

**Central Administrative Tribunal  
Principal Bench, New Delhi**

**OA No.4439/2013 and  
MA No.3402/2012**

**Friday, this the 20th day of December, 2013**

**Hon'ble Shri G. George Paracken, Member(J)  
Hon'ble Shri Shekhar Agarwal, Member(A)**

1. Pradeep Gupta S/o Shri B.L. Gupta  
Working as SEA in DDK, Lucknow
2. Devendra Pratap Singh  
S/o Shri B.B. Singh  
Working as AE in HPT, Kupwara
3. Jayati Srivastava S/o Shri D.S. Lal  
Working as SEA in DDK, Lucknow
4. Charu Jaiswal S/o Shri M.C. Jaiswal  
Working as EA in DDK, Lucknow
5. Vijay Kumar S/o Shri Gaya Prasad  
Working as SEA in DDK, Lucknow
6. Jeewan Lal Gupta S/o Shri Ram Lal Gupta  
Working as SEA in DDK, Lucknow
7. Alok Kumar Tripathi S/o Shri M.G. Tripathi  
Working as EA in DDK, Lucknow
8. Vikas Chandra Katiyar S/o Late Raj Kumar Katiyar  
Working as SEA in DDK, Lucknow
9. Amar Nath Gupta S/o Shri Paras Nath Gupta  
Working as SEA in DDK, Lucknow
10. Sanjay Prasad Ghildiyal S/o Shri B.P. Ghildiyal  
Working as SEA in DDK, Lucknow
11. Atul Kumar Saxena S/o Late R.S. Saxena  
Working as EA in DDK, Lucknow
12. Alok Kharbanda S/o B.D. Kharbanda  
Working as AE in DDK, Lucknow
13. Tarun Saxena S/o Shri M.K. Saxena  
Working as AE in DDK, Lucknow

14. P.K. Srivastava S/o Shri S.S. Srivastava  
Working as AE in DDK, Lucknow
15. Raj Narain S/o Late Shri Ram Bhajan Lal  
Working as SEA in HPT Tethwal(J&K)
16. Kaberi Basu S/o Late B.N. Day  
Working as SEA in DDK, Lucknow
17. Pushkar Saxena S/o Late Sh. K.N. Saxena  
Working as AE in DDK, Lucknow
18. Sanjay Kumar S/o Late Sh. Rajender Prasad  
Working as SEA in DDK, Lucknow
19. Sanjeev Moitra S/o P.K. Moitra  
Working as SEA in DDK, Lucknow
20. Sunita Moitra D/o Late C.S. Singh  
Working as SEA in DDK, Srinagar
21. Kali Charan Namdeo  
S/o Late Ganesh Prasad  
Working as SEA in DDK, Lucknow
22. Anil Kumar Tripathi  
S/o Shri M.G. Tripathi  
Working as SEA in DDK, Lucknow
23. Om Prakash Chaurasia  
S/o Late Sh. Ram Kumar Verma  
Working as SEA in DDK, Lucknow
24. Arun Kumar Sinha  
S/o Sri Surendra Prasad  
Working as SEA in HPT, Kupwara
25. Shiv Harsh Singh  
S/o Sh. Mahabeer Singh  
Working as SEA in DDK, Lucknow
26. Ashok Kumar Srivastava  
S/o Late Shri. J.P. Srivastava  
Working as AE in DDK, Lucknow
27. Birender Kumar Singh  
S/o Sh. Lalsa Singh  
Working as SEA in DDK, Lucknow
28. Alok Ranjan S/o Late Sh. S.C. Agarwal  
Working as SEA in DDK, Lucknow
29. M.S. Chandel S/o Late Sh. U.S. Chandel  
Working as AE in DDK, Lucknow

30. Om Prakash S/o Late Shri Shyam Lal  
Working as AE in DDK, Lucknow
31. Hemant Kumar S/o Sh. Dhani Ram Malhotra  
Retired as AE from DDK, Lucknow
32. Mukesh Kumar Sharma  
S/o Late Sh. Ram Shanker Sharma  
Working as AE in DDK, Srinagar
33. Beche Lal Gupta S/o Late Sh. Puran Lal Gupta  
Retired as AE from DDK, Lucknow
34. Sanjay Sinha S/o Sri Surendra Prasad  
Working as EA in DDK, Lucknow
35. Puran Chandra Tiwari S/o Late S. Murli Dhar Tiwari  
Working as SEA in DDK, Lucknow

..... Applicants

(By Advocate : Shri Yogesh Sharma)

***Versus***

1. Union of India through the Secretary  
Ministry of Information and Broadcasting  
Government 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 Parackken:

**MA No.3402/2013**

1. This MA has been filed by the applicants seeking to join in one OA.
2. For the reasons mentioned in this MA, the same is allowed.

**OA No.4439/2013**

3. Learned counsel for the applicant has submitted that this OA is squarely covered by an earlier order of this Tribunal dated 04.03.2013 in OA No. 757/2013 (Umesh Kumar & Ors. Vs. Union of India & Ors.) wherein the following order has been passed:-

2. This Original Application has been filed by the applicants against the in-action on the part of the respondents in not granting the benefit of 1st Financial Upgradation under Assured Career Progression Scheme (ACP for short) on completion of 12 years of service in the pay scale of Rs. 8000-13500/- by way of extending the benefit of judgment dated 07.09.2009 passed by the Patna Bench of this Tribunal in OA no.514/2002, 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 applicants have, therefore, filed this Original Application seeking the following relief(s):-

- (i) That the Hon'ble 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.8000-13,500/- from due date and granting 2nd financial upgradation 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) That the Hon'ble Tribunal may graciously be pleased to pass an order declaring to the effect that the while 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 relied which the Hon'ble Tribunal deem fit and proper may also be granted to the applicant.

3. We are of the considered view that this OA can be decided at the admission stage itself by directing the respondents to consider the case of the applicants in the light of the aforesaid judgment 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. 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.

4. In view of the above position, the respondents are directed to examine the case of the applicants and if it is found that they are 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 the conclusion that the applicants are not covered by the aforesaid order, they shall pass a speaking and reasoned order 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.

4. Learned counsel for the applicant has also submitted that the aforesaid order has been implemented by the respondents.

5. In the above facts and circumstances of the case, we direct the respondents to examine the case of the applicant and if it is covered by the aforesaid order of this Tribunal, the same benefits shall be given to them. They shall also pass appropriate orders in this case under intimation to the Applicants within a period of two months from the date of receipt of a copy of this order.

6. With the aforesaid directions, this OA is disposed of. There shall be no order as to costs.

(Shekhar Agarwal)  
Member(A)

(G. George Paracken)  
Member(J)