

**Central Administrative Tribunal
Principal Bench
OA No.4280/2014**

New Delhi, this the 3rd day of December, 2014

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

1. Arvind Mohan Sharma, Aged 55 years,
S/o Shri Om Prakash Sharma,
Working as Assistant Engineer in HPT,
AIR, Kingsway, Delhi,
R/o H.No.185, Kanti Niwas,
Dhaka, Delhi-110009.
2. R.S.Sengar, Aged 53 years,
S/o Shri Genda Singh,
Working as Assistant Engineer in HPT,
AIR, Kingsway, Delhi,
R/o Block D5/5, Radio Colony,
Kingsway, Delhi-09.
3. Raj Kumar, Aged 48 years,
S/o Shri Ram Das,
Working as Assistant Engineer in HPT,
AIR, Kingsway, Delhi,
R/o 214-B, Savitri Nagar,
PO & PS, Malviya Nagar,
New Delhi-17.
4. Rakesh Kumar Rajput, aged 48 years,
S/o Shri Maharaj Singh,
Working as EA in NBH Delhi,
R/o L-38, Laxmi Nagar,
Delhi-110092.
5. Mukesh Chand, aged 48 years,
S/o Shri Ram Singh,
Working as SEA, HPT, AIR,
Kingsway, Delhi
R/o 1/4623, Ram Nagar Ext.,
Mandloi Road, Shahdara,
Delhi-110032.
6. Sanjay Saxena, Aged 50 years,
S/o Late Shri I.N. Saxena,
Working as SEA, AIR, BH, Delhi,
R/o B-4, Shivalik, New Delhi-17.
7. Joginder Singh Hooda, Aged 53 years,
S/o Late Shri Vir Singh Hooda,
Working as SEA, HPT, AIR, Kingsway,

Delhi
R/o 133/10, Bharat Colony (opp. Balaji Sweets),
Rohtak, Haryana.

8. Jai Prakash, Aged 49 years,
S/o Shri Shib Pal,
Working as A.E., AIR Hissar,
R/o D-1, Radio Colony, Rajgarh Road,
Hisar.
9. Rajbir Singh, aged 49 years,
S/o Late Shri Sarup Singh,
Working as SEA, AIR, Hisar
R/o C-1, Radio Colony,
Rajgarh Road Hisar (Haryana)-125001.
10. Sanjay Sharma, aged 52 years,
S/o Late Shri Raghunandan Paul,
Working as SEA, AIR, Rohtak,
R/o H.No.1255, Sector-I, Huda,
Rohtak-124001.
11. Sanjay Tyagi, aged 45 years,
S/o Shri J.D. Tyagi,
Working as SEA, AIR, HPT,
Kingsway, Delhi.
R/o H.No.D-4/6, Radio Colony,
Kingsway Camp, Delhi-09.
12. Suresh Kumar, Aged 51 years,
S/o Shri Bhagwat Singh,
Working as SEA, AIR, HPT,
Kingsway, Delhi.
R/o H.No.D-5/8, Radio Colony,
Kingsway Camp, Delhi-09.
13. Ginesh Aggarwal, aged 42 years,
S/o Late Shri Ramesh Chandra Aggarwal,
Working as E.A., AIR, Kingsway, Delhi-09
R/o D1/2 , Vindhyaashree Aprat.,
Main Road, Burari, Delhi-110084.
14. Uday Chandra Gupta, Aged 49 years,
S/o Shri Nithu Ram Gupta,
Working as SEA, DDK, Delhi,
R/o D-1/10, Radio Colony, Kingsway Camp,
Delhi-110009.
15. Nishindra Kumar Sharma, aged 47 years,
S/o Shri Radha Raman Sharma,
Working as A.E. Kingsway Camp, Delhi.
R/o D-5/9, Radio Colony, Kingsway Camp,
Delhi-110009.

16. Keshav Kumar, aged 54 years,
S/o Shri Satish Chand Agarwal,
Working as AE, AIR (NBH),
R/o 1//2/86, Sector-16, Rohini,
Delhi-110089.
17. Ramji Dubey, Aged 53 years,
S/o Shri Ramsingar Dubey,
Working as SEA, AIR, Kingsway, Delhi
R/o A-178, 1st floor, Sector-47,
Noida-201304.
18. Rajveer Sharma, aged 54 years,
S/o Shri Srichand Sharma,
Working as SEA, AIR, HPT,
Kingsway Camp, Delhi
R/o A5/8, Upkar Colony, Burari,
Delhi-110084.
19. Laxmi Narayan, Aged 54 years,
S/o Shri G.L. Singhal,
Working as A.E., AIR, Kingsway Camp,
Delhi
R/o D-06/01, Radio Colony,
Kingsway Camp, Delhi-09.
20. Arun Kumar, aged 53 years,
S/o Late Shri Baldev Chand,
Working as AE, AIR, Kingsway,
Delhi-110009
R/o 1178, 2nd Floor, Dr. Mukherjee Nagar,
Delhi-110009.
21. Ravindra Kumar, aged 49 years,
S/o Late Shri Mahender Singh,
Working as AE, AIR, BH, Delhi,
R/o WZ-101, Naraina Village,
New Delhi-110028.
22. Sunita Devi, Aged 43 years,
D/o Shri P.S. Redhu,
Working as SEA, R&D, Delhi.
R/o H-97, 2nd Floor, Shivaji Park,
West Punjabi Bagh, New Delhi.
23. Om Prakash, Aged 62 years,
S/o Shri Khairati Lal,
Working as EA, HPT, Kingsway,
New Delhi.
R/o P-76, Pandav Nagar, Patparganj,
Delhi.

24. Sheodan Singh, aged 63 years,
S/o Shri Pran Sukh,
Working as AE, AIR, BH, Delhi,
R/o H.No.120, Sultanpur (Mehrauli),
New Delhi-30.
25. Madhu Mahendra, aged 53 years,
D/o Shri S.P. Kapur,
Working as Assistant Engineer, HPT,
AIR, Khampur, Delhi-09
R/o WZ-626, Rishi Nagar, Rani Bagh,
Delhi-110034.
26. Kishori Lal, aged-65 years,
S/o Late Shri Bhajan Lal,
Retired as A.E. DG:AIR, New Delhi
R/o M-13/4, Street No.9, Bihari Colony,
Shahdra, Delhi-110032.
27. Mohan Singh, Aged 53 years,
S/o Late Mohinder Singh,
Working as Assistant Engineer, HPT,
AIR, Khampur, Delhi-09
R/o 796/23, DLF Colony, Rohtak-124001.
28. Shailendra Aggarwal, aged 48 years,
S/o Shri Suresh Chand Aggarwal,
Working as Sr. Engg. Assistant, CBS,
AIR, New Delhi.
R/o 1947, New Housing Board,
Sector-1, Rohtak-124001.
29. Sudhish Kumar Saraswat, Aged 46 years,
S/o Shri Rajendra Prasad Saraswat,
Working as Sr. Engineering Assistant, CBS,
AIR, Jaipur
R/o G-1, B-1/551, Anshul Apartment, Chitrakoot,
Jaipur-302021.
30. Virginia Mathias, Aged 55 years,
D/o Denis Mathias,
Working as A.E.,
R/o B-403, Puneet Apartment,
Vasundhara Enclave, Delhi-96.
31. Akhilesh Sharma, Aged 47 years,
S/o Shri H.K. Sharma,
Working as A.E., HPT, AIR,
Ajmer (Rajasthan)
R/o 753, B.K. Kaul Nagar, Ajmer
(Near Glitz Cinema)
32. Dinesh Prasad Vishwakarma, Aged 43 years,
S/o Shri P.R. Vishwakarma,

Working as E.A. HPT, AIR,
Ajmer (Rajasthan)
R/o C-3, Akashwani Colony, Makar Wali Road,
Vaishali Nagar, Ajmer (Raj.)-305003.

33. Manish, aged 44 years,
S/o Shri S.N. Gupta,
Working as AE, AIR, Jaipur,
R/o 76-B, RFC Colony, Vaishali
Nagar, Jaipur-302021.
34. Mukesh Kumar Goel, Aged 52 years,
S/o Late Shri Moti Lal Goel,
Working as AE, National Channel,
AIR, Todapur, New Delhi-12.
R/o A-250/2, Ashok Vihar,
Phase-I, Delhi-52.
35. Shashi Wali, Aged 55 years,
D/o Late Shri P.N. Lidhoo,
Working as AE, CENZ,
Jam Nagar House, Shahjahan Road,
Delhi
R/o A-63, Sushant Lok, Phase-III,
Sector-57, Gurgaon.
36. Veena Khanna, Aged 52 years,
S/o Late Shri Boota Ram,
Working as AE, O/o CE(NZ),
Jam Nagar House, Shahjahan Road,
Delhi.
R/o RZ-57, IInd floor, Indira Park,
Pankha Road, Uttam Nagar, New Delhi-59.
37. Sheela Vashishtha , aged 52 years,
D/o Late Shri Ram Prasad,
Working as AE, O/o ADG (R&D),
AIR 7 DD, IP Estate, R&D, New Delhi-2
R/o 33, Vrindavan Apartment, 110, IP Extension,
Parparganj, Delhi-92.
38. Gurdev Singh, Aged 46 years,
S/o Late Shri Mam Raj,
Working as EA, L.P.T. Kurukshetra,
R/o Vill. Fateh Pur, P.O. Shahpur,
Nurshad, Distt. Ambala (Haryana).
39. Shibraj Singh, aged 50 years,
S/o Shri Murkhalya Singh,
Working as EA, All India Radio,
Kurukshetra,
R/o Qtr. No.C-5, All India Radio Colony,
Sector-7, Kurukshetra (Haryana).

40. Sahng Pal Singh, Aged 50 years,
S/o Shri Bhart Singh,
Working as SEA, All India Radio,
Kurukshetra,
R/o Qtr. No. D-2, All India Radio Colony,
Sector-7, Kurukshetra (Haryana).
41. Shram Sheel Saxena, aged 54 years,
S/o Late Pranvir Saxena,
Working as SEA, L.P.T, Kurukshetra (Har.)
R/o C-1, Radio Colony , Sector-7,
Kurukshetra (Haryana).
42. Mormukat, aged 46 years,
S/o Shri Mahatab Singh,
Working as AE, AIR, Aligarh,
R/o 2/2283, Vasundhrara Enclave,
Swarn Jayanti Nagar, Aligarh (U.P.)
43. B.S.V.N.R. Radhika, Aged 46 years,
S/o Late B.V.N. Ganga Dhara Rao,
Working as EA, BH, AIR,
R/o No.9 IIT Campus, Hauz Khas,
New Delhi.

.....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,
Parliament Street, New Delhi-110001.
3. Director General,
All India Radio,
Akashwani Bhawan, Sansad Marg,
New Delhi.
4. Director General,
Doordarshan, Doordarshan Kendra,
Doordarshan Bhawan,
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 itself with a 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)