

Minutes of the Screening Committee Meeting held at 5.00 PM on 12.10.2015 in the chamber of Shri Animesh Chakraborty, Engineer-in-Chief, General, All India Radio, Akashvani Bhawan, New Delhi to consider the cases of EAs, SEAs and AEs for 1st financial upgradation under the Assured Career Promotion Scheme.

Present:

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| 1. Shri Animesh Chakraborty, Engineer-in-Chief | - Chairman |
| 2. Shri J.Bhagat, Chief Engineer, CCW | - Member |
| 3. Shri R.Ghosh Dastidar, ADG(E-Dev), DG:AIR | - Member |
| 4. Shri O.K.Sharma, ADG(E), Doordarshan | - Member |

Proposal: To consider the eligibility of EAs/SEAs/AEs working in DG:AIR and DG:Doordarshan for ACP benefits as per court orders in OA No.514/2002.

The Screening Committee constituted under the Chairmanship of Shri Animesh Chakraborty, Engineer-in-Chief, DG:AIR to verify whether all EAs, SEAs and AEs working in DG:AIR as on 1.1.1996 are similarly placed with the applicants in OA No.514/2002, and if so, to extend the financial benefit to them, as directed by the Ministry of Information & Broadcasting vide their letter No.515/18/2013-BA(E) dated 21.1.2015, met at 2.00 PM in Akashvani Bhawan, New Delhi on 12.10.2015. The observation and decision of the Committee are given in the succeeding paras.

2. The Committee understands that since the EAs, SEAs and AEs whose cases have to be considered for ACP benefits are posted in the 5 zones of DG:AIR and DG:Doordarshan and their service records are maintained in the respective stations/kendras spread across the country, it was decided in the Directorate to authorize the concerned zonal ADGs to constitute zonal Screening Committees to verify and certify the service details of EAs, SEAs and AEs who are to be considered for ACP benefit. The service details of No. of 1832 employees thus received from the zones were placed before the Committee for consideration today. The Committee has been informed that there are approximately 4950 EAs, SEAs and AEs whose cases have to be considered and the respective zonal ADGs are verifying the data of the remaining employees. As such, the Committee examined the records of these 1833 employees whose particulars have been examined and certified by the

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respective zonal Screening Committees. The findings of the Committee are elaborated in the succeeding paragraphs.

3. An OA No.514/2002 was filed before the Hon'ble Central Administrative Tribunal, Patna Bench by the Akashvani and Doordarshan Diploma Engineers Association and certain other persons seeking benefits under the Assured Career Progression Scheme (ACPS) claiming that they are all working as EAs, SEAs and AEs in the same pay scale of Rs.6500-10500 w.e.f 1.1.1996. It was also stated that earlier the EAs were working in the payscale of Rs.2000-3200 and AEs were working in the payscale of Rs.2000-3500 and the payscales were subsequently merged in one common payscale i.e. Rs.6500-10500. Therefore a prayer was made in the OA for grant of 1st ACP in the pay scale of Rs.10500-15200. The Committee understand that the applicants of OA No.514/2002 are all diploma holders and were granted a uniform replacement payscale of Rs.6500-10500 w.e.f 1.1.1996 through court order on OA NO.85/1997 linked with OA No.662/2004 before CAT, Patna as replacement for the earlier payscales of Rs.2000-3200 and Rs.2000-3500 which was the scale of EAs and AEs prior to 1.1.1996. They had not accepted the upgraded payscales of Rs.6500-10500, Rs.7450-11500 and Rs.75000-12000 granted to EAs, SEAs and AEs respectively w.e.f 1.1.1996 vide Ministry of I&B order dated 25.2.1999.

4. On this application, the Hon'ble Tribunal on 7.9.2009 had directed the respondents to grant the applicants the payscale of Rs.8000-13500 as and when they have completed 12 years' service in the pay scale of Rs.6500-10500.

5. Against this order of the Hon'ble Patna Tribunal, the Respondents had filed Writ Petition No.CWJC 6451/2010 before the Patna High Court which was disposed on 25.8.2010 with the following directions:

We find some substance in the submissions advanced on behalf of 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(sic)(2000). In our

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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 cleared, they are directed to consider the grant of benefit of ACPS to the applicants before the Tribunal within a period of 3 months from today in accordance with law and the observations made in this order and the order of the learned Tribunal.

6. Even though the High Court verdict was challenged before the Hon'ble Supreme Court, it was dismissed on facts on 10.1.2011. The Committee did not find any reason to challenge the High Court order and the said order is as per law and has attained finality.

7. The Committee perused the minutes of the Screening Committee held in the Ministry of Information & Broadcasting on 24.10.2011 which found that since the applicants were beneficiaries of upgraded payscales and promotions they are not fit for ACP benefits and had passed a speaking order to this effect on 4.11.2011. Subsequently on the orders in CCPA No. 22 of 2011 dated 23.9.2012 the CAT had directed the respondents to consider grant of ACP benefits as per the verdict of the Tribunal, as modified by the Hon'ble Patna High Court, in OA No.514/2002. The Committee understands that the order that has attained finality does not ask the respondents to grant ACP benefits in the payscale of Rs.8000-13500 but only to consider the case of individuals and if they are found eligible to grant the ACP benefits as per ACP Rules.

8. The Committee then perused the minutes of the 2nd Screening Committee held in the Ministry on 3.1.2012 which found 8 of the 12 applicants fit for grant of ACP benefits. The Committee notes that these benefits in the scale of Rs.8000-13500 was granted to them vide order No.8/3/2011-SIVB)Pt dt.17.1.2012. In another meeting of the Screening Committee held on 15.6.2012 in the Ministry of I&B, Shri Praveen Kumar, EA who had filed OA No.477/2011 before the PB of CAT Delhi, was also granted the same ACP benefits. Subsequently meetings of the Screening were held in the Ministry on 11&14.1.2013 and the same ACP benefits were extended to

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another 16 EAs/SEAs/AEs who were applicants of OA No.597/2011 filed by Doordarshan Engineers Welfare Association before the CAT, Delhi. The Committee has been informed that all the applicants of OA No.477/2011 and 597/2011 are similarly placed with the applicants of OA No.514/2002 as they had not opted for the upgraded pay scales or refixed their pay in the pay scale of Rs.6500-10500. The committee has been informed that so far, 26 EAs/SEAs/ AEs have been granted the 1st ACP benefits in the pre revised pay scale of Rs.8000-13500.

9. The Committee has also been informed that since the ACP benefits were not extended to EAs, SEAs & AEs who were beneficiaries of upgraded pay scales granted by the Ministry of I&B vide order dated 25.2.1999, many of them filed court cases before various Tribunals in the country for the same ACP benefits as granted to the applicants of OA No.514/2002. The Committee understands that so far 1222 employees have filed 28 cases in this regard and in all these cases, the respective Tribunals at the admission stage itself has ordered to grant the benefits to the applicants if they are found similarly situated with the applicants of OA No.514/2002. The Committee examined the certified reports of the zonal committees (Annexures, II, III, IV & V) to examine the eligibility for ACP benefits to EAs, SEAs and AEs.

10. In view of various contempt petitions filed before the PB of CAT, Delhi, the Committee decided to examine the service records of all these 1833 EAs, SEAs and AEs to decide their eligibility for ACP benefits as per order dated 7.9.2009 of the CAT, Patna in OA No.514/2002.

11. In view of the apparent variations in the decisions of these Committees, the Committee felt it necessary to also examine the orders of CAT, Patna and High Court, Patna in OA No.514/2002 for clarity in the matter. As the order of Hon'ble Patna High Court has attained finality, the Committee felt that any decision to grant ACP benefits should be based on this order. The operative para of the verdict of the Hon'ble High Court has been mentioned in para 5 above.

12. The orders of the Hon'ble High Court modifies the order dt.7.9.2009 of CAT, Patna in OA No.514/2002. The Committee also notes that the Hon'ble Patna Tribunal had

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subsequently amended its earlier order of 7.9.2009, while delivering its order in CCPA No.22/2011, to be in tune with the orders pronounced by the High Court in OA No.514/2002. These orders unambiguously states that ACP benefits should be granted in accordance with the law (interpreted here as the ACP Rules) after considering the eligibility of individuals as per the ACP Scheme. Therefore the instructions contained in the ACP Rules have to be followed in totality to decide the eligibility of each individual and grant of ACP benefits.

13. The eligibility criteria for ACP benefits has been explained in detail in the DoPT OMs dated 9.8.1999 and clarifications dated 10.2.2000, 18.7.2001 & 29.6.2004. Fulfilment of all essential requirements of the ACP Scheme have to be ensured. All promotion norms also have to be met for being eligible for ACP benefits and the Scheme shall have to be adopted in its totality.

14. The service records of the SEAs and AEs now under consideration of the Committee show that SEAs and AEs have already been given the higher payscale to which ACP benefits can be granted for isolated cadre, as given in the above mentioned Annexure to DOPT OM. The applicants of OA 514/2002 were all in the same payscale of Rs.6500-10500 as no higher replacement scales were granted to SEAs and AEs subsequent to the grant of the replacement scale of Rs.6500-10500 to both EAs and AEs. But the payscales of SEAs and AEs who are the beneficiaries of higher payscale granted by the Ministry of I&B vide its order dated 25.2.1999 are in the payscale of Rs.7450-11500 and Rs.7500-12000 respectively w.e.f 1.1.1996 and have, therefore, never stagnated in the same payscale of Rs.6500-10500 like the applicants of OA No.514/2002.

15. After carefully considering the service details made available to the Committee for examination, it is found that subsequent to the grant of upgraded payscales by the Ministry of I&B vide its order dated 25.2.1999, two categories of EAs, SEAs and AEs exist in Prasar Bharati. They are:

Category-I. Those who had not accepted the upgraded payscales granted by the Ministry of I&B but were granted the payscale of Rs.6500-10500 through

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court verdict in as replacement scale for IV CPC payscales for EAs, SEAs and AEs w.e.f 1.1.1996 as mentioned in para 3 above.

Category-II. Those who had accepted the upgraded payscales of Rs.6500-10500, Rs.7450-11500 and Rs.7500-12000 respectively in the posts of EA, SEA and AE w.e.f 1.1.1996 vide Ministry of I&B order dated 25.2.1999.

16. Based on the deliberations on the facts as discussed in the preceding paragraphs, the following observations are made:

- a. Since all the employees except EAs mentioned in category II above are enjoying higher payscales than their counterparts (category I) who had not accepted these scales, so they are not similarly situated with applicants of OA No.514/2002 as far as their payscales are concerned.
- b. The Committee also observes that once a higher payscale has been granted to an employee on his promotion in the hierarchy and he has accepted it, no additional benefit in the form of financial upgradation under the ACP Scheme can be granted to him as per the ACP Rules.
- c. All the 1832 employees whose data has been placed for consideration have been granted upgraded payscales as per Ministry of I&B order dated 25.2.1999 so they are not similarly situated as in the case of the applicants of OA No.514/2002 (Category-I). Shri B.K.Roy, SEA who was an applicant of OA No.514/2002 and had initially opted for upgraded payscales granted by the Ministry of I&B as per its order dated 25.2.1999, subsequently opted for the scales as per category-I, only then he was granted the benefits under the ACP scheme.
- d. The Committee has been informed that none of the applicants of the OAs filed before various Tribunals in the Country including the Contempt Petitions, have apparently disclosed before the Tribunals that they are beneficiaries of upgraded payscales as per the Ministry of I&B's order dated 25.2.1999 and, therefore, are not similarly placed with the applicants of OA No.514/2002 on this count.
- e. All the applicants of CP No.68/2015 filed by Shri Joginder Singh and 15 others and in CP No.197/2015 filed by Shri Pradeep Galhotra and 60 others are

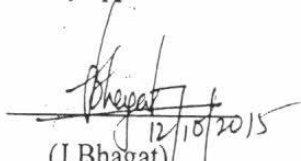
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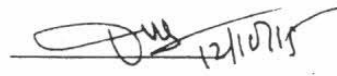
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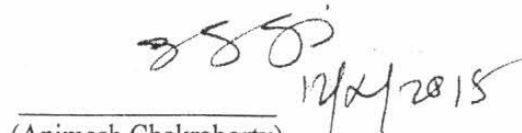
beneficiaries of upgraded payscales granted by the Ministry of I&B vide order dated 25.2.1999 and as such they belong to category-II described in para 15 above and therefore they are not entitled for upgradation under the ACP Scheme.

17. In view of the above, the Committee finds that the cases of candidates put up before them falls under Category II mentioned in para 15 above and as such are not similarly placed as compared to applicants of OA No.514/2002. They are, therefore, not found fit for further financial upgradation in the payscale of Rs.8000-13500 under the ACP Scheme as they have already been granted the benefits existing in the promotion hierarchy applicable.


(J. Bhagat)
Member


(O.K. Sharma)
Member


(R. Gosh Dastidar)
Member


(Animesh Chakraborty)
Chairman