

**Central Administrative Tribunal
Principal Bench
OA No.4249/2014**

New Delhi, this the 1st day of December, 2014

Honble Mr. G. George Paracken, Member (J)
Honble Mr. Shekhar Agarwal, Member (A)

1. Association of Radio & Television,
Engineering Employees, through its
President Sh. Umesh Chandra, Aged 53 years,
Room No.542, DD ARCHIVE,
Akashwani Bhawan, New Delhi-110001.
2. Gajendra Kumar Sharma, Aged 46 years,
S/o Shri Shankar Lal Sharma,
R/o D-39, Green Valley Apartments,
Sector-18, Rohini, Delhi-110089
Working as Assistant Engineer, under
The office of Directorate General,
All India Radio, Delhi.
3. Manas Dutta, Aged 54 years,
S/o Late Shri Santi Rajan Dutta,
R/o 114/4, Hazra Road, Kolkata-26
Working as Senior Engineering Assistant
In All India Radio, Kolkata.
4. R.P. Agrawal, aged 49 Years,
S/o Shri Raghuvir Prasad Agarwal,
R/o F-676, Govind Nagar, Mathura,
Working as Engineering Assistant,
In All India Radio, Mathura.

.....applicants.

(By advocate : Shri Yogesh Sharma.)

Versus

Union of India & Others, Through

1. The Secretary,
Ministry of Information and Broadcasting,
Govt. of India, Shastri Bhawan,
New Delhi-110001.
2. Chief Executive Officer,
Prasar Bharati, PTI Building,
New Delhi-110001.
3. Director General,
All India Radio,

Akashwani Bhawan, Sansad Marg,
New Delhi.

4. Director General,
Doordarshan,
Mandi House, Copernicus Marg,
New Delhi.

.....respondents.

ORDER (ORAL)

Mr. G. George Paracken, Member (J) :

Heard the learned counsel for the applicants.

2. According to the learned counsel for the applicants, this OA is covered by the decision of this Tribunal dated 4.3.2013 in OA No.757/2013 - Umesh Kumar & others vs. Union of India and others, the relevant extract of which reads as under:-

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 Honble High Court of Patna vide judgment dated 25.08.2010 in CWJC no.6451/2010 and further upheld by the Honble 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 Honble 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 Honble Patna Bench in OA No.514/2002.
- (ii) That the Honble 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 relief which the Honble 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 Honble 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.

3. In view of the above position, we dispose of this OA at the admission stage with direction to the respondents to examine the case of the applicants and if it is covered by the aforesaid order of this Tribunal, the same benefits shall be given to them also. 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. There shall be no order as to costs.

(Shekhar Agarwal)
Member (A)

(G George Paracken)
Member (J)