the upgraded pay scale of Rs. 7450-11500/- (pre-revised) w.e.f 01-01-1996.

(d) You have been granted the benefit of pay fixation in the pay scale applicable to the post of SEA (as per 5th CPC recommendation) i.e. Rs. 6500-9000/- w.e.f 01-01-1996 and notional pay fixation in the pay scale of Rs. 6500-10500/- w.e.f. 01-11-1997 with additional benefit of arrears in the form of difference of pay w.e.f 01-11-1997.

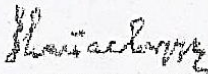
(e) Though the entry grade pay scale of JTS in IB(E)S is Rs. 8000-13500/- and the post is required to be filled up 50% by promotion from Assistant Engineers, it does not automatically include Engineering Assistants and Sr. Engineering Assistants in the feeder grade.

(f) As per condition no. 6 at Annexure-I of the ACP Scheme introduced vide DOP&T's order dated 09-08-1999 and point no. 53 of clarification issued by DOP&T vide OM No. 35034/1/97/Estt. (D) Vol. IV, dated 18-07-2001, only those employees who fulfill all promotional norms are eligible to be considered for benefit under ACPs.

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(xvii) Now that you have already been granted one promotion, as mentioned at (xvi) (a) above, granted the benefit of pay fixation in the pre-revised pay scale of Rs. 5500-9000/- (as per 5th CPC recommendation) applicable to the post of Sr. Engineering Assistant w.e.f. 01-01-1996 with the additional benefit of notional fixation of your pay in the pay scale of Rs. 6500-10500/- w.e.f. 01-11-1997 with additional benefit of arrears in the form of difference of pay w.e.f. 01-11-1997 and you have also been enjoying the upgraded pay scale of Rs. 7450-11500/- applicable to the post of Sr. Engineering Assistant subject to your becoming a Prasar Bharati employee by exercising option, as and when called for, further subject to certain stipulated conditions, as granted by the Ministry of I&B's order No. 310/173/97-B(D) dated 25/02/1999, the Screening Committee has considered you unfit for grant of 1st financial upgradation under the ACP scheme introduced by Govt. vide DOP&T's OM No. 35034/1/97/Est. (D) dated 09-08-1999 to raise your pay scale to Rs. 8000-13500/- (Pre-revised) on completion of 12 years service in the pre-revised pay scale of Rs. 5500-9000/- w.e.f. 01-01-1996;

Yours faithfully,


(S.P. BHATTACHARYA)
Under Secretary, BA(E)