

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

**OA No.3675 of 2014
MA No.3155 of 2014**

New Delhi, this the 15th day of October, 2014

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

1. M.R.C. Reddy, Aged- 45 Years,
S/o Sh. M. Latcha Reddy,
Working as AE in Doordarshan (H.P.T),
Visakhapatnam
R/o Navya Newcastle Apartment,
Flat 401, H.B. Colony,
Visakhapatnam-530022
2. Abhijit Majumdar, Aged- 47 Years,
S/o Late R.K. Majumdar,
Working as AE in TVRC RAE Bareli (U.P.)
R/o 11/106, Indira Nagar, Lucknow-226016
3. Anil Kumar Sinha, Aged-51Years,
S/o Late Sh. Narain Pd. Sinha,
Working as SEA in LPT, Bhagalpur
R/o Ganga Vihar Colony, Sahour Road,
P.O. Fatehpur, Bhagalpur, Bihar-813210
4. Ashwini Kumar, Aged- 56 Years,
S/o Late Jai Narain Mandal,
Working as AE in LPT, Bhagalpur,
R/o AT-Kathon, P.O. + P.S. Rajaun,
Distt. Banka Bihar, Pin-813107
5. Shambhu Nath, Aged- 52 Years,
S/o Sri Ram Krishna Prasad,
Working as SEA in LPT Barharwa,
R/o Vill & PO Sian, Via-Ishipur,
Distt. Bhagalpur, Bihar-813206
6. Arvind Kumar Yadav, Aged- 51 Years,
S/o Late Mahabir Prasad Yadav,
Working as SEA in LPT, Sikandra,
R/o Ganga Vihar Colony, Meerachak,
Sabour, Fatehpur Bhagalpur (Bihar)-813210
7. Akhilesh Kumar Singh, Aged- 49 Years,
S/o Late Gudan Prasad Singh,
Working as EA in LPT, Bhagalpur,
R/o Vidya Puram Colony, East Gurhatta Road,
Sikandarpur, P.O. Mirjanhat, Bhagalpur-812005

8. Sanjay Kumar Mandal, Aged- 41 Years,
S/o Sri Hardeo Prasad Mandal,
Working as EA in LPT, Barharwa,
R/o Vill & P.O. Dhanbai (Hansdiha)
Via- Nonihat, Distt. Dumka, Jharkhand-814145
9. Subodh Kumar Singh, Aged- 47 Years,
S/o Late Babu Lal Singh,
Working as EA in AIR, Bhagalpur,
R/o Narayana Colony Opp. Sudha Diary,
Mayaganj Road, Bhagalpur-1 (Bihar)
10. Bijay Kumar Singh, Aged- 52 Years,
S/o Sh. Satya Narayan Singh,
Working as SEA in AIR, Bhagalpur,
R/o Krishna Nagar Colony, Ishakchak,
Mirjanhat Road, Bhagalpur-812001
11. Sanjay Kumar, Aged- 46 Years,
S/o Sh. Dhori Prasad Singh,
Working as EA in AIR, Bhagalpur,
R/o Radio Colony, Qr. No.05, Type-III,
Adampur, Bhagalpur-812001
12. Yogendra Singh, Aged- 46 Years,
S/o Sh. Harish Chandra Singh,
Working as SEA in Doordarshan Kendra,
Allahabad
R/o H.No.RK-191, Radhakund, Kalindipuram,
Allahabad-211011
13. R.K. Sahu, Aged- 43 Years,
S/o Shri Srinath Sahu,
Working as SEA in Doordarshan Kendra,
Allahabad.
R/o 752A/232A, Sohbatiyabagh,
Allahabad (U.P.)
14. C.B. Bharati, Aged- 49 Years,
S/o Shri Nathu Lal,
Working as SEA in Doordarshan Kendra,
Allahabad
R/o H.No.82E/2K/A2, Lane No.5/19,
Madhuban Vihar Colony, Umarpur Niwz Road,
Suhansarai, Allahabad-211011
15. Bharat Prasad, Aged- 52 Years,
S/o Late Badri Prasad,
Working as AE in DDK, Lucknow,
R/o Anand Vihar Colony, Lucknow
16. K.K. Varshney, Aged- 55 Years,
S/o Late Shri D.P. Varshney,

Working as AE in DDK, Allahabad
R/o C-3, Galden Apartment, 579/462,
Mumford Ganj, Muirabad Crossing,
Allahabad-211002

17. S.K. Srivastava, Aged- 50 Years,
S/o Shri R.S.L. Srivastava,
Working as AE in HPT, Kupwara,
R/o 28B/5C, Sarvoday Nagar, Allahpur,
Allahabad-211003
18. Ajaz Akhtar Ansari, Aged- 46 Years,
S/o Sh. K.U. Ansari,
Working as AE in DDK, Allahabad,
R/o 18Z/BA/2, Zameer Nagar,
Karamat Ki Chowki, Kareli,
Allahabad-211016
19. Devashish Ganguli, Aged- 45 Years,
S/o Late Shri J.P. Ganguli,
Working as AE in DDK, Allahabad,
R/o 401/347, Madhwapur, Savitri Park,
Allahabad-211003
20. K.P. Vishwakarma, Aged- 49 Years,
S/o Late Sh. Vindhreshwari,
Working as AE in DDK, Allahabad
R/o C2, Doordarshan Colony, Ashok Nagar,
Allahabad (U.P.)
21. Naval Kishore, Aged- 49 Years,
S/o Shri Ram Singh,
Working as AE in DDK, Allahabad
R/o 101K, Dewarahababa Colony,
Phulwariya Road, Daraganj, Allahabad
22. A.K. Ghosh, Aged- 52 Years,
S/o Late Shri Ashit Kumar Ghosh,
Working as AE in LPTV, Fatehpur (U.P.)
R/o 225/5A, Jayantipur, Allahabad-211011
23. Imtiyaz Ahmad, Aged- 50 Years,
S/o Late Sh. S.U. Siddiqui,
Working as AE in H.P.T. Allahabad,
R/o 277/1, Rani Mondi, Allahabad-211003.....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, Doordarshan Kendra,
Doordarshan Bhawan,
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.3155 of 2014

This Misc. Application 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.

OA No.3675 of 2014

This joint Original Application has been filed by the applicants against the alleged in-action on the part of the respondents in not granting them the benefit of 1st Financial Upgradation in the pay scale of Rs.8000-13500/- under Assured Career Progression Scheme (ACP for short) on completion of 12 years of service by extending the benefit of the Order dated 07.09.2009 passed by the Patna Bench of this Tribunal in OA No.514/2012, as upheld by the Hon'ble High Court of Patna vide judgment dated 25.08.2010 in CWJC no.6451/2010 and further upheld by the Hon'ble Apex 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 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 OA seeking the seeking the following reliefs and interim relief:-

Main Relief:

(i) That the Hon'ble Tribunal may graciously be pleased to pass an order declaring to the effect that the whole action of the respondents not considering and not extending the benefit of judgment dated 07.09.2009 passed by Hon'ble Patna Bench in OA No.514/2002 is totally illegal, arbitrary and discriminatory and consequently, pass an order directing the respondents to consider the case of the applicants for granting first financial up-gradation under ACP Scheme on completion of 12 years of service in the grade of Rs.8000-13,500/- 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 Hon'ble Patna Bench in OA No.514/2002.

(ii) Any other relief which the Hon'ble Tribunal deem fit and proper may also be granted to the applicants.”

Interim Relief:

“During the pendency of the OA, the Hon'ble Tribunal may graciously be pleased to pass an order directing the respondents to consider the pending representation of the applicants for the prayed relief by passing a speaking and reasoned order.”

3. We have heard Shri Yogesh Sharma, learned counsel for the applicants. We have also perused the documents on record. In our considered view, this OA can be disposed of at the admission stage itself by directing the respondents to consider the case of the applicants in the light of the aforesaid Order of the Patna Bench of this Tribunal in OA 514/2002 decided on 07.09.2009 as upheld by the Hon'ble High Court of Patna and the Apex Court.

4. We, therefore, direct the respondents to examine the cases of the applicants and if it is found that they are found to be covered by the decision 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 speaking and reasoned order under intimation of the applicants within the aforesaid period. In that case, the applicants will have the liberty to challenge the order so passed by appropriate proceedings. There shall be no order as to costs.

(SHEKHAR AGARWAL)
MEMBER (A)

(G. GEORGE PARACKEN)
MEMBER (J)