

OUT TODAY
CONTEMPT CASE FOR 30.6.2011

No.515/143/2009-BA (E)
Government of India
Ministry of Information and Broadcasting
Shastri Bhawan, New Delhi-1100 01

June 29, 2011

To
The Director General
DGAIR, Akashwani Bhawan,
New Delhi-1100 01

(Kind attention:- Shri R.K. Dhall, Deputy Director (Adm))

Sub:- CP. No. 22/2011 in OA No.514/2002 filed by Akashvani & Doordarshan Diploma Engg. Association and Others Vs. UOI and others before Hon'ble Tribunal, Patna

Sir,

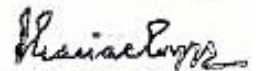
I am directed to refer to your ID Note No. 8/3/2011-S.IV (B) dated 10.6.2011 regarding filing of Vakalatnama and show cause reply with regard to the implementation of the Hon'ble Tribunal, Patna order dated 7.9.2009 and to say that the matter to comply the order of the Tribunal was considered in consultation with nodal Departments like DoPT, Department of Expenditure and Ministry of Law. It has now been decided to implement the order dated 7.9.2009 passed by Hon'ble Tribunal, Patna in OA No.514/200/ CP No.22/2011 in the said OA in favour of the applicants in the OA. A copy each of the observations recorded by DoPT, DoE and Law are annexed and the same may be kept in view while implementing the order under reference.

2. In view of above, you are requested to advise our Government Counsel in the case to apprise the Hon'ble Tribunal on 30.6.2011 accordingly. In case the Hon'ble Tribunal still insists on also filing reply and Vakalatnama in the CP/OA, the Government Counsel in this behalf may be advised to get some time from the Tribunal to do the needful.

3. This issues with the approval of JS (B) / *Adl. Secretary*

End: *As above*

Yours faithfully,



(S.P. Bhattacharya)

Under Secretary to the Government of India

Copy to:- Shri S.K. Sinha, Station Engineer, All India Radio, Chaju Bagh, Fraser Road, Patna-800001, for information

भारत सरकार
Government of India
कार्मिक और प्रशिक्षण विभाग
Department of Personnel & Training
स्थापना (घ)/Establishment (D)

क्रमांक संख्या 41773/फेरजि0/2011

This is regarding implementation of the judgement dated 07.08.2009 passed by the Hon'ble CAT Patna Bench in OA No 514/2002 filed by AIR and Doordarshan Diploma Engineer Association vs. UOI for grant of 1st financial upgradation in the grade of Asstt Executive Engg. in the pre-revised pay scale of Rs 8000-13500 under the ACPS.

2. It is seen that the Committee of Joint Secretaries on issues pertaining to the upgraded pay scales in respect of cadres exclusive to Prasar Bharati and M/o ISB has given its report on 03.02.2011. The recommendations of the Committee may be perused at Flag "VV" below

3. It is further seen that 11 categories of employees of AIR and Doordarshan were granted one scale up over and above the scale recommended by the 5th CPC w.e.f 25.02.1999. Accordingly, the Engg. Asstt. (EAs), Sr. Engg. Asstt. (SEAs) and Asstt. Engg. (AEs), who were placed in the pre-revised pay scale of Rs 5000-8000, Rs.5500-9000 Rs 6500-10500 were granted the pre-revised pay scale of Rs 6500-10500, Rs.7450-11500 and Rs. 7500-12000 respectively subject to condition that they shall opt to serve in Prasar Bharati vide Order dated 25.02.1999. However, those who did not opt for Prasar Bharati will continue to get the Government pay scale and they will also refund all benefits availed of by them as a result of the grant of higher scales of pay. Subsequently, in compliance of judgement dated 17.12.2004 passed by the Hon'ble CAT Patna in OA No.85/1997 linked with OA No.662/2004, the EAs, SEAs and AEs, who had not opted for Prasar Bharati, were given uniform replacement pay scale of Rs.6500-10500 (pre-revised) subject to outcome of SLP No 14212 of 2003 filed by DGAIR. However, the outcome of this SLP has not been indicated over a file by the referring Department. This uniform scale was effective from 01.01.1999 Contention

4. The present case is related to the Engineers cadres who did not opt for Prasar Bharati. Though the pay scales of EAs (Rs.5000-8000 pre-revised) and SEAs (Rs 5500-9000 pre-revised) have been upgraded to Rs.6500-10500 (pre-revised) making at par with the scale of AEs, the hierarchy of promotional grades have not been merged to constitute a separate unified grade. The feeder grade for promotion to the post of AEs is SEAs and SEAs is EAs. Accordingly, on regular promotion, the pay scales have to be allowed in accordance with the existing hierarchy. After examination of the issue, the referring Department was advised by the DOPT vide O.M. dated 12.02.2010 (pages 236-237/corr) that these officials are not entitled for grant of financial upgradation in the grade of Asstt Executive Engg. in the pre-revised pay scale of Rs.8000-13500 in terms of clarification given on point of doubt no 52. Accordingly, they may be allowed financial upgradation in the promotional hierarchy i.e. in the pre-revised pay scale of Rs.6500-10500. It may also be mentioned that DOPT vide note dated 12.05.2010 (page 262/corr) had advised to the referring Department to consult DOLA and DOE as implementation for some cadres would weaken the case at High Court. The same was not done by the referring Department.

5. The Hon'ble Tribunal while delivering the judgment in OA No. 514/2002 did not agree with the contention of the referring Department in view of clarification given on points of doubt no 1 of ACPS dated 10.02.2000 (pages 181-186/corr.). The operative part of the judgement may be seen PSL "A" page 14/N. The judgement dated 07.08.2009 was contested by the referring Department in the Hon'ble High Court by filing WP No.6451/2010. The Hon'ble court has upheld the judgment passed by the Hon'ble Tribunal in favour of the Appellants (pages 176-180/corr.) The operative part of the judgement dated 25.08.2010 passed by the Hon'ble High Court may be seen PSL "B" page 14/N. The referring Department has, subsequently, filed a SLP against the judgement dated 25.08.2010 passed by the Hon'ble High Court. The Hon'ble Supreme Court vide Order dated 10.01.2011 has dismissed the SLP on facts (Flag "V").

Contd....

6 Since the judgement passed by the Apex Court has attained its finality, no other option is left but to implement the judgement dated 07.09.2009 passed by the Hon'ble Tribunal in respect of Appellants of the OA No. 514/2002

7 In view of the above facts and circumstances, the Department of Expenditure may offer their comments on the suggestion made in para 6 above, as JS(Pers) was one of the member of the Committee of Joint Secretaries.

8. This issues with the approval of Joint Secretary (E).


(Smita Kumar)
Director (E.I)

1. JS (Pers) Department of Expenditure [Kind Atten: Ms. Madhulika P. Shukl, JS (pers.)]

DOPT's U.O. No. 4349/11/2010-Estt.(D) dated: 15th June, 2011

~~20/6~~

~~Dir (E.I)~~

Court Case
Duly checked
by

~~AP. 6. XI~~

~~JS (E.I) - n. a.~~

~~S.O (E.I)~~

**Government of India
Ministry of Finance
Department of Expenditure
[E-III(A) Branch]**

Ref :- DOPT's notes at pre-pages 30-31 n/ante (F.No.515/143/2009-BA(E))

The proposal of M/o I&B relates to the implementation of the judgement dated 7.9.2009 passed by the Hon'ble CAT Patna Bench in OA No. 514/2002 filed by AIR and Doordarshan Diploma Engineer Association Vs. UOI for grant of 1st financial up gradation in the grade of Asstt. Executive Engg. in the pre-revised pay scale of Rs.8000-13500/- under ACPS.

The instant case has been examined in this Department. Since all legal remedies have been exhausted, there is no option but to implement the subject order in the case of the applicants only.

This issues with the approval of JS(Pers).

Manab Roy
(Manab Roy)
Under Secretary

Director (E-1), DOPT, North Block

MoF, DoE I.D. No. 94552/2011 - JS(Pers.) dated 28.6.2011

Department of Legal Affairs

Our detailed Note dated 09.03.2011 (at P-24-25/N) would recall the case.

Since the judgment passed by the Apex Court has attained the character of finality, no other option is left but to implement the judgment dated 07.09.2009 passed by the Hon'ble Tribunal in respect of Appellants of the OA No.514/2002.

In view of the above, we have no comments to offer.


(Ashok K. Barkash)
Addl. Legal Adviser
29.06.2011

M/o Information & Broadcasting

Re: N/A above

This is regarding implementation of Hon'ble Tribunal order dt. 7-9-2009 in OA No. 514/2002 wherein C.P No. 22/11 was also filed. Since the matter involved grant of ACP, the matter was considered in consultation with Deptt. of Exp. and Min. of Law. All these Deptts have concurred to implement the CAT, but no order dt. 7-9-2009 in favour of the appellants in OA No. 514/2002 as the matter after dismissal of SCP has attained finality.

Before we advise DGA, as per letter placed below, JS(B) may kindly see for personal approval.

JS(B)

AK

May let me know before my contemp is coming up tomorrow.

Place
29/6/11
Sd/Manoj
Consultant

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29/6