

Hon'ble CAT, New Delhi decides OA No. 854/2014 titled Y. P. Singh & 176 others versus Union of India & others in favour of the Applicants in the case of implementation of benefits of ACP scheme.

Considering the merger of pay scales of all the 3 posts of EA, SEA and AE and granting of a single revised pay scale of Rs. 6500-10500 to these posts by the 5th Central Pay Commission w.e.f. 01.01.1996, Hon'ble Patna Bench of CAT had ordered to grant 1st ACP to EA/SEA/AE in the pay scale of Rs. 8000-13500 w.e.f. 09.08.1999 and onwards, as the case might be, ignoring all the previous promotions made from EA to SEA and SEA to AE, vide judgment dated 07.09.2009 in OA No. 514/2002. The order dated 07.09.2009 passed by Hon'ble CAT had attained finality after the Ministry of I&B's Writ Petition No. CWJC 6451/2010 filed before Patna High Court and SLP No. CC20212/2010 filed before the Supreme Court of India (challenging the order dated 07.09.2009 of Patna, CAT) were dismissed. The Ministry of I&B thereafter granted the benefits of the ACP Scheme to 26 applicants, by now, in 3 court cases, though not in proper way and not in accordance with the ACP Scheme. The Ministry of I&B granted the benefits of the ACPS to the petitioners only and did not generalize it for all eligible EA/SEA/AE being similarly placed.

It was therefore, an OA No. 4462/2013 was filed by UADEE plus 92 other applicants [and subsequently 2nd OA No. 305/2014 titled Neeraj Tirkey plus 115 others v/s UOI and 3rd OA No. 854/2014 titled Y. P. Singh plus 176 others v/s UOI] before CAT, Principal Bench, New Delhi to grant the benefits of the ACP Scheme to all the eligible EA/SEA/AE of AIR & Doordarshan in accordance with order dated 07.09.2009 passed by Patna Bench of CAT in OA No. 514/2002 and also as per true policy and rules of the ACP Scheme. While 1st and 2nd OAs are still pending before the CAT waiting for filing of reply by the Ministry of I&B in the case, the court refused to give more time to the Govt. to file reply in the 3rd and latest case (OA No. 854/2014) and decided the case in favour of the applicants on the 2nd date of hearing itself on 15.05.2014. Hon'ble CAT ordered to the Govt. to implement the order of the CAT within 2 months from the date of receipt of a copy of this order. The operative part of the judgment is as below:

7. *In our considered view no further adjournment of this case is necessary. Let the respondents examine the cases of the applicants in the light of the aforesaid Order/ Judgments and decide the matter. In case, their cases are covered by the aforesaid Order/ Judgments, they shall also be given the same benefits. In any case, the respondents shall communicate their decision to the applicants by a reasons and speaking order within 2 months from the date of receipt of a copy of this order.*

The order dated 15.05.2014 of CAT, New Delhi Bench in OA No. 854/2014 may look awkward that the OA being the 3rd and latest one, has been decided first. This may also look awkward that the order is not perfectly in the line of relief sought by us in the OA. Nevertheless, the CAT decided the OA on its own prerogative and wisdom when the Govt. repeatedly absented from the appearance in court. The judgment dated 15.05.2014 is best judgment given by the Tribunal in all other cases in the ACP case. At *para-1* of the judgment, Hon'ble Tribunal has recorded our actual demand of grant of ACP benefits by counting of service from the date of direct recruitment in service, and in accordance with the scheme of ACP.

Para-1. The applicants have filed this OA seeking direction to the respondents to grant 1st financial upgradation in the pay scale of Rs. 8000-275-13500 after completion of 12

years of service counting it from the date of direct recruitment in service and thereafter, 2nd financial upgradation in the pay scale of Rs. 10000-325-15200 after completion of 24 years of service in accordance with the scheme of ACP with effect from the dates in each individual cases along with arrears of pay and consequential benefits.

At para-5 of the judgment dated 15.05.2014, Hon'ble Tribunal has also recorded dismissal/ withdrawal of the Review Petition No. 141/2 filed by the Govt. before Patna High Court thereby confirming the non-existence of any lawsuit filed by the Govt. and pending in any court of law against the order of implementation of ACP Scheme.

Nevertheless, the point remains that we had prayed to the Tribunal in the OA to pass explicit and binding instructions to the Govt. to grant the benefits of the ACP Scheme in accordance with the rule which has unfortunately not come from the court. We hope that the Ministry of I&B will implement the ACP Scheme to the petitioners in letter and spirit of the court's order without allowing any manipulatory tricks and tactics by the screening committee to illegally deny the benefits of ACP Scheme to the applicants. In the worst situation, if the Ministry of I&B decided not to extend the benefits of the ACP Scheme, or grants the benefits in erroneous manner (like counting of service from 01.01.1996 and putting conditionality of having drawn in the pay scale of Rs. 6500-10500 to become eligible for the benefits of the ACP etc), we shall immediately be filing another OA to challenge such impaired decision. For the reference, the relief sought by us in the OA is given below:

RELIEFS SOUGHT:

In the above mentioned facts & circumstances this Hon'ble Tribunal may kindly be pleased to:

- a. DIRECT the respondents to extend the benefits of the judgment dated 07.09.2009 passed by Hon'ble CAT, Patna Bench in OA No. 514 of 2002 to the applicants herein in the grades of Engineering Assistants, Sr. Engineering Assistants and Assistant Engineers of AIR & Doordarshan who have been in service on or/and after 09.08.1999, without resorting to court case for the same relief.
- b. DIRECT the respondents to grant the benefits of the ACP Scheme in accordance with the rules and law and as per the directions passed by order dated 23.05.2012 of Hon'ble CAT, Patna Bench in CCPA No. 22 of 2011 in OA No. 514 of 2012 of going by the letter and spirit of the entire order of the Tribunal in the OA as well as the order of Hon'ble High Court in CWJC and clarifications given by DOP&T, instead of going by literal meaning of the order passed in para-9 of the order of Hon'ble Tribunal in the OA; and which has been complied with by the

respondents in the pay fixation order dated 20.08.2013 in respect of pay of Sh. B.K.Roy, SEA .

- c. DIRECT the respondents to grant 1st financial up-gradation in the Pay Scales of Rs 8000-275-13500 after completion of 12 years of service counting it from the date of direct recruitment in service and thereafter, 2nd financial up-gradation in the Pay Scale of Rs. 10000-325-15200 after completion of 24 years of service in accordance with the scheme of the ACP with effect from the dates applicable in each individual cases, along with arrears of pay and consequential benefits, etc.
- d. GRANT cost in favour of the Applicants, and PASS any other or further order(s) in favour of the Applicants, which this Hon'ble Tribunal may deem fit, just & proper in the above-mentioned facts and circumstances.