

No. 515/114/2014-BA(E)
Government of India
Ministry of Information and Broadcasting
Shastri Bhawan, New Delhi- 1100 01

Dated 17.03.2017

To,

The Director General: AIR,
DG: AIR, Akashwani Bhawan
New Delhi.

(Kind Attention: Sh. D. P Shukla, DDA(E))

Subject: - Extension of benefit of higher pay scale of Rs. 4500-7000/-
in lieu of Rs. 4000-6000/- to the Technicians appointed/recruited after
25-02-1999 and upto 05-10-2007 - reg.

Sir,

I am directed to refer to DG: AIR's letter No. 14/02/2015-S-IV(A) dated
30.12.2016, on the above mentioned subject.

2. The matter has been taken up with Department of Legal Affairs,
Ministry of Law and Justice. A copy of clarification/advise of Department of
Legal Affairs Ministry of Law and Justice, vide its note dated 02.03.2017 is
enclosed.

3. DG: AIR is therefore requested to take urgent necessary action under
intimation to the Ministry.

Encl:- A/a

Yours faithfully,

A.R.T.E.E.

(Sanjay Dhar)
Under Secretary (BA-E)
Tel.No. 23384754

Copy to:- CEO, Prasar Bharati, Prasar Bharati Secretariat, Prasar Bharati
House, Tower-C, Copernicus Marg, New Delhi.

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A.R.T.E.E.

MIB has desired clarification of this department on our earlier advice (32-33/N) given in the matter of grant of higher pay scales to technicians/applicants in (OA No 350/01530/2014) in terms of MS Rana and Lalit pawar case.

2. The D/Expenditure (in terms of details at 64 /N) have agreed to our advice in respect of all the applicants in 7 OAs, however some difficulties has been pointed out in respect of implementation of two OAs as stated at Para 4 of 69/N and the matter has again been referred to us.

3. We have perused the matter and at outset submit that situation as existed prior to our advice remain as it is as our advice (agreed to by D/Expenditure) has not been appreciated and again prayers of applicant in different OAs and operative portions of two Court orders (F/X) have been referred to. Our advice with respect to ratio of law laid down in MS Rana case and mandate of S.11 of PB (Amendment) Act, 2012 re-defining terms and conditions of employees have not at all been perused.

4. When the matter of technicians was referred to us, on noticing similarity between both categories ie EAs and technicians , this department at Para 6 of 32/N specifically noted:

6. We have perused the matter and at outset submit that clarification issued by PB appear to have been issued only in terms of operative directions of Madras HC case without consulting MIB which has handled EAs pay parity issue (MS Rana, Lalit Pawar & Ors cases) and also without considering the mandate of PB (Amendment) Act, 2012.

5. Once again, AIR/MIB has referred matter to us without appreciating principles of parity, 'equal pay and equal work' upheld by the Supreme Court (in MS Rana case) and mandate of 2012 Act which provide that those who joined before 5th October, 2007 would be central government employees and there cannot differentiation in pay scales for one set of employees be it technicians/ EAs or any other category of employees covered under executive order dated 25.2.99. (Refer Para 9 of 32/N). The real issue involved in all these matters is upholding the legal principles that all similarly situated persons should be treated similarly and litigation may not be pursued on technicalities.

6. In our advice, we specifically pointed out "that the matter cannot be seen only from the point of view of implementation of Madras case *dehors* the mandate of 2012 Act and ratio of law laid down in MS Rana & Pawar case which are similarly situated".

7. In Para 12 of our advice, this department advised as follows:

12. In cases of MS Rana & Pawar, applicants were EAs (grant of 6500/- in lieu of 4000/-) and in present case applicants are technicians (4500/- in lieu of 4000/-) and all of

differentiation in pay scales would be violative of doctrine of 'equal pay for equal work' and has been upheld by the Supreme Court.

8. This department in Para 14 of its advice concluded as follows:

In view of the above, cases of technicians being similar to EAs, MIB to avoid litigation, the instructions to PB for extending similar benefits to technicians category (4500/- in lieu of 4000/-) recruited /appointed on or before 5th Day of October 2007 with all consequential benefits in terms laid down in MS Rana & Pawar cases in Karfa, ARTEE, Biswas etc cases, as per details at Para 3 above.

9. The ratio of law laid down in MS Rana & Pawar cases by the High Court and endorsed by the Supreme Court would apply to applicant/ technicians in these 7 cases. Similar consequential benefits including arrears of pay and other monetary/service benefits which have been extended to EAs are required to be extended to the similarly situated technicians recruited to 5th day of October, 2007 otherwise it would be violative of Art. 14 of the Constitution.

10. In view of above, our earlier advice hold good in respect of all applicants of 7 OAs for which approval of D/Expenditure have been obtained.

A.R.T.E.E.

MIB (Mrs Anju Nigam -JS)

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(T.K. Mal)
Dy. Legal adviser
02.03.20