

1570/J

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
JUDICIAL -I

61/35, Copernicus Marg, New Delhi
Dated 16-04/2014.

From:

The Principal Registrar
Central Administrative Tribunal
Principal Bench, New Delhi.

To

- ✓ 1. Shri M.K. Bhardwaj, Counsel for the applicant, CAT Bar Room (PB), New Delhi
2. Shri M.S. Arif, Counsel for the respondents, CAT Bar Room (PB), New Delhi

O.A.No. 1949/2012

Shri Rishi Raj & Ors.

Applicant

Versus

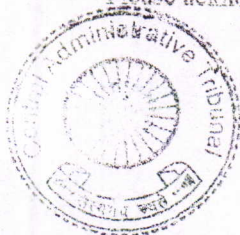
UOI & Ors.

... Respondent


Sr.

I am directed to forward herewith a copy of Judgment/Orders dated 03-04-2014 passed by this Tribunal in the above mentioned case for information and necessary action, if any.

Please acknowledge the receipt.



Yours faithfully


Secretary (Judl-I)
For Principal Registrar

Central Administrative Tribunal
Principal Bench, New Delhi.

OA-1949/2012

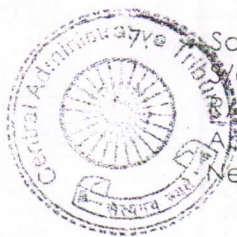
Reserved on : 19.03.2014.

Pronounced on : 03.04.14

Hon'ble Mr. G. George Paracken, Member (J)
Hon'ble Mr. Shekhar Agarwal, Member (A)

S/Shri

1. Rishi Raj,
S/o Sh. Prabhudayal,
R/o Vill. Dariyappur Kala,
Delhi-93.
 2. Laxman,
S/o late Sh. Bhagwandass,
R/o 76-F, Sector-4, Pushp Vihar,
MB Road, New Delhi.
 3. Brijmohan,
S/o Sh. Inderjeet,
R/o H.No.J-2, Pandav Nagar,
Delhi.
 4. Mohar Singh,
S/o Sh. Lekhram,
R/o Vill. Mochi Bagh,
H.No. 88, Nanak Pura,
Delhi-21.
 5. Ratan Singh,
S/o Sh. Kaluram,
R/o H.No.126, Vill. Aali Badarpur,
Delhi-44.
 6. Asha Ram Yadav,
S/o Sh. Ram Manohar Yadav,
R/o B-686, Gali No. 8/1, I Pusta
Sonia Vihar, Delhi-94.
- Sagir Ahamed,
S/o late Sh. Nazir Ahamed,
R/o E-74, Shahin Bagh,
Abul Fazatu, Okhla,
New Delhi.



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8. Mukesh,
S/o Sh. Sohan Lal,
R/o B-8/214, Rohini,
Sector-3, Delhi-85.
9. R.D. Mishra,
S/o late Sh. Niwas Mishra,
R/o E-117, Gali No.5 Jai Vihar Colony,
Najafgarh, New Delhi-43.
10. Subodh Kumar,
S/o Sh. Atar Singh,
R/o B-47, Gali No.2, West Nathu
Colony, Shahdara, Delhi-93.
11. Vinod Kumar,
S/o late Sh. Nand Kishore,
R/o 32/2, CPWD, Sector-1, Pusp Vihar,
New Delhi-17.
12. S.N. Rai,
S/o Sh. Avadh Ram,
R/o H-306, S.N. Puri,
Delhi.
13. Satender Singh,
S/o Sh. Govind Singh,
R/o G.No. 294, Lancer Road,
Timarpur, New Delhi.
14. Ratan Lal,
S/o Sh. Barulal Ram,
R/o D-44, Gali No.4,
Pappu Colony,
Sahibabad.
15. Rajender Panigrahi,
S/o Sh. Kishan Chander Panigrahi,
R/o G.No. RZI-124, Mahaveer Enclave,
Palam, New Delhi-45.
16. Prem Chand,
S/o Sh. Khem Chand,
R/o H.No. 172, 1st Floor,
Aaram Bagh, New Delhi.

17. Krishan Kumar,
S/o Sh. Hari Ram,
R/o F-9, Aaram Bagh, Pahar Ganj,

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New Delhi.

18. Ilamjeet Singh,
S/o Sh. Pradshiram,
R/o C-533, Jaypur Pahari Society,
Camp, Badarpur, New Delhi-110044.
19. Khajan Singh,
s/o late Sh. Nathuram,
R/o ACD/335, Munirka Village,
Near Girls School, New Delhi-110067.
20. B.R. Meena,
S/o Sh. Sakhan Kumar,
r/o Type-I, Room No.6,
Krishi Kunj, Inderpuri-110012.
21. Bhagwandass,
S/o Sh. Ramnath,
R/o H.No.197, Gali Banduk Wali,
Ajmeri Gate, Delhi-110006.
22. Vinit Kumar Mishra,
S/o Sh. Chander Prakash Mishra,
R/o B-2/3, Radio Staff Quarters, Kingway Camp,
Delhi.
23. Shri Ram Sharma,
S/o Sh. Rameshwar Prasad,
R/o H.No.18, Aligoan, Kotla Mubarakpur,
New Delhi.
24. Arjun Kanahar,
s/o Sh. Purender Prasad,
r/o D-504, Pocket-II, DDA Janta Flat,
Jasola Vihar, New Delhi-110044.
25. Chetram,
s/o Sh. Udayram,
R/o H.No.11, Gali No.7/3, Shakti Vihar,
Badarpur, New Delhi.
26. Brahmdev Yadav,
S/o
R/o Sangam Vihar, New Delhi.
27. Mahipal,
S/o late Shri Brahm Singh,
R/o H.No.514, Gali No.18, E-Block,
Ashok Nagar, Shahdara, Delhi-110093.

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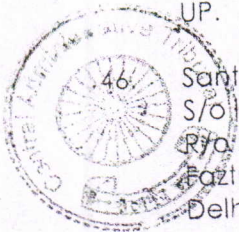
28. Puran Chander Joshi,
s/o late Sh. G.P. Joshi,
R/o 151-B, Aram Bagh, Paharganj,
New Delhi-110055.
29. Ram Kumar,
S/o late Shri Mangeram,
R/o Z-598, Timarpur, Delhi.
30. Ram Singh,
s/o Sh. Hardass,
R/o H.No.962, Pana Papa Siyan,
Narela, Delhi.
31. Ram Swaroop Singh,
S/o Sh. Basant Singh,
R/o K-452, Mangolpuri,
New Delhi-110040.
32. Mohan Chandra Pathak,
S/o Sh. Purshottam,
R/o 59-B, Gali No.8,
Sangam Vihar, Najafgarh, Delhi-110043.
33. Shivram Yadav,
S/o Late Sh. Ramdin Yadav,
R/o C-57, Qutab Vihar,
Gayaly Dairy, New Delhi-110071.
34. Vijay Singh,
s/o Late Shri Delip Singh,
r/o F-Block, 2148,
Netaji Nagar, Delhi-110023.
35. Hawaldar Prasad
S/o Ram Charitra,
R/o H.No.RC-969,
Khoda Colony, Pragati Vihar,
Ghaziabad, UP.

36. Vinod Kumar Pal
s/o Sh. Bal Kishan,
R/o 55 B, Aram Bagh



r/o Village Nahra,
Distt. Sonapat, Haryana.

38. Sant Lal,
S/o Sh. Ram Ganesh,
R/o F-47, Rana Park, Siraspur,
Delhi-110042.
39. Satbir Singh
S/o Sh. Ram Diya,
r/o Saraswati Vihar, Malwa Road,
Near Happy Child School, Sonapat,
Haryana.
40. Lal Chand,
s/o Sh. Sohan Pal,
r/o VPO Bimka, Tehsil & Distt. Faridabad,
Haryana.
41. Narpal Singh Negi,
S/o Sh. Luhar Singh Negi,
R/o A-9, Gali No.1, Amrit Vihar,
Burari, Delhi-110084.
42. Mahipal Singh,
S/o Shri Ramesh Chand,
R/o S-229A, 2nd Floor,
Pandav Nagar, Delhi-110092.
43. Ram Kishan,
s/o Sh. Ram Raj,
R/o RZ-56-A, Gali No.1
Durga Park, New Delhi-110045.
44. Suresh Chandra Singh,
s/o Sh. Trilok Singh Rawat,
r/o 2/24, Panchkuian Road,
Mandir Marg, New Delhi-110001.
45. Rajbir Singh,
s/o Sh. Fatten Singh,
R/o Village Mathnora, Distt. Ghaziabad,
UP.
46. Sant Ram,
S/o late Shri Mangeram,
R/o H.No.167, Mandawali,
Faztupur,
Delhi-110092.



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(through Shri M.K. Bhardwaj, Advocate)

.....Applicants

Versus

Union of India & Ors. through

1. The Secretary,
Ministry of I & B,
Shastri Bhawan,
New Delhi.
2. The CEO,
Prashad Bharti,
PTI Building, New Delhi.
3. The Director General,
Doordarshan Kendra,
Doordarshan Bhawan,
New Delhi.

(through Shri S.M. Arif, Advocate)

.....Respondents

ORDER

Mr. Shekhar Agarwal, Member (A)

The issue in this case is whether on first financial upgradation under the ACP Scheme the applicants should get the pay scale of Rs.4500-7000, which is the pay scale of Technician or the pay scale of Rs. 3050-5490, which is the pay scale of LDC. The respondents have granted them the latter. Aggrieved by the decision of the respondents, they have filed this O.A. before us. The applicants are also seeking direction to the respondents to re-designate them as Broadcast Assistants and give all consequential benefits from the due date.

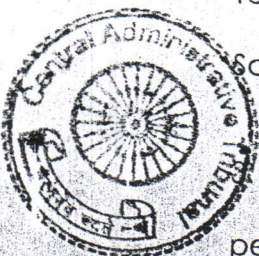


The applicants are presently working as Helpers with the respondents. It is not disputed that when they were recruited the minimum prescribed qualification for them was 8th pass with working

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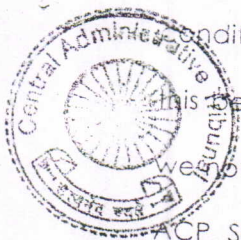
knowledge of electrical and mechanical machines. This was more than the qualification required for general Group-D posts, which was only 8th pass. It is not disputed that the Recruitment Rules for the post of LDC provide 5% promotion quota for educationally qualified Group-D staff having five years of regular service as such. This is hedged by the condition of passing Limited Departmental exam. Further, the helpers are also eligible for promotion to the post of Technician after completing 11 years of service as such. 20% quota is ear-marked for promotion. This is again subject to passing departmental test conducted by the Director General, All India Radio. Thus, indisputably the helpers are eligible for promotion to both the posts, namely, LDC as well as Technician subject to passing of departmental exam. The contention of the respondents is that the post of LDC comes earlier and therefore the applicants have been given the scale of LDC as first financial upgradation under the ACP Scheme. On the other hand, the applicants have contended that they have been unfairly treated by the respondents as they are technically qualified personnel and are eligible for promotion to technical post of Technician in their cadre. Consequently, they should have been given the pay scale of Technician only as first financial upgradation under the ACP Scheme.

We have heard the learned counsel for both sides and have perused the material on record.



3.1 It is clear from the Recruitment Rules of the post of LDC as well as Technician that helpers are eligible to compete for promotion in the Limited Departmental exam of both these posts. In this regard, both posts are similar. However, we notice that the post of LDC is not exclusively meant for helpers. It is open to all Group-D staff. The helpers also being Group-D become eligible to compete for the same. On the other hand, the post of Technician is not open under the promotion quota to all Group-D staff. Only helpers are eligible to compete for the same after having put in 11 years of service as such. Thus, in our opinion, the contention of the respondents that the post of Technician is not a hierarchical post of helper cannot be accepted. Only helpers are eligible to be promoted to these posts and, therefore, it has to be treated as hierarchical post of the cadre of helpers. While there is no doubt that helpers can also appear in the exam of LDCs, yet, in our opinion, this is only an alternative avenue available to them and cannot in any manner take away the fact that Technician post is available within their cadre for this promotion. Thus we find merit in the contention of the applicants.

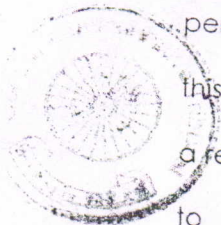
3.2 We are conscious of the fact that ACP Scheme has been introduced to do away with stagnation, which may result on account of non-availability of promotional posts. One of the conditions for grant of ACP benefit is that the person being given this benefit is otherwise eligible for promotion. In the instant case, we notice that while the benefit of financial upgradation under the ACP Scheme is to be given after 12 years, the requirement of



promotion to the grade of Technician is 11 years of service. Thus, any helper being granted ACP benefit after 12 years of service would also have requisite service for promotion to the post of Technician. From this angle also, there is no hindrance in granting Technician's grade as ACP I.

3.3 The applicants have also prayed that the respondents be directed to designate them as Broadcast Assistants and give all consequential benefits from the due date. They have stated that a Cadre Review Committee had acknowledged the fact that promotional prospects of helper were very bad and had recommended that this post be re-designated as Broadcast Assistant with PB-I with grade pay of Rs.2800. However, the respondents have not implemented this recommendation so far. In reply the respondents have stated that the recommendations of Cadre Review Committee have still not been accepted by the department. Under these circumstances, it would suffice for us to direct the department to take appropriate decision in the matter expeditiously.

4. On the basis of above analysis, we allow this O.A. and direct the respondents to grant the scale of Technician i.e. Rs. 4500-7000 to the applicants from the due date. This will be done within a period of eight weeks from the date of receipt of a certified copy of this order. The applicants will also be entitled for grant of arrears as a result of re-fixation of their pay. The respondents are also directed to take a decision on the recommendations of cadre review



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Committee expeditiously, in so far as the applicants are concerned.

No costs.

(Shekhar Agarwal)
Member (A)

(G. George Parackal)
Member (J)

/Vinita/



True Copy U/R 22 of C.A.T.
(Procedure Rules)
प्रमाणित सत्यप्रतिलिपि
CERTIFIED TRUE COPY
दिनांक/Date:.....

अनुभाग अधिकारी (स्वा.)
Section Officer (J)
केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
प्रधान न्यायपीठ, नई दिल्ली
Principal Branch, New Delhi