

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

**OA No.3580 of 2014
MA No.3084 of 2014**

New Delhi, this the 09th day of October, 2014

HON'BLE SHRI G. GEORGE PARACKEN, MEMBER (J)
HON'BLE SHRI SHEKHAR AGARWAL, MEMBER (A)

1. Joginder Singh, aged 46 years
S/o Shri Om Prakash
Working as S.E.A. at HPT, AIR,
Khampur, Delhi-36
R/o H.No.627, Sector-15, Sonapat,
(Haryana).
2. Ashok Kumar, Aged 52 years
S/o Sh. Hari Ram Sharma,
Working as SEA at HPT, AIR Khampur,
Delhi-36.
R/o E-31, Prashant Vihar, Delhi-85.
3. Ravinder Kumar Taluja, Aged 53 years
S/o Sh. Nand Lal Taluja,
Working as A.E. at HPT AIR,
Khampur, Delhi-36,
R/o H.No.229, Sector-I, Rohtak (Haryana).
4. Baljit Singh Singhal, Aged 53 = years
S/o Sh. Ram Kishan,
Working as SEA at HPT AIR, Khampur,
Delhi-36
R/o H.No.205, Hiranano Colony Garh,
Sahazanpur, Sonepet (Haryana).
5. Anup Singh Shokeen, Aged 47 Years,
S/o Sh. Jagat Singh,
Working as A.E. at HPT, AIR Khampur,
Delhi-36
R/o JD-58D, Pitampur, Delhi.
6. Ummed Singh Bhandari, Aged 45 years,
s/o Sh. Puran Singh,
working as A.E. at HPT, AIR, Khampur, Delhi-36
R/o D-3/12, Radio Colony, Kingsway Camp,
Delhi-09.
7. Rajesh Kumar Jangir, Aged 47 years,
S/o Sh. Hemraj Jangir,
Working as S.E.A. at H.P.T. AIR,
Khampur, Delhi-36.

R/o B-7-188, Sector-5, Rohini,
New Delhi-85.

8. Ram Niwas Dhiran, Aged 53 years
S/o Sh. Raghubeer Singh,
Working at HPT, AIR Khampur as AE,
Delhi-36
R/o A-2/36, FF, Sec.-15,
Rohini, Delhi-110089.
9. Jitender Kumar Goel, Aged 59 = years
S/o Sh. Mishari Lal,
Working as SEA at HPT, AIR,
Khampur, Delhi-36
R/o H.No.1722, Sector-05, U.E.,
Kurukshetra (Haryana).
10. Mukesh Richhariya, Aged 47 years,
S/o Sh. D.P. Richhariya,
Working as S.E.A. at H.P.T. AIR,
Khampur, Delhi-36.
R/o EO-34A, Pitampura, Delhi-34.
11. Dharam Singh, Aged 51 Years,
S/o Sh. Chhaju Ram,
Workng at HPT AIR, Khampur, as AR
Delhi- 36
R/o Vill Chander Bhan Pura,
P.O. Amin Distt. Kurukshetra (Haryana)
12. Surender Pal, Aged 50 years,
S/o Sh. Ramji Dass,
Working as SEA at HPT, AIR,
Khampur, Delhi-36
R/o H.No.556 L. Model Town, Karnal (Haryana).
13. Ashwani Kumar, aged 52 years,
s/o Sh. Mangal Sain,
Working at HPT, AIR, Khampur as AE,
Delhi-36
R/o Flat No.55, Pocket H-5, Sector-16,
Rohini, Delhi-89.
14. Vinod Kumar, Aged 48 years,
S/o Sh. Satya Pal Bhardwaj,
Working as S.E.A. at AIR Rohtak,
R/o D-5, Radio Colony Subhash Road,
Rohtak.
15. Balwan Singh aged, 52 years,
s/o Sh. Govind Singh,
working as S.E.A. at HPT AIR,
Khampur, Delhi-36

R/o Govind Bhawan, Vill. Sultanpur Dabas Delhi-39.

16. Rajendra Kumar, Aged 44 years
S/o Sh. Chaman Lal,
Working as EA at HPT, AIR,
Khampur, Delhi-36
R/o H.No.1569, Sector-8,
Kurukshetra.

.....Applicants

(By Advocate : Shri Yogesh Sharma)

versus

1. Union of India, through the Secretary,
Ministry of Information and Broadcasting,
Govt. of India, Shastri Bhawan,
New Delhi-110001.
2. Director General,
Doordarshan,
Mandi House, Copernicus Marg,
New Delhi.
3. Director General,
All India Radio,
Akashwani Bhawan, Sansad Marg,
New Delhi.

.....Respondents

ORDER (ORAL)

SHRI G. GEORGE PARACKEN, MEMBER (J) :

MA No.3084 of 2014

This MA has been filed by the applicants under Section 4(5) of the CAT (Procedure) Rules, 1987 seeking joining together in a single Original Application. For the reasons stated therein, the same is allowed.

This joint Original Application has been filed by the applicants against the alleged inaction on the part of the respondents in not granting them the benefit of the 1st financial upgradation under the Assured Career Progression Scheme (ACP for short) on completion of 12 years of service in the pay scale of 8000-13500/-by way of extending the benefit of the judgment dated 07.09.2009 passed by the Patna Bench of this Tribunal in OA No.514/2002, as upheld by Hon'ble High Court of Patna vide judgment dated 25.08.2010 in CWJC on.6451/2010 and the Hon'ble Supreme Court in SLP No. CC-20212/2010 decided on 10.01.2011. The relevant part of the said Order of the Patna Bench of this Tribunal reads as under:-

5. On perusal of this clarification given by the DOPT, Shri S.K Tiwari, learned counsel for the respondents concedes that the up-gradation granted to the Engineering Assistants and the Sr. Engineering Assistants earlier have to be ignored while considering grant of ACP promotions to the applicants.

6. The next point which was argued by both the counsels was that if the applicants have to be granted ACP then what should be the scale in which they should be granted ACP. Both the sides agreed that since 6500-10500 is the pay scale of Assistant Engineer, the ACP promotion should be in the pay scale of the next post in the hierarchy i.e. the post of Assistant Executive Engineer i.e. Rs.8000-13500.

7. The learned counsel for the applicant also quotes from the DOPT circular dated 10.2.2000 mentioned earlier clarifying the points under ACP Scheme. In this order it has been clarified that the mobility under ACP is to be allowed under existing hierarchy.

8. After hearing both the counsels and after perusing the records, we have come to the conclusion that the applicants are entitled for the grant of ACP promotion and this promotion should be granted in the pay scale of Assistant Executive Engineer i.e. Rs. 8000-13500.

9. This O.A. is, therefore, allowed. The respondents are directed to grant the applicants the pay scale of Rs.8000-13500 as and when they have completed 12 years service in the pay scale of Rs.6500-10500. The arrears should also be paid to the applicants. The respondents are directed to issue orders regarding ACP promotion to the applicants within a period of two months from the date of receipt of a copy of this judgment. The arrears may be calculated and paid to them within one month thereafter.

10. With these directions, this OA stands disposed of. No costs.

2. The applicants have, therefore, filed this Original Application seeking the following relief(s):-

- (i) That the Honble Tribunal may graciously be pleased to pass an order directing the respondents to consider the case of the applicants for granting first financial upgradation under ACP Scheme on completion of 12 years of service in the grade of Rs.8000-13500/- from due date and granting 2nd financial up-gradation on completion of 24 years of service in the pay scale of Rs.10000-15200 from due date with all consequential benefits including the fixation of pay and arrears of difference of pay and allowances with interest, by way of extending the benefit of judgment dated 07.09.2009 passed by Honble Patna Bench in OA No.514/2002.
- (ii) That the Honble Tribunal may graciously be pleased to pass an order declaring to the effect that the whole action of the respondents not extending the benefit of judgment of Patna Bench to the applicants only for the reason that the applicants were not the party before the Patna Bench is illegal, arbitrary and discriminatory in the eyes of law.
- (iii) Any other relief which the Honble Tribunal deem fit and proper may also be granted to the applicants.

3. We have heard the learned counsel for the applicants Shri Yogesh Sharma and we have also perused the pleadings on record. After hearing the submissions of the learned counsel and perusing the documents on record, we are of the considered view that this OA can be disposed of at the admission stage itself. We, therefore, direct the respondents to consider the case of the applicants in the light of the aforesaid Order of the Patna Bench of this Tribunal (supra) as upheld by the Honble High Court of Patna and the Apex Court. The respondents are also directed that after due consideration of the applicants case as aforesaid, if they found that the same is covered by the aforesaid Order of the Patna Bench (supra), they shall also be extended

the same benefits as have been given to the applicants therein, within a period of two months from the date of receipt of a copy of this order. However, if the respondents come to a different conclusion, they shall pass a reasoned and speaking order within the aforesaid period. In that case, the applicants will have the liberty to challenge the order so passed in appropriate original proceedings. There shall be no order as to costs.

(SHEKHAR AGARWAL)
MEMBER (A)

(G. GEORGE PARACKEN)
MEMBER (J)