

DDG (A)
Mukul Tyagi
AOC (E-Dev)
11/11/2012

F.No.503/07/2011-BA(E)
Ministry of Information & Broadcasting
(BA-E Section)

Minutes of the Meeting of the Screening Committee held on 02.01.2012 and 03.01.2012 at 3.00 PM in the Chamber of Joint Secretary (Broadcasting), Room No.660, 'A' Wing, Shashtri Bhawan, New Delhi.

Present

1. Ms. Supriya Sahu - Chairperson
Joint Secretary (B)
2. Sh. R. Venkateswarlu - Member
Addl. Director General (Admin)
- DG, Doordarshan
3. Sh. Mukul Tyagi - Member
Chief Engineer, AIR
4. Sh. H.K. Wadhwa - Member
Chief Engineer, Doordarshan
5. Sh. Sanjay Kumar Sinha - Co-opted Member
Dy. Director General (Engineering)

In attendance

Sh. Rajeev Sharma, Counsel for Prasar Bharati

Proposal: Review of the recommendations of the Screening Committee Meeting held on 24.10.2011 to consider the suitability of the applicants in OA No.514/2002 before CAT Patna for grant of ACP benefit in accordance with the order of CAT Patna in OA No.514/2002 and the order dated 25.8.2010 of High Court of Patna in CWJC No.6451 of 2007.

The Screening Committee was informed of the background of the case and the reasons why the earlier recommendations of the Screening Committee are sought to be reviewed. The details are elaborated in the succeeding paragraphs.

The facts in brief are that OA No. 514 of 2002 was filed in the Central Administrative Tribunal, Patna Bench by the Aakashvani & Doordarshan Diploma

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Engineers Association and certain other persons (hereinafter referred to as Applicants) seeking benefit under the Assured Career Progression Scheme. The applicants claimed that they were working as Engineering Assistants/Senior Engineering Assistants/Assistant Engineers in the pay scale of Rs. 6500-10500. It was also stated in the OA that earlier the pay scale of Engineering Assistants/Senior Engineering Assistants was Rs. 2000-3200 and pay scale of Assistant Engineers was Rs. 2000-3500 but the pay scales were merged in one pay scale i.e. Rs. 6500-10500 by the Vth Pay Commission. The prayer made in the OA was for grant of Assured Career Progression in the pay scales of Rs. 10500-15,200 and Rs. 14500-18,300 for Senior Engineering Assistants and Assistant Engineers respectively.

The OA was disposed of vide order dated 7.9.2009 wherein the Tribunal had, inter alia, held that:

- (a) Based on the clarification given by the DOPT, the learned Counsel for respondents (Union of India & Prasar Bharati) had conceded that the upgradation granted to Engineering Assistants/Senior Engineering Assistants earlier had to be ignored while considering the grant of ACP promotions to the applicants;
- (b) Both sides agreed that since 6500-10500 was the pay scale of Assistant Engineers, the ACP promotions should be in the pay scale of next post in the hierarchy i.e. the post of Assistant Executive Engineer i.e. Rs. 8000-13500;
- (c) Applicants were entitled to grant of ACP promotions and thus promotions should be granted in the pay scale of Rs. 8000-13500;
- (d) Respondents should grant pay scale of Rs. 8000-13500 as and when the applicants complete 12 years regular service in the pay scale of Rs. 6500-10500 and should also pay arrears to the applicants.

The Union of India and other respondents filed a Writ Petition in the Patna High Court against the order dated 7.9.2009 being CWJC No. 6451 of 2007. The said Writ Petition was disposed off by the High Court vide its order dated 25.8.2010 with the direction that "we find some substance in the submissions advanced on behalf of the petitioners that the learned Tribunal in paragraph 9 of the impugned order should have directed the authorities only to consider the case of the applicants for grant of benefits under the ACP on completing 12 years of service in accordance with scheme of ACP and the clarification contained in DOPT dated 10.2.2010. In our view also, the learned Tribunal should not have issued a general direction to cover cases of all the individuals because under the ACP scheme cases of individuals require consideration. Now, once the doubts relating to cases of the employees have been

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cleared, they are directed to consider the grant of benefit of ACPs to the applicants before the Tribunal within a period of three months from today in accordance with law and the observations made in this order and the order of the learned Tribunal." The only modifications made by the High Court in the order passed by the Tribunal was that while the Tribunal had directed the respondents to grant ACP benefit to the applicants, the High Court held that the Tribunal should only have directed consideration of the cases of the applicants for grant of benefit under the ACP Scheme.

It is pertinent to mention here that both the Tribunal and the High Court held that DOPT OM dated 10.2.2000 was applicable to the facts of the case and that in terms of that OM, an employee who got promotion from a lower pay scale to higher pay scale, as a result of promotion before merger of pay scales was entitled for upgradation under the ACP Scheme ignoring the said promotion.

A Special Leave Petition preferred by the respondents against the order dated 25.8.2010 of the High Court, being SLP (C) No. 20212 of 2010 was dismissed on facts by the Supreme Court vide order dated 10.1.2011, the facts being the concessions made by the respondent's counsel before the High Court.

Subsequently, the cases of the applicants were considered by a Screening Committee, which did not find them fit for grant of ACP benefit. The Screening Committee inter alia held that the applicants who had not opted for upgraded pay scales only come within the scope of the judgement as only such employees would have continued in the scale of Rs.6500-10500 continuously for 12 years or more. As all the applicants in the OA has got the benefit of the upgraded scales and also promotions in their hierarchy, the Screening Committee did not find any of the applicants eligible for grant of ACP benefit in terms of the judgment dated 7.9.2009 of CAT Patna and the judgment dated 25.8.2010 of the High Court of Patna. Accordingly, the position was informed to each of the applicants by passing a speaking order on 04.11.2011.

In the meanwhile a contempt petition was filed in the Central Administrative Tribunal by the applicants, being CCPA No. 22 of 2011, alleging disobedience of the order dated 07.09.2009 passed by the Hon'ble. In the said proceedings, a speaking order dated 4th November, 2011 passed by the respondents was produced in which reasons similar to those recorded by the Screening Committee were stated. By an order dated 8.12.2011 the Tribunal held that its original order and the order of the High Court as mentioned above had not been complied with. The Tribunal also held that the speaking order was not passed by the competent authority and the same was not in consonance with its order dated 7.9.2009 and the High Court's order dated 20.8.2010 and the DOPT instructions dated 10.2.2000. Accordingly, the Tribunal

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directed the personal appearance of the CEO, Prasar Bharati before it to explain why charge of Contempt of Court should not be framed against him.

It is in these circumstances that a legal opinion was sought from the Prasar Bharati counsel in the matter. The opinion of the counsel has been sought on the course of action to be adopted in the light of order dated 8.12.2011 passed by the Central Administrative Tribunal, Patna Bench in CCPA No. 22 of 2011. By the said order the Tribunal has held that its earlier order dated 7.9.2009 in OA No. 5141 of 2002 and the order of the Patna High Court dated 20.8.2010 in CWJC No. 6451 of 2010 have not been complied with. After so holding, it has ordered the personal appearance of the CEO, Prasar Bharati.

In his legal opinion, the Counsel, Prasar Bharati has opined that the proceedings of the Screening Committee, the speaking order issued to the applicants and the subsequent note, all seek to question the correctness of the orders passed by the Tribunal and the High Court. According to him, in contempt proceedings that cannot be done. In so far as the contempt action is concerned, one has to proceed on the assumption that the order is correct and then consider whether the order has been complied with or not.

The counsel has opined that the directions of the Tribunal as modified by the High Court were to consider the cases of the applicants who had completed 12 years of service in the pay scale of Rs. 6500-10500 for grant of benefit under the ACP Scheme in the pay scale of Rs. 8000-13500 in terms of the clarification of DOPT contained in their OM dated 10.2.2000.

The Counsel, Prasar Bharati has advised in his legal opinion that the orders dated 7.9.2009 and 25.8.2010 passed by the Hon'ble CAT Patna and Patna High Court respectively should be complied with.

In view of the facts and circumstances stated above, and the legal opinion of the Counsel, Prasar Bharati, as noted above, the Screening Committee took up the cases one by one. The Screening Committee considered the suitability of the applicant SEAs and AEs in OA No.514/2002 before CAT Patna for grant of ACP benefit according to the ACP Scheme introduced by Govt. vide DOPT OM dated 09.08.1999 on the basis of their ACRs for the relevant periods, fulfillment of benchmark, vigilance clearance, etc. While considering their suitability, the statement in respect of each applicant (whose names are mentioned below) indicating the pay scales/ fixation of pay/notional increase in pay scale granted to the applicants from time to time on account of the recommendations of the Pay Commission accepted by the Govt. of India, directions of Supreme Court, Ministry of I&B's order dated 25/2/1999 granting upgraded pay scales to certain categories of employees enclosed as Annexure-V, was referred to. In absence of the summary of CR gradings in

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respect of Late Shri R.N. Sinha for the relevant period from 1994-95 to 1996-97, the Screening Committee decided to assess his suitability on the basis of his ACRs for the years 1989-90 to 1991-92. The meeting of the Screening Committee was reconvened on 3.1.2012 as relevant ACRs in respect of two officers, namely, Shri Shyamal Kumar Naskar, AE TVRC, Williamnagar (DDK, TURA) and Shri C.L. Sharma, AE DDK, Itanagar were not available on 2.1.2012. Under instructions from Ministry of I&B, these ACRs had been located by the Cadre Controlling Authority in DG: AIR and made available to the Ministry for consideration of the Screening Committee in its reconvened meeting on 3.1.2012.

The Screening Committee, therefore, made the following recommendations in respect of the 12 applicants in compliance of the directions of CAT Patna dated 7.9.2009 in OA No.514/2002 and the directions of High Court of Patna dated 25.8.2010 in CWJC No.6451/2010. The Screening Committee further observed that, as per the legal advice, the pay scales recommended to be granted by it are subject to the outcome of review petition to be filed before Patna High Court and any other legal proceedings to be initiated:-

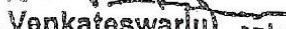
Sl. No	Name/Designation	Date from which the applicant was drawing the pre-revised scale of Rs.6500-10,500	Date from which Pay scale of Rs.8000-13,500 is recommended
1.	Shri B.K. Roy, SEA, CBS AIR Patna	His pay was never fixed in the pay scale of Rs.6500-10500. Though his pay was notionally calculated in pay scale of 6500-10500 w.e.f. 1.11.1997 by an order dated 5.12.1997 of the Ministry, the pay scale was subsequently changed in terms of another order dated 25.2.1999 under which the applicant opted for the upgraded pay scale subject to stipulated conditions and hence his pay was fixed in the pay scale of Rs.7450-11500 applicable to post of SEA w.e.f. 1.3.1996.	
2.	Shri H.K. Mishra, SEA DDK, Patna	W.e.f. 01.01.1996, Shri Mishra's pay was fixed in the scale of 6500-10500 in terms of the MIB's order dated 25.2.1999.	01.01.2008. The benefit will be subject to stipulated conditions mentioned in the order dated 25.2.1999.
3.	Shri Manoranjan Kumar, AE, DMC, Gaya	01.01.1996.	01.01.2008.
4.	Shri Nagina Singh, AE, AIR, HPT Kingsway, Delhi	01.01.1996*	01.01.2008.
5.	Smt. Manju Kumari Sahay, AE(Retd.) AIR, Patna	01.01.1996*	01.01.2008.
6.	Shri Sidhansu Kumar, SEA, CBS, AIR Patna	01.01.1996	01.01.2008. The benefit will be subject to stipulated conditions

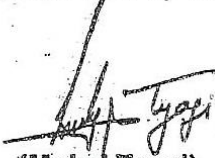
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			mentioned in the order dated 25.2.1999.
7.	Shri Vinod Kumar, SEA AIR Patna	01.01.1996	01.01.2008. The benefit will be subject to stipulated conditions mentioned in the order dated 25.2.1999.
8.	Shri Radhika Raman Prasad Singh, AE, AIR Ranchi	01.01.1996	01.01.2008. The benefit will be subject to stipulated conditions mentioned in the order dated 25.2.1999.
9.	Late Shri R.N. Sinha, AE, AIR Patna	01.01.1996*	01.01.2008.
10.	Shri Shyamal Kumar Naskar, AE TVRC, Williamnagar (DDK, TURA)	His pay was never fixed in the pay scale of Rs.6500-10500. Though his pay was notionally calculated in pay scale of 6500-10500 w.e.f. 1.11.1997 by an order dated 5.12.1997 of the Ministry, the pay scale was subsequently changed in terms of another order dated 25.2.1999 under which the applicant opted for the upgraded pay scale subject to stipulated conditions and hence his pay was fixed in the pay scale of Rs.7450-11500 applicable to the post of SEA w.e.f. 1.1.1996 and in the pay scale of Rs7500-12000 applicable to the post of AE w.e.f. 08.09.2000.	
11.	Shri O.P. Ram, SEA, AIR Patna	His pay was never fixed in the pay scale of Rs.6500-10500. Though his pay was notionally calculated in pay scale of 6500-10500 w.e.f. 1.11.1997 by an order dated 5.12.1997 of the Ministry, the pay scale was subsequently changed in terms of another order dated 25.2.1999 under which the applicant opted for the upgraded pay scale subject to stipulated conditions and hence his pay was fixed in the pay scale of Rs.7450-11500 applicable to the post of SEA w.e.f. 1.1.1996.	
12.	Shri C.L. Sharma, AE DDK, Itanagar	His pay was never fixed in the pay scale of Rs.6500-10500. Though his pay was notionally calculated in pay scale of 6500-10500 w.e.f. 1.11.1997 by an order dated 5.12.1997 of the Ministry, the pay scale was subsequently changed in terms of another order dated 25.2.1999 under which the applicant opted for the upgraded pay scale subject to stipulated conditions and hence his pay was fixed in the pay scale of Rs.7450-11500 applicable to the post of SEA w.e.f. 1.1.1996 and in the pay scale of Rs7500-12000 applicable to the post of AE w.e.f. 31.08.2000.	


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* Though he/she was promoted to the post of AE prior to 1.1.1996, there is no entry regarding the fixation of pay in the scale of pay 6500-10500 w.e.f. 1.1.1996 in copies of the Service Book made available to the Screening Committee, the Committee took a view that their replacement scale w.e.f. 1.1.1996 must have been Rs.6500-10500. The Committee has accordingly recommended grant of ACP by considering their service in the pay scale of 6500-10500.


(R. Venkateswari) 03/01/12
Addl. Director General (Admin)
DG, Doordarshan
(Member)


(Mukul Tyagi) 3/1/2012
Chief Engineer, AIR
(Member)


(H.K. Wadhwa) 3/1/2012
Chief Engineer, Doordarshan
(Member)


(Supriya Sahu) 3/1/2012
Joint Secretary (B)
(Chairperson)

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