

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)/47

Dated : 06.02.2015

SPEAKING ORDER

Whereas, following OAs were filed before the Hon'ble CAT, New Delhi alleging inter-alia the in-action on the part of the respondents and not granting the benefit of 1st financial up-gradation under Assured Career Progression Scheme (ACP) on completion of 12 years of service in the pay scale of Rs. 8000-275-13500/- by way of extending the judgment dated 07.09.2009 passed by Hon'ble CAT, Patna in O.A. No. 514/2002:-

- i) O.A. No. 3580/2014 with M.A. No. 3084/2014 filed by Sh. Joginder Singh & 15 ors decided on 09.10.2014.
- ii) OA No. 4439/2013 & MA No. 3402/2012 filed by Sh. Pradeep Gupta & 34 others decided on 20.12.2013.
- iii) O.A. No. 51/2014 filed by Sh. Pradip Kumar & 23 ors. decided on 08.01.2014.
- iv) O.A. No. 879/2013 and MA No. 678/2013 filed by Sh. Shailendra Kumar Mishra & 5 ors. decided on 13.3.2013.
- v) O.A. No. 3400/2012 and MA No. 2836/2012 filed by Sh. Vinod Kumar & 6 ors. decided on 09.10.2012.
- vi) O.A. No. 3106/2013 and MA No. 2368/2013 filed by Sh. Manoj Kumar Gupta & 25 ors. decided on 31.10.2013.
- vii) O.A. No. 1147/2014 filed by Sh. Thomas Mathew & 8 ors. decided on 3.3.2014.
- viii) O.A. No. 215/2014 and MA No. 161/2014 filed by Sh. Sushil Kumar Agarwal & 153 ors. decided on 19.1.2015

2. Whereas, the Hon'ble Tribunal, New Delhi disposed of the aforesaid O.As. inter-alia directing respondents to consider the cases of the applicants in the light of the aforesaid order of the Patna Bench (supra), if they found that the same is covered by the aforesaid order of the Patna Bench, they shall also be extended the same benefits as have been given to the applicants therein, within a period mentioned therein in the respective OAs 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 prescribed period.

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3. Whereas, the subject matter was already taken up with the Ministry of I&B, alongwith the service particulars of the applicants. The Ministry of I&B in turn, 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.

4. 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:-

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 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.



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- 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/-.

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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 matter 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.

5. 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.

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

7. The applicants in the aforesaid OAs mentioned in para 1 above are hereby informed accordingly.

8. This issues with the approval of competent authority.



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

Copy to :

1. All the applicants in the aforesaid OAs mentioned in para 1 above **through** their O/o Zonal Heads of AIR & DDn with request to serve the Speaking Order and furnish the compliance report to this Directorate.
2. All the concerned AIR, Station Director/Head of Offices/DD Kendras.
3. 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 case of the next date of hearing, if any.



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Copy for information to :

- i. The Under Secretary, BA(E) Section, (kind attn. Sh. Sanjay Dhar, US), Ministry of I & B Shastri Bhawan, New Delhi.
- ii. The Director (Pers.) (Kind Attn. Sh. A.K. Barua, Legal Consultant), Prasar Bharati, 2nd Floor, PTI Building, New Delhi.
- iii. The Dy. Director Admn. (S-IV Section), DG:Doordarshan, Mandi House, New Delhi.
- iv. Director IT, DG:AIR with request to upload on the Airnet.
- v. Copy of the speaking order in the respective court case files of the Section/S-IV(A) Section, DG:AIR.
- vi. Spare copies (10).



Dy. Director (Admn)