

By SPEED POST/FAX

**PRASAR BHARATI
(INDIA'S PUBLIC SERVICE BROADCASTER)
DIRECTORATE GENERAL: ALL INDIA RADIO
AKASHVANI BHAVAN: New Delhi**

No. 8/8/2014-S-IV(B)/29

Dated : 30.01.2015

SPEAKING ORDER

Whereas Shri Y.P.Singh & 176 others filed OA No. 854/2014 and MA No. 763/2014 before the Hon'ble CAT, New Delhi alleging that the respondents have not granted the benefit of 1st financial upgradation in the pay scale of Rs. 8000-275-13500/- under ACP Scheme on completion of 12 years of service as per the judgement dated 07.09.2009 passed by Hon'ble CAT, Patna in O.A. No. 514/2002.

2. Whereas, the Hon'ble Tribunal, New Delhi in it's judgment/order dated 15.05.2014, has inter-alia directed that, ".....let the respondents examine the cases of the applicants in the light of the aforesaid order/judgments and decide the matter. In case, their cases are covered by the aforesaid order/judgments, they shall also be given the same benefits. In any case, the respondents shall communicate their decision to the applicants by a reasons and speaking order within two months from the date of receipt of a copy this order."

3. Whereas the matter was taken up with the Ministry of I&B, who in turn, had directed this Directorate to examine the cases of the applicants and submit the proposal if they are found similarly placed to the applicants of O.A. No. 514/2002. Accordingly, the service details of all the applicants was collected from the Zonal Offices for examining their cases.

4. Whereas, Ministry of I&B vide their letter No. 515/18/2013 BA(E) dated 21.01.2015 has advised the appointing and cadre controlling authority i.e. DG, AIR in case of Group 'B' & Group 'C' posts to examine the orders of Tribunals in all the similar cases whether the applicants therein are similarly placed with that of the applicants in OA No. 514/2002 before CAT, Patna and hold Screening Committee and take decision in terms of DOP&T OM No. 35034/3/2008-Estt. (D) (Vol-II) dated 10.12.2014 under intimation to them.

5. Whereas, Ministry of I&B has also advised this Directorate to file Writ Petition before Hon'ble High Court Patna in lieu of withdrawal of Review Application No. 141/2012 filed against the order in CCPA No. 22/2011 of CAT, Patna in OA No. 514/2002 on the following grounds:-

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- i) that because even though the Ministry of I & B passed order dated 04.11.2011 in compliance of order dated 25.08.2010 in CWJC No. 6451/2010, the Hon'ble CAT has refused to accept the order and has taken it as contemptuous.
- ii) that because the benefit of ACPs by virtue of DOP&T circular dated 10.02.2000 vide point of doubt No. 1 can be given to only those employees to whom benefit of promotion have been given and by virtue of recommendation of pay commission the feeder and promotional post stood merged. In the present case the posts of EA & SEA were not stood merged as claimed by the applicant in OA. Prior to 5th CPC and after the verdict of Supreme Court though the pay scale of EA was Rs. 2000-3200/- but the pay scale of SEA was not changed and it remained the same as it was awarded in the 4th CPC. Therefore, the contention of the applicants in OA that the pay scale of EA and SEA stands revised to Rs. 2000-3200/- is misleading.
- iii) that because the merger of EA & SEA in PB-2 scale of Rs. 9300-34800/ with the Grade Pay of Rs. 4200/ (pre-revised of Rs. 5000-8000/5500-9000/- attached to EA and SEA) has formally been approved by the competent authority in consultation with DoP&T and Ministry of Finance as per MIB letter dated 13.04.2012. Therefore, the claim of merger of EA, SEA & AE in Rs. 6500-10500/- in any way, claimed by the applicants in any of the OAs was misleading.
- iv) that because even in the cadre structure the post of EA is feeder post for promotion to SEA. The post of SEA is feeder for promotion to AE. Thus the EA, SEA and AE are three distinct posts.
- v) that because the respondents i.e. EA and SEA in the present case were already granted pay protection and financial up-gradation due to Hon'ble Supreme Court order which was other than the scale given by 5th CPC. Rather it was special pay personal to them and was in fact financial up gradation and they already received the scale of Rs. 6500-10500/-, and as such were not entitled to the benefit of ACP, in the scale of Rs. 6500-10500/- as claimed by them in OA No. 514/2002.
- vi) that because the respondents deliberately concealed the pay scale of SEA in their OA as well as from the court. They had claimed that the scale of EA and SEA was Rs. 2000-3200/- and AE was Rs. 2000-3500/- which stood merged in 5th CPC, which is absolutely false. The correct position was that the pay scale of EA in the 4th pay revision was Rs. 1600-2660/- which was revised due to Supreme Court order as Rs. 2000-3200 and during 5th CPC this scale was revised as Rs. 5000-8000/-. Similarly in the 4th CPC the scale of

SEA was Rs. 1640-2900/-, but by the order of Hon'ble Supreme Court their scale was revised as Rs. 2000-3275/- which was deliberately concealed by the present respondents.

vii) that because as per the DOP&T's ACP Scheme dated 09.08.1999 (Condition No. 6 and doubt/clarification No. 16 of DOPT OM dated 10.02.2000), all promotion norms have to be fulfilled for up-gradation under the Scheme otherwise no up-gradation is allowed. As per RRs of JTS grade (8000-13500—pre-revised), the essential qualification for Direct Recruitment and promotion both is Degree in Engineering. All the applicants are not Engineering Graduate as such are not eligible for grant of ACP as per instructions on the matter.

viii) that because the entry grade pay scale in JTS of IB (E)S is Rs. 8000-13500/- to which the applicant have been granted ACP is required to be filled up 50% by promotion from Assistant Engineer and 50% by direct recruit, it does not include EA and SEA automatically in the feeder grade of AE to make them eligible for ACP benefit as claimed.

ix) that because the Principal Bench, CAT, New Delhi in its order dated 4.1.2001 in Doordarshan Engineering Employees Welfare Association in OA No. 1867/1998 directed that the proper course could be for grating the incumbents the benefit of pay in the pay scale of Rs. 2000-3200/- w.e.f. 1.1.1986 or their date of joining and the corresponding scale of Rs. 6500-10500/- w.e.f 1.1.1996 with consequential benefits, but as personal to them. Therefore, there was no direction from any court that EA/SEA/AE stand merged to uniform scale of Rs. 6500-10500/-.

x) that because if matter is not re-considered then the Union of India shall suffer huge loss of crores of rupees as well as may face problems in all over India.

xi) that because in any view of the matte the impugned order is fit to be quashed since despite consideration of the case of the respondents in accordance with the DOPT circular dated 10.02.2000 the learned tribunal has refused to accept the order dated 04.11.2011.

6. Whereas, pursuant to the advice of Ministry of I & B, Writ Petition No. CWJC 1869/2015 has been filed before the Hon'ble High Court, Patna. As such the matter is sub-judice before Hon'ble Court of Law.

7. Whereas, in view of the foregoing, after careful consideration the Competent Authority has come to the conclusion that since Writ Petition No. CWJC 1869/2015 has been filed before the Hon'ble High Court, Patna, and the

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matter is sub-judice. The matter of granting ACP to the applicants can be considered only after decision of the Court of Law.

8. The applicants in the OA No. 854/2014 and MA No. 763/2014 are hereby informed accordingly.

9. This issues with the approval of Respondent No. 3.



(Ajaya Kumar K.P.)
Dy. Director (Admn)
For Director General

Copy to :

1. All the applicants in the OA No. 854/2014 and MA No. 763/2014 filed in the Hon'ble CAT, Principal Bench, New Delhi through the Zonal Offices of the concerned AIR Station.
2. The Addl. Director General, O/o Addl. Director General (Engg.) (North Zone), AIR & DD, Jamnagar House, Shahjahan Road, New Delhi - 110011.
3. The Addl. Director General, O/o Addl. Director General (Engg.) (South Zone), AIR & DD, Swamy Sivananda Salai, Chennai - 600005(Tamil Nadu).
4. The Addl. Director General, O/o Addl. Director General (Engg.) (West Zone), AIR & DD, Old CGO Complex, 101, M.K. Road, Mumbai - 400020(Maharashtra).
5. The Addl. Director General, O/o Addl. Director General (Engg.) (East Zone), AIR & DD, 4th Floor, Akashvani Bhavan, Eden Garden, Kolkata - 700001(West Bengal).
6. The Addl. Director General, O/o Addl. Director General (Engg.) (North East Zone), AIR&DD, Dr.Kakoti's Building, Ganesh Guri flyover, G.S. Road, Dispur, Guwahati - 781006(Assam).

Copy for information to :

1. Shri S. M. Arif, Sr. Government Counsel, Govt. of India, 366/122 (1st Floor), Street No. 14, Ghaffar Manzil, Jamia Nagar, New Delhi -110025 with the request to bring the facts before the Hon'ble CAT, New Delhi in its next hearing.

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2. The Under Secretary, BA(E) Section, (kind attn. Sh. Sanjay Dhar, US), Ministry of I & B Shastri Bhawan, New Delhi.
3. The Director (Pers.) (kind attn.. Sh. A.K. Barua, Legal Consultant), Prasar Bharati, 2nd Floor, PTI Building, New Delhi.
4. The Dy. Director Admn. (S-IV Section), DG:Doordarshan, Mandi House, New Delhi.
5. All concerned AIR Stations/Doordarshan Kendras
6. Director IT, DG:AIR with request to upload on the Airnet.