

# Sequence of Events in Tech(4K) Issue, A Journey Towards Success

The cruel fact about Tech(4K) issue is that it was never taken up earlier. Always a soft pill was given to Tech brothers joined after 25.02.1999 that when EA (5K) will get Rs. 6500-10500 scale Tech(4K) will automatically get the scale of Rs. 4500-7000. But the moot question is that which prevented from filing case for 4K Technicians together with EA (5K) case.

As you are aware, the OA 1742/43 filed by ARTEE in 2004 resulted only in the implementation Rs.6500-8000 scale only to just Six applicants of that case. After this, ARTEE filed OA 4012/2014 for all EA(5K) and 434 EAs got the scale of Rs. 6500-10500 with all consequential benefits.

The order for applicant EAs was issued in October 2015 and in November 2014 ARTEE filed case for all eligible EAs and after the implementation of this Court Order, ARTEE immediately filed OA 1575/2015 for grant of scale of Rs. 4500-7000 to Technician joined after 25.02.1999 to 05.10.2007.

Let us take a step by step sequence of the whole issue:

There are total 7 Court Orders pertaining to Technicians joined a after 25.02.1999 to 05.10.2007.

- 1) Order / Court direction dated 26.11.14 in Sh.UtpalKarfa and others case at CAT Kolkata OA 350/01530/2014
- 2) Order dated 31.03.15 in Sh, Debabrata Mondal & others CAT Kolkata OA 350/00514 /2014.
- 3) Order dated 01.06.2016 in the case by ARTEE, CAT Delhi OA 1575/2015
4. Order dated 24.05.2016 ADTEA, CAT Delhi OA 4342/2015.
5. Order dated Sh.AmitBarua and others CAT Kolkata 350/01551/20
6. Order dated Sh. PK Biswas and others CAT Kolkata 350/00647/2015.
7. Order dated Sh.SanatanMurmur OA 260/00378/2015.

When Notional fixation order issued to technicians joined before 25.02.1999, few technicians from EZ joined after 1999 also got their pay fixed notionally at 4500- 7000 scale. Later DG AIR (on clarification from Prasar Bharati ), withdrew the scales with the argument that appointees on or after 01.01.1996 are not eligible for said order for notional fixation.

Aggrieved by the withdrawal of notional fixation some of the affected technicians joined after 1999 approached CAT Kolkata. Out of the seven cases mentioned above, Three cases ( Utpal Karfa & othr ,Debrata Mondal & othr and Sanatan Murmur case) belongs to the above category.

Other 4 cases are similar to Mahendra Sing Rana and Anandhakumar cases ( OA 1742/43 of 2004) .These cases are for granting Pay Fixation in Rs.4500-7000/- scale with all consequential benefits including arrear as granted to EAs.

The Important fact about Sh.UtpalKarfa and others case is that in this case the tribunal directed the applicants to send a representation to MIB within 15 days of passing the order by the Court.

The operative part of the Court direction is given below

*“As such in the interests of justice the OA s disposed of with a direction upon the applicants to prefer a representation before Secretary ,Ministry of Information and Broadcasting within a period 15 days from the date of receipt of copy of this order . Upon receipt of copy of the same, the said authority or any other authorized official with his approval , as early as possible , not exceeding a period of three months , shall pass a reasoned and .Till such time the order dated 12.11.2014 shall not be given effect to, provided the representation is made within the stipulated period.”*

The same is the Court Order in other two individual cases.

As per Court direction the applicants send representation to Secretary MIB within the stipulated time.

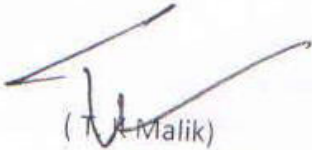
The above developments happened much before the Court order in cases filed by ARTEE and our sister Association, but only after the filing of the case by ARTEE.

The first court direction in this entire issue was in UtpalKarfa case (on 26.11.14) and after the receipt of representation (as directed by Court) by UtpalKarfa and others, MIB opened the file with UtpalKarfa case. MIB attached all other Court cases filed after this also with this file and send it to Department of Legal Affairs (DOLA) for opinion/ advice.

DOLA through its advice dated 27.01.2016 conveyed its approval for granting Rs.4500-7000/- scale from date of joining with all consequential benefits to Technicians Category, who joined between 25.02.1999 to 05.10.2007. It was only due to the efforts by ARTEE in the Department of Legal Affairs that we got approval for all Technicians, even before the Court order in the cases).

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

The matter has been discussed with the Addl. Secy.

  
( T. K. Malik )  
Dy. Legal Adviser  
27.1.2016

### **TURNING POINTS OF THE ISSUE**

(1). Turning point in this issue which granted Rs.4500-7000/- scale with all consequential benefits even for those applicants, who challenged the withdrawal of notional fixation for them of was the clear and favorable Advise by the Department of Legal Affairs,(DoLA). It was done only by the efforts of your beloved ARTEE and this is the reason that Hon'ble MIB has attached the copy of the DOLA Advice with the MIB Order dated . The clause 14 of Advice clearly says with all consequential benefits.

(2). When the hearing in the case by ARTEE took place at CAT Delhi , the department submitted the above said approval of DOLA to the notice of the court and they conveyed their consent for the implementation of Rs.4500-7000/- scale with all consequential benefits even before the disposal of our case OA 1575/2015 and informed the Hon'ble Court that the matters have been referred by the

respondent No.1 (MIB) to the Ministry of Finance for their opinion to implement the order passed in the aforementioned O.As, which is pending before the Ministry of Finance. This is also happened for the first time.

[Click here for Advise of Department of Legal Affairs dated 27.01.2016](#)

This is the fact. But unfortunately these facts were wrongly interpreted by many as admission of notional fixation by ARTEE . Actually there is no mention of that word anywhere.

The Court order dated 01.06.2016 in OA 1575/ 2015 filed by ARTEE is given below

“Order (oral) Hon’ble Mr. P.K. Basu, Member (A)

Both sides agreed that in view of the **decisions in UtpalKarfa&Ors in OA No. 350/01530/2014 (for Technician) of CAT, Kolkata Bench and in Mahendra Singh Rana in O.A. No. 1743/2004 (Engineering Assistants) of CAT, Principal Bench of this Tribunal**, the matters have been referred by the respondent No.1 to the Ministry of Finance for their opinion to implement the order passed in the aforementioned O.As, which is pending before the Ministry of Finance. 2. In view of this, the O.A. is disposed of at the admission stage itself with a direction to the respondents to expedite the issue and pass a final order within a period of six weeks from the date of receipt of a copy of this order. In case, the applicants are still aggrieved of that order, they are at liberty to challenge the same by filing a fresh O.A., in accordance with law. No costs.”

[Click here for Court Order in Case filed by ARTEE](#)

**The decision in UtpalKarfa&Ors Case in OA No. 350/01530/2014 case mentioned in the Court Order in ARTEE Case is the advice by DOLA dated 27.01.2016 , which is the result / decision in the representation of Sh.UtpalKarfa and others to MIB.**

(Sh.UtpalKarfa and others send the representation to MIB, as per the direction in the CAT order in their case).

From the above it is very clear that the advice by the Law ministry (DOLA)is to grant Rs.4500-7000/- scale with all consequential benefits including arrears to Technicians Category, who joined between 25.02.1999 to 05.10.2007 had already been informed to the Delhi CAT by the department. Hence it was **NOT possible** by the department to deny consequential benefit,because it will invite contempt of Court since department had already submitted DoLA advice dated 27.01.2016 ( which clearly advice to grant scales with all consequential benefits from date of joining itself), as an affidavit during the hearing of ARTEE Case.

As informed by the MIB during the hearing of ARTEE Case, MIB HAD send the file to the Department of Expenditure for approval for implementation.Since the officers in the section were new in the Department of Expenditure they asked some clarifications from MIB and hence the approval from Department of Expenditure delayed. On 28.11.2016, DoEXP agreed to follow the advice of DoLA dated 27.01.16 and as such to implement Orders of CAT by way of grant of higher scale of 4500-7000.

[Click here for Copy of Expenditure Approval dated 28.11.16](#)

There was a confusion created by some people due to not properly understanding court order in ARTEE case. It seems those created confusion among our members were not even aware of the very strong and favorable DoLA advice dated 21.01.2016 achieved by ARTEE even before the Court order in ARTEE and ADTEA Cases, and they were not able to understand the fact that the decision in Sh.Uptalkarfa case which was mentioned in the Court Order in ARTEE Case was actually the DoLA advice dated 27.01.16. Not properly understanding above points only created confusions and hence they wrongly propagated that applicants of ARTEE case won't get arrears, and ARTEE case is only for notional fixation etc. **WHICH WERE COMPLETELY BASELESS.**

After this approval, MIB through its Order dated 06.12.2016 conveyed the approval of the Department of Expenditure for the implementation of court order in all seven cases.

**[Click here for MIB Order dated 06.12.2016](#)**

In our view, the DoLA advice dated 27.01.16 to grant Rs.4500-7000/- scale with all consequential benefits including arrears to Technicians Category, who joined between 25.02.1999 to 05.10.2007, were not perfectly reflected in the MIB order dated 06.12.2016. Hence the MIB order dated 06.12.16 created confusions in DG AIR and DG AIR through the letter dated 30.12.2016 asked clarifications from MIB, the points raised by DG AIR AIR through the letter dated 30.12.2016 is re produced below.

*DOLA has advised that " the cases of technicians being similar to EAs, MIB to avoid litigation, may issue instructions to the PB for extending- similar benefits to Technicians category(Rs.4500/- in lieu of 4000/-) who are recruited/ appointed on or before 5<sup>th</sup> day of October 2007, with all consequential benefits in terms of law laid down by M.S.Rana and Pawar Case in Karfa, ARTEE, Biswas etc. cases as per details at para 3 above" Ministry of I & B has conveyed the approval of DOE, Ministry of Finance for implementation in consonance with the advice of Ministry of Law but approval has been given only in respect of 7 court cases and not for all the similarly placed technicians as per advice of DOLA.*

- iii) In the approval of Ministry of I & B's it is not clear that the grant of upgraded scale is to be granted to all the similarly placed technicians i.e. who joined between 25.02.1999 to 05.10.2007 or in respect of applicants of the court cases only. Further the upgraded pay scale is to be granted notionally or with consequential benefits is also not clear.

**[Click here for DG AIR letter to MIB dated 30.12.16](#)**

But ARTEE Central Office was fully confident about the matter, because it is only ARTEE who achieved DoLA advice dated 27.01.16 and were completely aware about the real facts about this issue. MIB send the file to Department of Legal Affairs seeking clarification about its earlier advice dated 27.01.16, and ARTEE Central Office taken the necessary steps and DOLA through its letter dated 02.03.17 adhered to their earlier advice dated 27.01.2016.

**[Click here for the Second DoLA Advice dated 02.03.2017](#)**

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 all these 7 cases. Similar consequential benefits including arrears of pay and other monetary/service benefits which have been extended to EAs required to be extended to the similarly situated technicians recruited to 5<sup>th</sup> day of October, 2007 otherwise it would be violative of Art. 14 of

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

DoLA once again advised MIB that “ **the ratio laid down in MS Rana&Pawar case by the High Court and endorsed by the Supreme Court would apply to applicant / technicians in all these 7 cases,**”DoLA further added that “**Similar consequential benefits including arrears of pay and other monetary /service benefits which have been extended to EAs required to be extended to the similarly situated technicians ,otherwise it would be violative of Article 14 “**

After this DoLA advice, MIB issued order dated 17.03.2017.

**[Click here for the MIB Order dated 17.03.17](#)**

Again in DG AIR some negative elements tried to create obstacles but finally we succeeded in issuing the order from DG AIR , granting Rs.4500-7000/- scales to all similarly situated technicians with all consequential benefits as per the DoLA advice dated 27.01.16, and DoEXP approval dated 28.11.16.

From the facts mentioned above, it is quite clear that

(1). It was present Central Office of ARTEE, which taken initiative in this matter and filed the case OA 1575/2015. **No other case was filed by any other Association** at that time.

(2). The DoLA advise dated 27.01.2016, which is the base of the issue was finalized with ARTEE's persuasion. **No Other Association was involved it.**

(3). Hon'ble MIB submitted a statement in CAT Delhi in the hearing of ARTEE Case OA 1575/2015 that they are ready to extend it. No other Association was around the issue at that time.

(4). ARTEE again persuaded the Second DoLA Advise when the matter was referred to DoLA again. **No Other Association was knowing what is going on** in this matter.

**[Click here for DG AIR Order dated 16.05.2017](#)**

**FINALLY WE SUCEEDED AND WE CONGRATULATE ALL FOR THIS.**

**Central Office**