

PRASAR BHARTI
BROADCASTING CORPORATION OF INDIA
DIRECTORATE GENERAL: ALL INDIA RADIO
S IV (A) Section

F.No.3/17/2009- SIV(A) 73

New Delhi, dated the 17th February, 2011.

Subject:- Judgement pronounced by Hon'ble High Court regarding One Pay Scale for One Cadre of Subordinate Engineering Staff – Dismissal of SLP by Hon'ble Supreme Court.

Reference this Directorate's letter of even No. dated the 25th November, 2010 on the above subject.

Hon'ble High Court of Delhi vide its Order dated the 7th September, 2010 pronounced the judgement in the matter of One Pay Scale for One Cadre. While disposing of the appeal, the Hon'ble Court quoted various verdicts of Hon'ble Supreme Court that "for employees holding same post and same work and there being no ground to classify the same in two categories, the placement of scales of pay was arbitrary. The Court further stated that where employees enter the cadre from two different sources, if they do the same work and are similarly placed, there can be no discrimination in payment of wages". The case on the subject was defended by DDK, Delhi and against the order of Hon'ble High Court, SLP was filed in the Hon'ble Supreme Court challenging the decision of the Hon'ble High Court of Delhi. The Apex Court has dismissed the SLP and in its decision has stated that the Writ Petitions are found to be without any merit and hence are dismissed. Consequently the order of Hon'ble High Court has obtained finality.

The brief details of the case are as under :

The Hon'ble Court has observed that the Central Government Employees in the Ministry of Information & Broadcasting did not opt for service under Prasar Bharti and negotiations were held between the Management and Union to break the impasse. With effect from 25.2.1999 Prasar Bharti decided that the Engineering Assistants of Ministry of Information and Broadcasting working under it, on permanent absorption under Prasar Bharti would be given wages in the scale of Rs.6500-10500 as against the scale of Rs.5000-8000 which was their entitlement as employees of Ministry of Information & Broadcasting.

The Hon'ble Court has observed that there are three Categories of Employees:

- i) Casual workers working for long as employees of Ministry of Information & Broadcasting whose right for regularization/confirmation as per policy framed by the Central Government matured on various dates after 23-11-1997, i.e. the appointed date after Prasar Bharti Act was promulgated on

15.9.1997. They claimed entitlement to be placed in the same scale of pay in which erstwhile employees of the Central Government working in the Ministry of Information & Broadcasting were placed as employees of the Prasar Bharti;

- ii) Employees who were selected as per select list notified prior to 15.9.1997 but were given employment after 23.11.1997 by Prasar Bharti. They claimed entitlement to be placed in the same scale of pay in which persons in the same select list were given appointment prior to 15.9.1997 were placed and
- iii) Employees whose process of employment commenced in January 1999 when Prasar Bharti was constituted and were given appointment thereafter. They claimed pay parity with their counterparts claiming that they should be placed in the same scale of pay as persons holding same posts. (Copy of judgement is enclosed)

The Hon'ble High Court has observed that from all the writ petitions concerning with employees appointed to the post of Engineering Assistants, Production Assistants etc., it may be noted that erstwhile Central Government employees working in the Ministry of Information & Broadcasting and appointed as Engineering Assistants, Production Assistants etc. were placed in the scale of Rs.6500-10500 but to others holding similar posts, the pay scale offered was Rs.5000-8000. The claim of all the respondents has succeeded before the Tribunal. The Tribunal has held that persons holding same posts cannot be discriminated vis-à-vis the scale of pay in which they have to be placed. On the issue relating to parity of pay held that for employees holding same post and doing same work and there being no ground to classify the same in two categories, the placement in different scales of pay was arbitrary. It was noted that the technical and educational qualifications required for both group of employees were the same. Thus it was directed that both groups be paid the same wages.

The Hon'ble Court has also quoted certain decision reported as 1987(1)/SCC 592 M.P. Singh Vs UOI & Ors., it was held that where employees enter the cadre from two different sources, if they do the same work and are similarly placed, there can be no discrimination in payment of wages. Employees in the same cadre can certainly be placed in different pay scales but that would be if it is shown that one set of employees has higher technical or educational qualifications or perform more onerous duties vis-à-vis the other or the like. But where there is complete parity it would be highly discriminatory to treat employees differently merely on account of two coming from two different sources.

It may be mentioned that the anomaly in the pay scales of the employees in the Subordinate Engineering Employees arose after the issue of Government Order by Ministry of Information & Broadcasting dated the 25th February, 1999 which may be removed.

It may also be noted that as per the records available, the pay scales as per the order dated 25.2.1999 was in continuation to the recommendations of 5th Central Pay Commission, since the Union Cabinet in the meeting held on 06/11/1997 decided to remove the anomalies as advised by the Fast Track Committee of Secretaries constituted to review the anomalies which arose out of the recommendations of 5th CPC. Accordingly the employees of subordinate engineering cadres were granted 90% of the benefits as per the order dated 05/12/1997. Prasar Bharati Board, in its first meeting held on 10-11 December, 1997 agreed to grant the remaining 10% benefits to the employees. Ministry of I&B while issuing the upgraded pay scales vide order dated 25-2-1999 clearly mentioned that the employees belonging to certain cadres in AIR and Doordarshan, particularly Sub-ordinate Engineering and Programme Cadres had been agitating for grant of higher scales of pay than those recommended by 5th Central Pay Commission and accepted vide Government of India Resolution of 30th September, 1997.

It is also pertinent to mention that Ministry vide its communication No 122/06-BA(E) dated 22-12-2006 intimated that the benefits granted as per the order dated 25-12-1999 was in continuation to the recommendations of 5th CPC. These recommendations were made only after consultation with DOP&T and Ministry of Finance and clarified the contention of the Audit that the pay scales given to the employees vide O.M. dated 25-2-1999 are apart from the recommendations of 5th Pay Commission is "untenable".

The Cabinet Decision dated 29-1-2009 cleared the status of employees of Prasar Bharati. The Cabinet has decided that "All Central Government employees, recruited for the purposes of and working in Akashvani & Doordarshan as on the 5th October, 2007(i.e. the date on which the G.O.M. on Prasar Bharati took a decision in this regard) on vacant government posts and recruited as per government rules, shall enjoy the status equivalent to employees serving on "deemed deputation" from the date of their joining service under Akashvani and Doordarshan till the time of their retirement. They will be eligible for all facilities available to Central Government employees and all retirement and pensionary benefits also irrespective of whether Prasar Bharati is considered to be an Autonomous Organization. The Hon'ble High Court of Delhi's judgement will make the pay scales of the following cadres unified.

Pay scale for	Engineering Assistant may be unified as: Rs. 6500-10500 (GP of Rs. 4600 as per 6 th CPC)
	Senior Engineering Assistant may be unified as Rs. 7450-11500 (GP Rs. 4600 as per 6 th CPC)
	Assistant Engineer may be unified as Rs. 7500-12000 (GP Rs. 4800 as per 6 th CPC)

As per the Minutes of the meeting taken by Member (Personnel), Prasar Bharati Secretariat with the representatives of ARTEE and ADTEA on 19.1.2011 and 21.1.2011 respectively, it has been decided that since Hon'ble Supreme Court has dismissed the SLP filed by the DDK, Delhi, to implement the decision of the Hon'ble High Court at Delhi by giving the pay scale to DR Engineering Assistant from Rs.5000-8000 to Rs.6500-10500. The

Grade Pay would also be increased from Rs.4200 to Rs.4600/- as per the circular issued by DOPT on 13.11.2009. A similar case for the pay revision of Technicians who joined after 25.2.1999 is pending with the larger Bench of Hon'ble CAT, Kolkata. As per order dated 25.2.1999, the Technicians who were in service before that date were granted the pay scale of Rs.4500-7000 whereas the Technicians who joined after 25.2.1999 are placed in the pay scale Rs.4000-6000 only. Similar anomaly exists in the case of promotions for these employees. It was also decided in the meeting with the Associations that the anomaly in these cadres also be removed by granting the pay scale of Rs.4500-7000 to all Technicians and Rs.5000-8000 to all Senior Technicians in the light of the verdict of Hon'ble Supreme Court as done in the case of EAs. It is also decided to withdraw the case in CAT Kolkata if it does not create any technical/legal problem.

The anomaly in pay scales of other Cadres belonging to Subordinate Engineering Cadre such as Technician, Senior Technician, Diesel Technician, Mast Technician, Diesel Engine Driver and Helper may also be removed. The pay scales of employees in Subordinate Cadre in chronological order are reproduced below.

Pay Scale of Subordinate Engineering Staff (in rupees)

S. No.	Cadre	4 th CPC	5 th CPC	*Upgraded pay scale	6 th CPC
1	Assistant Engineer (Group 'B' Gazetted)	Rs.2000-3500	Rs.6500-10500	Rs.7500-12000	9300-34800 GP 4800
2	Senior Engineering Assistant (Group 'B' Non-Gazetted)	Rs.2000-3200	Rs.5500-9000	Rs.7450-11500	9300-34800 GP 4600
3	Engineering Assistant	Rs.1400-2600	Rs.5000-8000	Rs.6500-10500	9300-34800 GP 4600
				Rs.5000-8000	9300-34800 GP 4200
4	Senior Technician	Rs.1320-2040	Rs.4500-7000	Rs.5000-8000	9300-34800 GP 4200
5	Technician	Rs.1200-1800	Rs.4000-6000	Rs.4500-7000	5200-20200 GP 2800

6	Diesel Technician	Rs. 1320-2040	Rs. 4000-6000	Rs. 4000-6000 (15% of posts) Rs. 4500-7000 (20% of posts) Rs. 5000-8000 (65% of posts)	5200-20200 GP 2400 5200-20200 GP 2800 9300-34800 GP 4200
7	Mast Technician	Rs. 1320-2040	Rs. 4000-6000	Rs. 4000-6000 (15% of posts) Rs. 4500-7000 (20% of posts) Rs. 5000-8000 (65% of posts)	5200-20200 GP 2400 5200-20200 GP 2800 9300-34800 GP 4200
8	Diesel Engine Driver	Rs. 950-1500	Rs. 3050-4590	Rs. 3250-4900 (25% of posts) Rs. 3050-4590 (75% of posts)	5200-20200 GP 2000 5200-20200 GP 1900
9	Helper	Rs. 800-1150	Rs. 2650-4000	Rs. 2650-4000 (75% of posts) Rs. 3050-4590 (25% of posts)	5200-20200 GP 1800 5200-20200 GP 1900

*Upgraded Scales granted by M/o I&B vide Order No.310/173/97-B (D) dated 25.02.1999.

The Cadre of Mast Technician has been declared as dying cadre.

There are eight court cases as per list enclosed which are pending in various courts. The permission to withdraw the court cases filed by the employees in subordinate engineering cadre pending in various courts all over the country may be accorded after the implementation of the decision of the Apex Court.

Ministry of Information & Broadcasting is requested to look into the matter and necessary instructions be issued to this Directorate for the implementation of pay scales of Subordinate Engineering Employees removing discrimination as per the directions of Hon'ble High Court of Delhi which has been duly upheld by Hon'ble Supreme Court by dismissing the SLP filed by the Department, i.e. DDK, Delhi.

This issues with the approval of DG, AIR.



(R.K. Dhall)

Deputy Director of Administration (Engg.)

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7. PS to DDG(A), DG, AIR.
8. General Secretary, ARTEE.
9. General Secretary, ADTEA.

o/c

issued to
17/2/2011