



United We Stand

Union of Akashvani & Doordarshan (Prasar Bharati) Engineering Employees(UADEE)

(Registered under **Trade Union Act, 1926**; Regn.No. 5135)

Head Quarter : C-4 D/ 81 B, Janakpuri, New Delhi-110 058

visit our website: <http://www.uadee.org>

Ref. No. Misc:

Dated:... 20.02.2014

Subject : Reply of DG:AIR on the petition filed by this Union to the Minister for Information & Broadcasting for implementation of ACP Scheme to subordinate engineering cadres of EA/SEA/AE consequent upon order of CAT, Patna Bench dated 07.09.2009 in OA No. 514/2002 and dated 23.05.2012 in Contempt Petition No. 22/2011, and on the discrimination by the Ministry of I&B in dealing with orders of courts applying different yardstick.

Friends,

You may recall that order dated **07.09.2009** passed by CAT, Patna Bench in OA No. **514/2002** had attained finality after Government's Writ petition filed before Patna High Court and its SLP filed thereafter before Supreme Court, challenging the order dated 07.09.2009 passed by CAT, Patna Bench, were dismissed. The Ministry of I&B then took opinion of nodal departments of Govt. of India i.e. DOP&T, Department of Expenditure (Ministry of finance) and the Ministry of Legal affairs which had emphatically opined that since the order of CAT dated 07.09.2009 had attained finality after dismissal of Government's SLP by Apex Court, **no other option was left except to implement the order of court**. Having decided to implement the order dated 07.09.2009 of CAT in case of petitioners only vide its order dated 29.06.2011 and having extended the benefit of ACP Scheme to 08 petitioners vide DG:AIR's Order dated 17.01.2012, The Ministry of I&B file a Review Petition No. 141/2012 before Patna High Court to quash the order dated 07.09.2009 of CAT, Patna and also to review its own judgment dated 25.08.2010 in CWJC No. 6451/2010 which had earlier upheld the decision of CAT, Patna Bench. In the meantime, many individuals approached mainly CAT, New Delhi Bench for extension of benefits of order dated 07.09.2009 passed by CAT, Patna Bench in OA No. 514/2002 in ACP case and brought orders from CAT for consideration of their cases for grant of benefits of the ACP Scheme. However, the DG:AIR issued a standard reply to all such

applicants (and also to all Zonal ADG(E) offices) saying that “ **a Civil Review Petition No. 141/2012 is pending in the Patna High Court and the matter of extension of benefits of the order dated 07.09.2009 of Patna CAT in ACP case is *subjudice***”. The said Review Petition was dismissed by Patna High Court on 23.10.2013 and the Ministry of I&B was allowed to withdraw its Review Petition.

Since no lawsuit challenging the order dated 07.09.2009 of Patna CAT was pending now before any court of law after 23.10.2013, this union submitted a detailed petition running into 10 pages along with 14 enclosures (available on the Union’s website) on **07.11.2013** to the Minister of I&B for grant of benefits of the ACP scheme to all the affected EA/SEA/AE of AIR & DD who happened to be in service on and after **09.08.1999** (the date of introduction of ACP scheme) without forcing all of them to approach courts for the same benefit. The Union also informed about various CAT judgments obtained by individuals which were pending for extension of benefits of the order dated 07.09.2009 of CAT in ACP case. The Union also informed about two unlawful and fictitious conditions being imposed by the Screening Committees constituted by the Ministry of I&B for grant of benefits of the ACP scheme to the petitioners in already considered cases. It was also brought to the notice of the Minister of I&B with anguish that the Ministry has been discriminating in the implementation of courts’ judgments on the basis of ‘class’ of employees the judgments pertained to. However, the Union’s petition seems to have been stalled in the BA(E) section of the Ministry of I&B for two months.

A RTI application was filed on **09.01.2014** to inquire about the status of the UADEE’s representation made to the Minister for I&B as to what action was taken on issues raised in the representation [i.e. **(1) on extension** of benefits of the order dated 07.09.2009 passed by Patna Bench of CAT in ACP case in OA No. 514/2002 *read with* order and direction dated 23.05.2012 given by the Tribunal in Contempt Application No. 22/2011, to all the similarly situated EA/SEA/AE of AIR & Doordarshan without resorting to further court case, **(2) on trifling** with the issue of grant of benefits of the ACP scheme by application of non-existent, unlawful and fictitious conditions by the members of the Screening Committees constituted by the Ministry of I&B, and **(3) on exercise** of discrimination in dealing with the court cases/ judgments on the basis of “*class / status*” of petitioners whom the case related] . **The CPIO vide letter dated 31.01.2013 replied that the said representation was forwarded to DG:AIR to examine the matter and take necessary action. He also informed that the RTI application dated 09.01.2014 was also forwarded to DG:AIR for providing information in the matter straightway to the RTI applicant.**

A Copy of the reply given by the CPIO, Ministry of I&B is attached hereunder :-

File No. 1601/16/2014-B.A. (E)

Government of India
Ministry of Information & Broadcasting
'A' Wing, Shastri Bhawan, New Delhi

Date: 31.01.2014

To

Shri Ram Shanker,
B-11/204, Shalimar Garden Ext- 2,
PO: Sahibabad- 201005,
Distt- Ghaziabad (UP).

Subject:- Information sought under RTI Act, 2005 by Shri Ram Shanker regarding supply of status and action taken on representations forwarded by UADEE.

Sir,

Please refer to your RTI application dated 09.01.2014 received in this Ministry on the subject noted above.

2. The representation forwarded by UADEE has been forwarded to DG: All India Radio to examine the matter and take necessary action. So the information in respect of BA-E section may be treated as 'Nil'. Your application is however, forwarded to DG: All India Radio for providing information on the basis of their records.

3. Name and address of the appellate Authority is- Smt. Harcharan Kaur, Deputy Secretary (BA-E), Room No. 119, 'A' Wing, Shastri Bhawan, New Delhi- 110001.

Yours faithfully


(Sanjay Dhar)
CPIO & Under Secretary (BA-E)
☎ 2338 4754

Copy to:

- (i) Copy with enclosures to CPIO, DG:AIR Akashvani Bhawan, New Delhi.
- (ii) IFC w.r.t. R-11011/57/2014-IFC, dated 31.01.2014.

The DG:AIR vide letter dated **11.02.2014** informed to the UADEE that the Union's representation (dated 07.11.2013) was received to them with Ministry of I&B's letter No. 512/03/2014-BA(E) Pt.II, dated **27.01.2014**. The DG:AIR also informed to the Union with the enclosure of an order dated **25.09.2012** issued from File No. 14/35/2012-SIV(B)/515 and copies endorsed to all the Zonal ADG(E) that " a Review Petition No.141/2012 filed by the Government before Patna High court to quash order dated 07.09.2009 passed by the Patna Bench of CAT in ACP case in OA No. 514/2002 was pending and as such the matter was *subjudice*". The DG:AIR , at para 3 of the letter, also informed that "**the matter is under process regarding implementation of ACP Scheme. In this regard, the same is being taken up with the Ministry of I&B for further order/ directions and final decision will be taken as per Ministry of I&B's direction**". Both the orders dated 11.02.2014 and dated 25.09.2012 issued by DG:AIR are attached hereunder.

Now, the events when correlated suggest that,

1. The eye-opening representation dated 07.11.2013 of the UADEE submitted to the Minister for I&B was dumped for 2 months in BA(E) section of the Ministry.
2. On receipt of the RTI query dated 09.01.2014 for action taken report on the Union's representation dated 07.11.2013, the BA(E) section of the Ministry of I&B hurriedly forwarded the UADEE's representation along with the RTI application dated 09.01.2014 to DG:AIR vide letter No. 512/03/2014-BA(E) pt.II, dated 27.01.2014.
3. The DG:AIR replied to UADEE vide letter No.14/5/2014-SIV(B)/56, dated 11.02.2014 informing that they did not implement the orders of Tribunals in ACP case earlier as the case was *subjudice* (was it not made *subjudice* deliberately by them only to linger on the issue of implementation ?) and that they are now taking up the issue of implementation of ACP scheme with the Ministry of I&B.

This is entirely imbecile, impertinent and unacceptable reply. Now the Ministry of I&B and the DG:AIR owe to clarify following points related to their 'hide and seek' *modus operandi* :

- (a) Why did the Ministry of I&B not take any action even after its trifling Review Petition No. 141/2011 was dismissed by Patna High Court on **23.10.2013** ?
- (b) Why did the Ministry of I&B transferred the Union's representation addressed to the Minister of I&B to subordinate office of DG:AIR when the final decision on implementation of courts' orders is to be taken by the Ministry of I&B itself ?
- (c) Why did the Ministry of I&B and DG:AIR kept mum on issue of discrimination in dealing with the courts' judgments as raised in the representation of the UADEE ?
- (d) Why did the Ministry of I&B file a RP No.141/2011 before Patna High Court when the Patna CAT's judgment dated 07.09.2009 had attained finality after Ministry's Writ Petition and SLP got dismissed by Patna High Court And Supreme Court respectively and the Nodal departments of Govt.of India like DOP&T, Ministry of Finance and Ministry of Legal Affairs had advised to the Ministry of I&B to straightway implement the final order dated 07.09.2009 of Patna CAT as all legal remedies had been exhausted by the Government ?

PRASAR BHARATI
(INDIA'S PUBLIC SERVICE BROADCASTER)
DIRECTOR GENERAL : ALL INDIA RADIO
AKASHVANI BHAWAN

F.No.14/5/2014-SIV(B)/56

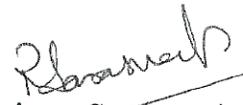
New Delhi, dated:11 .02.2014.

Subject: Forwarding of representations for implementation of ACP scheme – reg.

Reference Min. of I&B's letter no.512/03/2014-B.A.(E)Pt.II dated 27.01.2014 on the subject mentioned above.

2. This Directorate is in receipt of identical representations from Assistant Engineers for extending similar benefit, as have been given to the applicants of O.A. No.514/2002. In response to representations, this Directorate had issued a standard reply to all Zonal Engineering Offices accordingly(Copy enclosed).

3. The matter is under process regarding implementation of ACP Scheme. In this regard, the same is being taken up with the Min. of I&B for further order/directions and final decision will be taken as per Min. of I&B's direction.



(Rajeev Saraswat)
Dy. Director of Admn.(E)
For Director General

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Shri Debashis Chowdhury
General Secretary
Union of Akashvani & Doordarshan Engineering Employees(UADEE)
C-4 D/81 B, Janakpuri,
New Delhi – 110058.

Copy to : Shri Sanjay Dhar, Under Secretary, BA(E) Section, 'A' Wing, Shastri Bhawan, New Delhi.

PRASAR BHARATI
(BROADCASTING CORPORATION OF INDIA)
DIRECTORATE GENERAL; ALL INDIA RADIO
New Delhi

File No. 14/35/2012-S-IV(B) | 515

Dated: 25.09.2012

Subject:- Representation in the light of order dated 23.05.2012 of Hon'ble CAT, Patna Bench in CCPA No.22/2011 arising out of O.A.No. 514/2002 for grant of benefits of the ACP Scheme-regarding.

This Directorate is in receipt of identical representations from Assistant Engineers posted at various stations including Retired Assistant Engineers for extending similar benefit as have been given to the applicants of O.A. No.514/2002.

It is submitted that a Civil Review Petition No.141/2012 is pending in the Patna High Court. As such the matter is subjudice. The concerned engineering officers who have represented for grant of similar benefit may be intimated accordingly.

This issues with the approval of the competent authority.



(Anu Kalra)

Dy. Director of Admn.(E)

Copy to:

- 1) O/o The Addl. Director General (Engg.) (North Zone), AIR & DD, Jamnagar House, Shahjahan Road, NEW DELHI -1100011.
- 2) O/o The Addl. Director General (Engg.) (South Zone),AIR & DD, Swamy Sivananda Salai, CHENNAI - 600005.
- 3) O/o The Addl. Director General (Engg.)(West Zone), AIR & DD, Old CGO Complex, M.K. Road, MUMBAI - 400020.
- 4) O/o The Addl. Director General (Engg.) (East Zone),AIR & DD, 4th Floor, Akashvani Bhavan, Eden Garden, KOLKATA- 700001.
- 5) O/o The Addl. Director General (Engg.) (North East Zone), AIR&DD, Dr.Kakoti's Building, Ganesh Guri flyover, GUWAHATI - 781006.