

PRASAR BHARATI
(India's Public Service Broadcaster)
PRASAR BHARATI SECRETARIAT
II FLOOR, PTI BUILDING,
SANSAD MARG, NEW DELHI -1100 01.

M-1/128/2014-PPC/PBRB (Part-I)

Dated: 22nd Oct., 2014.

Smt. Harcharan Kaur,
Deputy Secretary,
Ministry of Information & Broadcasting,
A-Wing, Shastri Bhavan,
New Delhi.

**Sub:- Clarification on admissibility of MACP to TREX &
some other cadres (Programme & Engineering Staff).**

Sir,

I am to refer to the Ministry of Information & Broadcasting letter No.503/5/2014-BA (E) dated 8th Sept., 2014, on the above subject, conveying advice of Deptt of Personnel & Training that any upgradation availed during the career by an employee would be counted against three upgradations.

2. The advice of DoP&T runs counter to the clarifications regarding ACP as contained in their OM No. F. No. 35034/1/97-Estt(D) (Vol. IV) dated July 18, 2001, which, inter-alia, provides under S. No. 35 that "where all the posts are placed in a higher scale of pay, with or without a change in the designation; without requirement of any new qualification for holding the post in the higher grades, not specified in the Recruitment Rules for the existing post and without involving any change in responsibilities and duties, then placement of all the incumbents against such upgraded posts is not to be treated as promotion/upgradation." These conditions are fully met in respect of 11 categories of employees in the Ministry of Information & Broadcasting Order dated 25.2.1999 and such employees are, therefore, eligible for grant of ACP and consequently MACP, after ignoring the upgraded scales of pay.

(Contd...)

3. It may be clarified that the upgraded pay scales as per Ministry of Information & Broadcasting letter dated 25.02.1999, were given to the employees not as Government Servants but as employees of Prasar Bharati, who opt for Prasar Bharati in case such an occasion comes up. The occasion never arose as with an amendment to Section 11 of Prasar Bharati Act, all employees who joined Prasar Bharati upto 5th Oct 2007 are to be treated as Central Government employees on 'deemed deputation' till their retirement and thus exercise of option has become redundant.

4. Further, these upgraded pay scales were given with the approval of the Cabinet after consultation with the Department of Expenditure as well as the Department of Personnel & Training.

5. Since ACP is applicable to those employees who joined before 5.10.2007, MACP will also be applicable to them automatically as they are treated as Government Servants and there is no need for obtaining prior approval of Administrative Ministry/Financial Adviser as laid down in DOP&T's Order dated 3rd August, 2010. The Prasar Bharati Board in its 109th meeting held on 6th August, 2012 approved the grant of MACP to the employees of Prasar Bharati in general and to employees in 11 categories covered by Ministry of Information and Broadcasting letter dated 25.2.1999, in particular.

6. It may also be mentioned that the issue of ACP to such employees of Engineering Cadre in Ministry of Information & Broadcasting order dated 25.2.1999 came up for consideration in OA No. 514 of 2002 before Central Administrative Tribunal, Patna Bench, Patna where besides others, Secretary, Ministry of Information & Broadcasting and Secretary, Department of Personnel & Training were also respondents. A perusal of the order dated 07.09.2009 of Hon'ble CAT, Patna Bench, Patna, which has attained finality at the level of Apex Court, would show that the plea of respondents' Counsel "that the applicants have already enjoyed a number of upgradations in the last few years and, therefore, they are not entitled for any ACP benefits" was negated by the Hon'ble Court and with approval of MIB, the applicants have already been given ACP in upgraded scales of pay. Any contrary plea now is bound to attract Contempt of the Hon'ble Courts.

(Contd...)

7. Further to the above, a copy of note dated 13.9.2013 of the then Member (F), Prasar Bharati wherein the issue has been examined threadbare is also enclosed for perusal.

8. Attention in this context is also invited to Ministry of Information & Broadcasting ID Dy. No.F-122/06-BAE dated 12.12.2006 (copy enclosed) wherein it has categorically been clarified that the upgradation of the pay scale was in continuation of the recommendations made by the 5th CPC and have been made in consultation with DOP&T and Ministry of Finance. As such the contention of the audit that the pay scales given to the employees vide OM dated 25.2.1999 are apart from the recommendations of 5th CPC is untenable.

9. In view of the above facts, Ministry of Information & Broadcasting is requested to take up the matter with DOP&T urgently to re-consider their earlier stand. It may be pertinent to mention that this issue pertains to almost 15,000 employees and needs to be resolved urgently for industrial peace and harmony.

10. This issues with the approval of Chief Executive Officer.

Encl:- As above.


(Sanjay Saraswat)
Deputy Director General
(L&B)/ESTT.

Copy to:

1. F. Sheheryar, Director General, All India Radio, Akashwani Bhavan, Parliament Street, New Delhi – 110001.
2. Smt. Vijayalaxmi Chhabra, DG, Doordarshan, Mandi House, Copernicus Marg, New Delhi – 110001.
3. CCA, Ministry of Information & Broadcasting, Shastri Bhavan, New Delhi.
4. Shri P. Manoharan, Deputy Director (Admn. & Budget), Prasar Bharati, New Delhi.


(Sanjay Saraswat)
Deputy Director General
(L&B)/ESTT.

PRASAR BHARATI
India's Public Service Broadcaster
Prasar Bharati Sectt.
M (F)'s Office

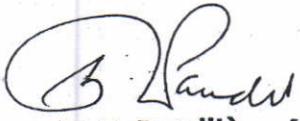
I have examined the case relating to grant of MACP to various categories of AIR/DD and gone into the entire circumstances in which the questions have been raised about the admissibility of MACP to various categories of AIR/DD and also carefully examined the representation of the staff association and other relevant notings of audit and finance. In this context, I have also had extensive discussions with OSD (Shri Om Prakash), ADG(F), DDG(F), AIR/DD, ADG(B&A) (Shri J.P.S.Chawla), Consultant, Shri Ashok Kumar and Shri B.K.Sharma, Senior Accounts Officer of IFD. Having examined the entire matter extensively, I would like to make following comments :

- It is a fact that upgradation of 11 categories of staff did not happen as an integral part of the scheme for setting up of Prasar Bharati. On the contrary, the entire process of upgrading certain categories of post to higher pay scales actually had begun as far back as 1989 and thus predated the passing of Prasar Bharati Act in 1990 and subsequent creation of Prasar Bharati as an autonomous body in 1997. The nexus sought to be established by the Government between admissibility of upgraded pay scales to a person in AIR/DD to his/her agreeing to opt for Prasar Bharati at a future date was patently an administrative device brought in, ostensibly, to blunt their resistance to loss of status as employees of the Government of India. Also the cause and justification for upgradation of pay scale of certain categories of employees had an independent origin. Linking it to a subsequent development, though an administratively fiat, would not stand the test of fair play and justice. The amendment to Prasar Bharati Act through insertion of Section 11(A) and (B) has virtually knocked the bottom out of the administrative logic that linked admissibility of upgraded pay scales to the option to come over to Prasar Bharati. The question of opting for Prasar Bharati itself has become irrelevant, as all employees of AIR/DD, as on 5th October, 2007, have been declared to be deemed Government employees and continue to be governed by terms and conditions as are applicable to other Govt employees.
- The entire discourse on the subject matter in this file, has been irrational inasmuch as it seeks to establish an equation between upgradation and assured Career Progression (ACP). The two are, in fact, entirely different instruments of remuneration policy of the Government. While upgradation is the recognition of the higher job content of a post thereby entitling the incumbent to higher emoluments, ACP addresses the structural problem in a cadre resulting in stagnation at various levels. This distinction is clear and valid notwithstanding the fact that both these instruments of remunerative policy end up providing a financial benefit to the

individual Government employee. This being the case, all the employees who have been upgraded could not have been denied the benefit of ACP and if ACP had been given to them, they would have been automatically entitled to MACP as well. Therefore, by no stretch of imagination can MACP be denied to categories of employees who were given upgraded pay scales on the plea that they did not get ACP - the entitling condition for MACP - because ACP itself was denied to them unjustifiably. This is more so because upgradation did not involve assumption of higher responsibility.

- On a practical plane it is an accepted fact that most employees who had been given upgraded pay scales have already been allowed MACP and many of them have retired with pensionary benefits on the basis of MACP. Will it be practically possible from such employees to recover sums paid as MACP arrears and pensionary benefits based thereupon? If not, will it be tenable to deny the same benefit to those such employees who have yet to retire or have not been given the same treatment on their retirement?
- Let it be assumed, for the sake or argument, that admissibility of upgraded pay scale with the concomitant consequence of losing ACP under the 5th Pay Commission's dispensation (and MACP under the 6th Pay Commission's dispensation) was subject to the condition that employee will opt for Prasar Bharati and having opted for Prasar Bharati will not opt out of it. Now when the contingency of opting for Prasar Bharati will not even arise is there any merit left in such discrimination?

In view of above, I see no merit or force in the objections raised by audit/internal audit. Accordingly, all the action of AIR/DD Directorate to grant MACP to all categories of employees are, in my view, valid and justified. ~~not flawed~~ All pending cases may be processed on that basis and MIB advised to wind up the JS Committee on the subject.


(B.B. Pandit)
Member (F)
13.09.2013

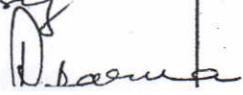
M(R)

Issue circular
2
16/9

~~ADG (Ar)~~
~~DDG (Ar)~~
✓ DGP P

Since a GOM is seized of the matter, it may be appropriate to write to the Ministry immediately.

13.09.13 Y



21/12 ✓ JK
Ministry of Information & Broadcasting
BA(E) Section

AK

Subject:- Fixation of pay in respect of Technical Staffs – Audit Objections regarding.

Reference notes at pre-page.

2. The pay scales of certain categories of employees in Prasar Bharati were upwardly revised vide Ministry of I&B's letter no: 310/173/97-B(D) dated 25.02.1999. The very first paragraph of the letter reads as under:-

"The employees belonging to certain cadres in All India Radio and Doordarshan (particularly, 'subordinate engineering and programme cadres'), had been agitating for grant of higher scales of pay than those recommended by the Vth Central Pay Commission and accepted vide Government of India Resolution of 30th September, 1997. The matter has been carefully considered by the Government and it has been decided to further upgrade the scales of pay of the categories of employees of All India Radio and Doordarshan of Prasar Bharati (Broadcasting Corporation of India) as indicated against each category in Annexure-I."

3. The upgradation of the pay scale was in continuation of the recommendations made by the Vth Pay Commission. These recommendations were made only after consultation with DOP&T and Ministry of Finance. As such, the contention of the audit that the pay scales given to the employees vide O.M. dated 25.02.1999 are apart from the recommendations of Vth Pay Commission is untenable.

4. We may accordingly clarify to Prasar Bharati that the upgraded pay scales have to be considered in the light of the Vth Pay Commission's recommendations only as the pay scales recommended and accepted by the Government vide Resolution dated 30.09.1997 stand amended in the light of the O.M. dated 25.02.1999 in respect of the employees of Prasar Bharati. Accordingly, the revised pay granted to the employees in accordance with O.M. dated 25.02.1999 has to be fixed as provided in CCS(RP) Rules 1997 as indicated in the above stated O.M.

Ruchika
19/12/06

US(BA(E))

RV
21/12

DAE

20/12/06

19/12/06

DC: AR (S.P. Pat, DDAE)

H/o I&B Pay No. F. 122/02 - BAF dt 22/12/06

21/12/06