

ASSOCIATION OF RADIO & TELEVISION ENGINEERING EMPLOYEES



Office : Room No. 134, Tower-B, Doordarshan Bhawan,
Copernicus Marg, Mandi House, New Delhi - 110001

Largest Employee Welfare Association of Electronic Media in India

Web Site : www.arteeindia.org



Regd. & Recognised by Govt. of India

RSA Re Verification under Process

Ref. No.ARTEE/P./43/05/2019

Date.....21.5.19.....
18.6.19

Madam Mukta Goel ji,
Add. Director General (HR),
Prasar Bharati,
New Delhi - 110001

Subject : **A detailed information and sequence of events of 25/2/1999 scales.**

Respected Madam,

With regards, I hereby submit a detailed sequence of events about 25/2/1999 scales as discussed your meeting with this Association on 02/5/19.

Issue of treating 25/2/1999 scales as an Upgradation while granting MACP and subsequent Re Fixation / Downgradation/ Recovery from Employees.

FACTS ABOUT SCALES AND CURRENT SCENARIO

- (1). The scale of Engineering Assistants as on 01-01-1978 was Rs. 425-750. 4th Pay Commission granted Normal Replacement Scale of Rs. 1400-2600.
- (2). There is a Cadre Sound Recordist in Films Division which was granted higher Scale of Rs. 2000-3200 in 4th Pay Commission in Pay Parity with Cameraman. Sound Recordist in Doordarshan demanded Pay Parity and granted were also given Pay Parity with Sound Recordists of Films Division. (Y.K.Mehta vs Union of India) by Hon'ble Supreme Court of India, W.P. (Civil) Nos. 1239/1979, 974/1978 and 1756/86 Decided on 26-8-1988.
- (3). Some Engg. Asstt. Of Doordarshan Filed a case in Chennai CAT on the basis that Sound Recordist is doing only Sound Recording while Engg. Asstt. of is doing Sound Recording, Camera Operations, Studio and Transmitter operation and maintenance, Outdoor broadcasts etc. Hon'ble Chennai CAT accepted the Prayer and granted Pay Parity to Engg.Asstts. with Sound Recordists in the scale of Rs. 2000-3200. It was upheld upto Hon'ble Sup.Court (The famous Raj Shekharan Case vs Union of India). . Through Order no. 310/15/93-B(D), Ministry of Information and Broadcasting Dated 15/05/1995. The Pay Parity was implemented for all EA,SEA,AEs, ASE since 01-01-1978 and Arrears were paid. **(copy enclosed as Annexure I).**
- (4). 5th CPC has brought down the scale of Sound Recordists to Rs. 5000-8000 in place of Rs. 6500-10500 which was normal replacement scale of Rs. 2000-3200. But Protection was granted to incumbent Sound Recordist. It has subsequently brought down the scale of Engg.Asstt. When Associations approached the Ministry to remove this anomaly, they referred the matter of pay revision of Engineering Assistant, Technician Grade I & Grade II to Anomaly committee of Secretaries which was constituted to recommend suggestions


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to remove anomaly in the pay scales. Union Cabinet in on 06 November 1997 considered the report of the Fast Track Committee (Committee of Secretaries) and directed a Ref. Committee...of...Three Ministers to take appropriate decision. In ~~the order dated~~ 05.12.1997, issued by Ministry of I&B (**copy enclosed as Annexure II**) decided that 90% of the difference to be extended to the higher scale, and "the decision relating to either payment of balance 10% or adjustment of adhoc payment shall be settled depending upon the decisions of Prasar Bharati." This order was issued with the concurrence of Ministry of Finance. Prasar Bharati came into existence on 23/11/1997. Govt. left balance 10% of Pay scales to be decided by Prasar Bharati. Authority which came in to existence in 23/11/97 is vested responsibility to decide about Pay Scales which is implemented w.e.f. 01.01.1996.

(5). Ministry of I&B, vide its order dated 25.2.1999 finalized the pay scales of subordinate Engineering & programme cadres, including the cadres of Engineering Assistant & Senior Engineering Assistant by granting the remaining 10% of the difference to the higher scale with the Approval of Central Cabinet. (**copy enclosed as Annexure III**).

(6). Transmission Executives and Production Assistants were also granted Pay Parity with Engineering Assistants in the scale of Rs. 6500-10500 and Programme Executive with Assistant Engineer in the scale of Rs. 7500-12500.

(7). In Addition to 11 Categories which were granted these Pay Scales, PB granted the same to some more cadres on 9th March 1999 in AIR & DD. The Recovery will adversely effect 11+16= 27 Cadres i.e. more than 18000 employees.

(8). Some EA, SEA and AEs who refused to be part of 05/12/1997 and 25/2/1999, approached Court law through OA 1867/1998 and their Pay Scale is protected and it is clearly mentioned that scale of **Rs. 6500-10500** is replacement scale and not upgradation. They have been granted ACP also as per CAT PATNA verdict OA 514/2002. DEWA case upheld by Apex Court, benefit is extended to SEA/AE vide CAT Patna case no. OA 85/1998 & 662/1998 and granted Pay Scale 6500-200-10500 as normal replacement of 2000-3200 scale of 4th pay commission.

(9). In 2004 on employees demand a High level Group of Ministers (GOM) was formed to review the functioning of Prasar Bharati including funding. The GOM took the decision that Employees joined upto 05/10/2007 shall remain Govt. Employees working in Prasar Bharai till their Retirement with all the benefits admissible to Govt. Employees. Section 11 of Prasar Bharai Act was amended accordingly. The pay scales granted as per the CCS(RP) Rules 1997 amended in the light of OM dated 25.2.1999 (as mentioned in above said letter) stands automatically converted to revised pay scales as per CCS(RP) Rules 2008. (**copy of Gazette Notification enclosed as Annexure - III-1**).

(10). Employees working on deemed deputation in PB got 6th CPC and MACP since their status was cleared by the recommendations of Hon'ble G.O.M.

(11). MACP is granted by the Approval of PB Board in its 113th Meeting. (**Copy enclosed as Annexure IV**).

Shamsher
28/6/19

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(12). Hon'ble MIB issued an Order dated 08/9/2014 based on advise by DoPT in case of
Ref. No. GCW..referred.by.HMIB. (copy enclosed as Annexure V). Date.....

(13). ARTEE filed OA 2479/2015 in CAT Delhi challenging the Order dated 08/9/2014 and CAT imposed stay on the Order and asked Respondents not to issue any adverse Order about 08/9/14 Order. In next hearing the stay is converted in an Absolute one. **(Copy of stay and absolute stay enclosed as Annexure VI)**. Following ARTEE Case PSA filed OA 3046/15 and ADP3 filed OA 2593/15. The Order in ARTEE Case was extended to these OA also.

(14). The issue of MACP Recovery was sent to DoLA and in their considered Advise (copy enclosed) DoLA advised as follows :

Clause 10 , 16 , 17 and 25 are reproduced below :

10. In short, these upgraded scales were given to redress the issues relating to disparity in pay (re-occurred pursuant to 5th CPC). Very opening words of 25.2.99 order read that certain cadres had been agitating...than those recommended by Vth CPC". A complete reading of these two administrative orders explicitly explains the circumstances and purpose for which these were issued as intent was to **Restore** they pay parity which was disturbed and was restored by the M/Finance. These upgraded scales are continuation of recommendations of 5th CPC. The word 'up-gradation' is misnomer.

16. It is noted that an equation is trying to be established between 'up-gradation' and ACP/MACP. Up-gradation in context of 25.2.1999 is result of recognition of higher job content of posts and long due disparity of pay settled by the Supreme Court and has different connotation whereas ACP address the issues of stagnation and is granted where there are no promotions available. The pay scales (vide 25.2.1999 are in continuation of 5th CPC recommendations which created disparity and same was **removed/restored** through this order by MOF/D/of Exp). The distinction is clear and treating the 'up-gradation' in 25.2.99 for the purpose of depriving ACP/MACP benefits to eligible on the premise that they have already availed financial up-gradations"of "ACP is inbuilt in 25.2.99"order appears to be erroneous view.

25. In view of the above stated examination of matter, we are of view that upgraded scales vide 25.2.1999 order have different connotations altogether for the reasons as stated above and cannot be termed as '**availed financial upgradation**' and 'ACP inbuilt in 25.2.1999' for the purpose of depriving of ACP/MACP benefits to these employees/effecting recoveries thereof. Pursuant to 2012 ACT, these employees being central government appear to be eligible for ACP/MACP benefits in terms of ACP Patna case and Professional union which have attained finality. **(Copy of DoLA Advised enclosed as Annexure VII)**.

(15). After this the issue was sent to Deptt of Expenditure returned file with the advise asking HMIB to take a decision.

Handwritten signature and date 14/6/19

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~~(16). One Individual Shaymali Biswas filed too filed an OA 1118/15 and it is allowed by CAT clearly saying that the 25/2/99 scales are revision and not Upgradation. Govt. challenged this verdict in High Court through WPC 2034/2016. Next Date is 12/11/18.....~~
(copy enclosed as Annexure - VII)

(17). On 01/12/2017, CAT Allowed ARTEE OA 2479/2015 in terms of Shayamli Biswas Case which is pending in High Court. **(Copy enclosed as Annexure VIII)**

(18). PSA and ADP3 Cases OA 3046/15 and 2596/15 are pending in CAT.

(19). Taking liberty of expiry of stay in ARTEE OA 2479/15, HMIB issued Order dated 31/1/2018 and asked PB to do compliance of the order. PB on date 06/4/18 asked DG(AIR) to comply. **(Copy enclosed as Annexure IX).**

(20). ARTEE Challenged HMIB and PB Orders in High Court through WPC 5168/18. HC asked to go CAT since this is a fresh cause of Action. HC restricted Respondent from taking any Coercive Action of Re Fixation/ Recovery till CAT is approached. **(Copy of HC Order enclosed as Annexure X).**

(21). Despite Restriction, DG(AIR) issued order dated 26/6/18. Most Negative aspect is that HMIB asked to withdraw one MACP and DG(AIR) has gone one step ahead and asking stations to withdraw two MACP which causing huge losses to Employees belonging to 11 categories. **(Copy enclosed as Annexure XI).**

(22). ARTEE filed Contempt in OA 2479/15 and in hearing dated 29/6/18, CAT issued notices to Respondents and gave interim relief of **restraining Respondents from taking any Coercive step.** The same Order is maintained in hearing dated 02/8/18.

(23). Copy of the order is served to Respondents by hand (Dasti) on 02/7/18 with a request to issue instructions to Stations. **(Copy enclosed as Annexure XII)**

(24). ADG(A) DG AIR Requested to issue a corrigendum based on CAT Order in ARTEE OA 2479/15. **(Copy enclosed as Annexure XIII)**

(25). PSA also challenged DG(AIR) action in CP.

(26). DG(AIR) issued Order in PSA Case on 07/8/18 but refusing to issue order in ARTEE Case saying that it is a different case. This is a clear discrimination. In all of these OAs and WPC the issue is whether to treat 25/2/1999 scales as Upgradation or not. Two OAs Shaymli Biswas and ARTEE are allowed and two of PSA & ADP3 are pending. **(copy enclosed as Annexure - XIV).**

(27). In the above cases Recovery is to be regulated by DoPT Order dated 03/3/16 in verdict delivered in case State of Punjab others vs Rafiq. Masih (White Washer) etc. In civil Appeal No. 11527 of 2014 arising out of SLP No. 11684 of 2012. **(Copy enclosed as Annexure XV).**

Chandry
18/4/19

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~~Other Associations also filed litigations on this issue and obtained similar order based on our OA 2479/2015.~~

Ref. No.

Date.....

It is very surprising that despite clear instructions by Hon'ble judiciary in various cases, a segment is hell bent to downgrade / Re fix / Recover the huge amounts from the salary of incumbents. This is nothing like defying the Hon'ble Judiciary.

Prayer

We request to issue instructions all PAOs by Hon'ble MIB Not to Recover any Amount as per Rafiq Massiah Case and to keep all the Re fixation /downgradation in abeyance till the final outcome of WPC 2034/2016 Shaymli Biswas and Ors. in High Court Delhi.

We request your high office to use your influences to pursue the issue in Hon'ble Ministry of I&B to settle it as it is causing the Re fixation / Recovery and ruining the future of 18000+ employees.

Thanking you,
Yours faithfully,


18/6/19
Umesh Chandra,
President, ARTEE
9871765714
umsharma01@gmail.com

