

No.- 370/2020-S-IV(B)/296  
प्रसार भारती/ Prasar Bharati

(भारत का लोक सेवा प्रसारक)/ India's Public Service Broadcaster)  
आकाशवाणी महानिदेशालय/ Directorate General: All India Radio  
Akashwani Bhawan, Sansad Marg, New Delhi- 110001,

18

19.10.2020

Sh Sanjay Dhar,  
Under Secretary (BA-E),  
Ministry of Information and Broadcasting,  
'A' Wing, Shastri Bhawan,  
New Delhi - 110001

**Subject :** Representations from various Engineering Associations to consider upgraded scales granted by the Ministry of I&B vide OM dated 25.02.1999 to 11 categories of AIR & Doordarshan employees on Deemed deputation to Prasar Bharati as normal Replacement Scale.

Sir,

I am directed to refer to Ministry of I&B's letter dated No. J-11013/9/2020-BAE dated 06/03/2020 addressed to CEO Prasar Bharati, forwarding therein representations received from various Associations namely AADEE, ARTEE and ADTEA on the subject cited above. As directed by Prasar Bharati, this Directorate has examined the above said representations and comments of the DG:AIR are submitted as hereunder:

2. Even though, the recognition of all the above Associations has been kept in abeyance by this Directorate, but as directed by MIB, the representations have been examined by DG:AIR and it has been observed that common concern of all the Associations is related with the directions issued by MIB vide communication dated 31/01/2018 wherein it was conveyed that the upgraded scale granted by virtue of OM dated 25/2/1999 is to be treated as one upgradation for the purpose of MACP. Hence, pay of the beneficiaries of these scales may be reassessed and the same may be re-fixed accordingly. The Associations are apprehensive that this re-fixation of pay will expose its members to huge recoveries. The optimistic view of the Associations is that these scales were not upgraded scales but is just a restoration of the pay scales:

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गोपी लाल नंदा  
GOPI LAL NANDA  
अनुसारक निदेशक/Section Officer  
आकाशवाणी महानिदेशालय/DG: AIR  
नई दिल्ली/New Delhi

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granted by virtue of various court orders and all such matters has already attained finality in the Hon'ble Supreme Court.

3. It is worth mentioning that the issue of upgraded scales is under adjudication before various Hon'ble Tribunals and the Hon'ble High Courts. The Hon'ble High Court of Delhi has stayed the operation of MIB's order dated 31/01/2018. Accordingly, a self-contained note with the approval of Prasar Bharati is submitted as under:

### Background

1.1 **ISSUE NO 1 : The Subordinate Engineering Cadre of All India Radio and Doordarshan under Ministry of Information & Broadcasting is having following hierarchy in ascending order: Helper, Diesel Engine Driver, Technician, Senior Technician, Engineering Assistants (EA), Senior Engineering Assistants (SEA), Assistant Engineers (AE).**

Amongst all above, the Pay Scale of Engineering Assistants (EA) was upgraded to Rs. 2000-3200 from Rs 1400 -2600 as a result of the judgment of the CAT Madras Bench, which was later upheld by the Supreme Court in 1994 for maintaining parity with Sound Recordists with effect from 1978.

Therefore, Pay Scales of EAs due to different court orders before constitution of 5th Pay Commission were as under :

Name of Post	Pre Revised scale	Revised Scale	Effective from
EA *	425 -750	550-990	1.1.1978
-do-	1400 -2600	2000-3200	1.1.1986

\* MIB Order No 310/15/93-B (D), dated 15.05.1995

An anomalous situation arose due to the Supreme Court's Judgment as the promotion post for EAs, i.e. SEAs was in the lower scale of Rs 1640 -- 2900.

गोपी लाल नंदा  
GOPILAL NANDA  
अनुसंधान अधिकारी / Sr. Research Officer  
आकाशवाणी महानिदेशालय / DG: AIR  
नई दिल्ली / New Delhi

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Being aggrieved on granting lower and thereafter same pay scale of EA, the SEA approached courts for pay revision higher than that EA. After attaining legal finality on the verdict of Supreme Court, Government revised the pay scale of Senior Engineering Assistant as follows:

w.e.f. 1.1.1978	-	Rs.550-25-750-EB-30-930
w.e.f. 1.1.1986	-	Rs. 2000-60-2300-EB-75-3275*

\* MIB orders dated 10.06.2002 & 03.09.2002

1.2 **Issue No 2** : The Pay Scales of Technician Grade – I & Grade – II of All India Radio which are interlinked with the Pay scales of EAs, were traditionally the same as Lighting Assistants of Doordarshan. However, the Pay Scales of Light Assistants were revised from the then existing Pay Scale of Rs. 1200 – 1800 to 1400 – 2300 from 1983, as a result of a judicial pronouncement in 1989 consequently the parity between Technicians & Light Assistants got disturbed.

1.3 Thereafter, 5<sup>th</sup> Central Pay Commission was set up which submitted its report on 30<sup>th</sup> January 1997. The Pay commission recommended:

*"Pay Scale of Rs 1600 – 2660 to the EAs in order to maintain the existing parity between the Sound Recordist & Engineering Assistants. We recommend that EAs on promotion as SEA be given the present scale of SEA i.e. Rs 1640 – 2900. Similarly, the post of Assistant Engineer may continue in the existing Scale of Pay of Rs 2000 -3500 & be given the Replacement Scale thereof. However, the existing Pay of EAs as given pursuant to the Court Orders will be fully protected & will be personal to them only."*

In respect of Technicians, Pay Commission recommended:

*"In so far as the demand relating to parity between Technician & Lightni"*

Assistant is concerned, we feel that it would unduly disturb the existing Grade Structure of the Technicians Cadre. Since restructuring of the Cadre is already under process in the Ministry, we do not recommend the demand. The post of Technician will, however, get the Scale of Rs 1320-2040 on account of rationalization.

Thus, it is apparent that 5<sup>th</sup> Pay Commission recommended the Pay Scale of Rs 1600 - 2660 (5000-8000 as replacement) to EAs and Sound Recordists & protected only the Pay (instead of Pay Scale) of the existing incumbents.

Moreover, the Commission did not recommend the parity between Technicians & Lighting Assistants & recommended Pay Scale of Rs 4000 - 6000 for Technician Grade -II & Rs 4500 - 7000 for Technician Grade-I & recommended a three grade structure for Lighting Assistants viz Rs 4000 - 6000, Rs 4500 -7000 & Rs 5000 - 8000.

1.4 These anomalies were brought in the notice of Govt. of India. Accordingly the Union Cabinet on 18<sup>th</sup> July 1997, while accepting the various recommendations of the 5<sup>th</sup> Central Pay Commission directed constitution of a Committee of Secretaries to examine & make recommendations on a Fast Track basis. The Committee was also required to look into the demand for upgradation of the Pay Scale of Engineering Assistants under MIB.

Subsequently, at the instance of MIB, the demand for upgradation of Pay Scales of Technician Grade-I & Grade-II was also included in Terms of Reference of the Committee & this aspect was also considered by said Committee. The Committee comprising of Secretary (Personnel), Secretary (Expenditure) & Secretary (MIB) after taking into account the views expressed by the Administrative Ministries /the representatives of the Associations and other relevant material submitted its report on 1<sup>st</sup> October 1997. The recommendation of the Committee of Secretaries in respect of above stated demand was:

गोपी लाल नंदा  
GOPILAL NANDA  
अनुभाग अधिकारी, Section Officer  
आकाशवाणी महानिदेशालय/DG: AIR  
नई दिल्ली/New Delhi

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*"It may be left to the Prasar Bharati Board to decide the optimal structure of the Organization and Service conditions of its employees including the Engineering Assistants and Technicians Grade-I & Grade-II subject to the condition that no additional financial burden will be imposed on the Government beyond the corpus made available to the new Corporation. Pending any decision by the Prasar Bharati Board in regard to the Pay Scales of Engineering Assistants, Technician Grade I & Grade II, the Pay Scales recommended by the Pay Commission may be granted to them".*

However, MIB through DoPT suggested in Cabinet Note dated 6<sup>th</sup> Nov. 1997 that it would be inappropriate to leave the demand of EAs for upgradation of the Pay Scale for a decision to the Prasar Bharati as Pay Scales were to be made operative w.e.f. 1.1.1996 & any postponement will adversely affect the pay fixation & arrears.

1.5 The Cabinet Secretariat vide Note 61/CM/97 informed that:

*"The Cabinet considered the Note dated 5.11.97 from the Ministry of Personnel, Public Grievance & Pensions, Department of Personnel & Training, circulated in the meeting, and decided that Minister of Information & Broadcasting, in consultation with the Ministry of Finance & Ministry of Personnel, Public Grievances & Pensions, may take appropriate action in the matter".*

1.6 Consequently, as per the understanding between the Sanyukt Sangharsh Samiti representing Association of Radio and Television Engineering Employees (ARTEE) and Technical Employees Association (TEA) and the Government on 7.11.1997, it was decided vide Order 5.12.1997 that pending a final decision by Prasar Bharati, on twin issues of Pay Scales of EAs and Technician and Senior Technician parity with Lighting Assistant Grade II and Grade I, following interim

measures will be taken:

"The Pay of Technician will be fixed in the scale corresponding to the Scale of Rs 1320-2040, i.e. Rs 4000-6000 wef 1.1.96 in accordance with the procedure laid down in Para 7 of the Central Civil Services Rule, 1997. Arrears of pay for the period 1.1.96 to 31.10.1997 on the basis of pay so fixed may be paid. Pay will also be notionally calculated in the Scale corresponding to the Scale of Rs 1400-2300 i.e. Rs 4500-7000 with reference to 1.11.97. A sum equal to 90 per cent of the difference between the emoluments calculated in the two Pay Scales will be paid as an ad-hoc amount in addition with effect from 1.11.97.

The pay of Senior Technician will be fixed in the scale corresponding to the Scale of Rs 1400-2300, i.e. Rs 4500-7000 wef 1.1.96 in accordance with the procedure laid down in Para 7 of the Central Civil Services Rule, 1997. Arrears of Pay for the period 1.1.96 to 31.10.1997 on the basis of pay so fixed may be paid. Pay will also be notionally calculated in the Scale corresponding to the Scale of Rs 1600-2660 i.e. Rs 5000-8000 with reference to 1.11.97. A sum equal to 90 per cent of the difference between the emoluments calculated in the two Pay Scales will be paid as an ad-hoc amount in addition with effect from 1.11.97.

The pay of Engineering Assistants will be fixed in the Scale corresponding to the Scale of Rs 1600-2600, i.e. Rs 5000-8000 wef 1.1.96 in accordance with the procedure laid down in Para 7 of the Central Civil Services Rule, 1997. While so fixing the Pay, the Pay of incumbent EAs, who were drawing Pay Scale of Rs 2000-3200 will be protected as recommended by the 5<sup>th</sup> Commission. Arrears of Pay for the period 1.1.96 to 31.10.1997 on the basis of Pay so fixed may be paid. Pay will also be notionally calculated in the Scale corresponding to the Scale of Rs 2000-3200 i.e. Rs 6500-10,500 in case of incumbents only with reference to 1.11.97. A sum equal to 90 per cent of the difference between the emoluments calculated in the two Pay Scales will be paid as an ad-hoc amount in addition with effect from 1.11.97. However, new recruits to the post of

गोपी लाल नंदा  
GOPY LAL NANDA  
अनुभाग अधिकारी / Section Officer  
आकाशवाणी मंत्रालय, दिल्ली  
नई दिल्ली / New Delhi

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Engineering Assistant will be appointed in the pay scale of Rs 5000-8000 i.e. the Pay Scale recommended by the 5<sup>th</sup> Central Pay Commission.

The pay of Senior Engineering Assistant will be fixed in the Scale corresponding to the Scale of Rs 1640-2900, i.e. Rs 5500-9000 wef 1.1.96 in accordance with the procedure laid down in Para 7 of the Central Civil Services Rule, 1997. While so fixing the Pay, the Pay of incumbent Sr.EAs, who were drawing Pay Scale of Rs 2000-3200 will be protected as personal to them. Arrears of Pay for the period 1.1.96 to 31.10.1997 on above basis will be paid. Pay will also be notionally calculated in the Scale corresponding to the Scale of Rs 2000-3200 i.e. Rs 6500-10,500 in case of incumbents only with reference to 1.11.97. A sum equal to 90 per cent of the difference between the emoluments calculated in the two Pay Scales will be paid as an ad-hoc amount in addition with effect from 1.11.97."

1.7 Prasar Bharati (Broadcasting Corporation of India) Act 1990 was notified on 15<sup>th</sup> September 1997 with 23<sup>rd</sup> November 1997 as appointed date i.e. the date, where from the erstwhile Civil Servants under the Union of India would be treated as on deemed deputation with Prasar Bharati.

The long pending demands of Prasar Bharati Employees Association for enhanced Pay Scales were placed before Prasar Bharati Board, in its first meeting, on 10-11 December 1997 and Board agreed to the following demands of Staff Associations:

- a. The EAs, SEAs and AEs of the Subordinate Engineering Service of AIR and DD will be given the replacement Scales for the pre revised scales of Rs 2000-3200, Rs 2375-3500 and 2375-3750 respectively.
- b. The Transmission Executives in the Programme Subordinate Cadre will have the pre-revised pay scale of Rs 2000-3200.
- c. Similarly, the Programme Executives have been recommended the

replacement scale for Rs 2375-3750.

d. Based on the agreement between the Government and Sanyukt Sangharsh Samiti, the All India Radio and Doordarshan Directorates under Prasar Bharati have already issued orders for ad hoc increase in the salaries of Technicians, Senior Technicians, EAs and SEAs. Revised Pay Scales for other categories like Helpers, Diesel Engine Drivers, Technicians, Sr Technicians, Diesel Technicians, Mast Technicians, and Sr Carpenters etc. The Pay Scales for Sr. Technicians and Technicians have been recommended at par with those sanctioned for Lighting Assistants Gr.I and Gr.II (i.e. pre revised: Rs 1600-2600 and Rs 1400-2300) respectively.

1.8 Thereafter, on 25.2.99, MIB granted upgraded Scales to Certain Categories of Employees working in Prasar Bharati with following conditions:

(i) *The Upgraded Scales will be allowed not as Govt. employees per se but as Government employees currently in service of Prasar Bharati (Broadcasting Corporation of India). As and when the employees, presently working in All India Radio and Doordarshan are asked to exercise their option, those who do not opt for Prasar Bharati will revert as Govt. Servants and will no longer be entitled to have above Scales. They will also have to refund all benefits availed of by them as a result of the grant of higher Scales of Pay. They will be liable to recovery of all such benefits. An undertaking to this effect has to be submitted by each and every employee concerned before availing the benefit of upgraded Scales of Pay. This is in accordance with their agreement with the Government to avail these upgraded Scales on this condition only.*

(ii) *Upgraded Pay Scales would be effective from 1.1.96 but payment of salary to employees as per upgraded Scales of Pay will be made with effect from 1<sup>st</sup> March 1999.*

(iii) *The employees concerned will be entitled to arrears with effect from 1<sup>st</sup>*



January 1996 and these arrears will be made in installments. The first installment of arrears pertaining to the period from November 1997 till February will be paid by April, 1999. The second installment pertaining to remaining of the arrears (i.e. arrears from 1.1.1996 to October 1997) will be paid by April, 2000. The payment of arrears shall be made after adjustment of the already paid to the categories of Technicians, Senior Technicians, EAs and SEA on the basis of this Ministry's OM No 310/173/97-B(D) dated 5.12.1997.

iv) In addition, the Pay of those employees of All India Radio and Doordarshan who had been working as Transmission Executives as on 1.1.1978 or afterwards would be notionally fixed in the Pay Scale of Rs 550-900 with effect from 1.1.1978 and in the pay scale of Rs 2000-3200 with effect from 1.1.1986 before fixing their pay in the upgraded Pay Scale as on 1.1.96. But as per agreement with the Government, this will not entitle them to any payment of arrears for the period prior to 1.1.96 and will be limited to fixation of their current pay as on 1.1.96.

Upgraded Scales given vide order dated 25.02.1999:

S No	Category of Posts	No of Posts	Pay Scale recommended as per 5 <sup>th</sup> Pay commission	Upgraded Scale
<b>Engineering Category:</b>				
1	AE (including AEs in CCW)	1756 +(1322)	6500-10500	7500-12000
2	SEA	2054	5500-9000	7450-11500
3	EA	4246	5000-8000	6500-10500
4	Senior Technician	1680	4500-7000	5000-8000
5	Technician	2946	4000-6000	4500-7000
6	Diesel Technician	140	4000-5000	4000-6000 (15% of posts) 4500-7000 (20% of posts) 5000-8000 (65% of posts)
7	Mast Technician	70		4000-6000

गोपी लाल नंदा  
GOPI LAL NANDA  
अनुभाग अधिकारी / Section Officer  
आकशिवाणी महानिदेशालय, डी.ए.आर.  
नई दिल्ली / New Delhi

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				(15% of posts) 4500-7000 (20% of 5000-8000 (65% of posts)
8	Diesel Engine Driver	130	3050-4590	3050-4590 (75%) 3250-4900 (25%)
9	Helper	1312	2650-4000	2650-4000 (75%) 3050-4590 (25%)
<b>Programme Category:</b>				
10	Programme Executive	1961	6500-10500	7500-12000
11	Transmission Executive	1841	5000-8000	6500-10500

Thus, vide Order dated 25.02.1999, long pending demand of enhanced Pay Scales to Engineering Assistants and parity of Technician and Senior Technician with Lighting Assistant was met. It was also in congruity with different court judgments in this regard as these were normal replacement Scales as per 5<sup>th</sup> Pay commission, to the Pay Scales obtained through Court Orders. However, besides these above mentioned Categories, rest all Categories of employees received upgraded Scales on account of transfer from Govt. of India to autonomous body. Prior to that, the Associations mounted pressure for upgraded Scale on Govt. of India and all such employees have gone on mass leave on 18<sup>th</sup> and 22<sup>nd</sup> May 1997. Further they have given a notice to go on indefinite strike waf 4<sup>th</sup> June 1997. To avert any untoward situation, intervention at highest level took place. Consequently, constitution of Fast Track Committee and ensuing events including order dated 25.02.1999 followed and issue attained finality.

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**Initiation of Issue – Consideration of Upgradation Given vide MIB Order dated 25.2.1999 as One Financial Upgradation under MACP**

2.1 A proposal relating to grant of 3<sup>rd</sup> MACP in Grade Pay of Rs 7600 to 41 AEs of the CCW, AIR, who were beneficiary of Upgraded Scales given vide MIB Order dated 25.02.1999, was sent to MIB for approval of Competent Authority. For which, MIB sought clarification of DoPT. DoPT vide ID dated 10.07.2013 clarified as under:

"3. Pay Scales of Employees on deemed deputation would be governed by their terms of appointment. The administrative Ministry has informed that appointment of the concerned employees in the Prasar Bharati (BCI) are entitled to Pay and all other benefits as admissible to an employee of the Central Govt. However, the officials were also granted the upgraded scale of Rs 7500-12000 vide MIB order 25.02.1999, which is not admissible to an employee of the Central Govt.

4. As the benefits under the MACPs are allowed in the Grade Pay hierarchy, any upgradation availed during their career would be counted against the 3 upgradations under the MACPs"

2.2 Subsequently, MIB vide letter No. 503/5/2014-BA (E) dated 08.09.2014, in consultation with DoPT clarified that

" As the benefits under MACPs are allowed in the Grade Pay hierarchy, any up-gradation availed during their career would be counted against three up-gradations permissible under the MACPS "

2.3 Prasar Bharati took up the issue with MIB vide letter dated 22.10.2014, to reconsider Ministry's decision in this regard by giving justifications based on DoPT rules. However, the Ministry reiterated its stand vide MIB letter dated

31.01.2018. Accordingly, employee's Pay/Pensions were started to be refixed by different Stations/ and validated by PAO by withdrawing one MACP/ACP given post 25.02.1999, which impacted employees/pensioners adversely with individual recoveries ranging from Rs. 2 – 6 Lakhs (approximately) that too on the verge of retirement/after retirement.

2.4 Aggrieved with the recovery, affected employees/pensioners or their Associations went to different Courts across India. Among all such court cases, the Hon'ble Principal Bench of CAT vide order dated 1/8/2019 in OA No. 2449 /2018 upheld the decision given by MIB vide order dated 31.01.2018 which is reproduced below:

" We, therefore, dispose of the O.A . by:

(a) Upholding the impugned orders dated 31.01.2018 and 05.02.2018, but directing that:

- i. The amounts paid to the applicants and similarly situated persons towards arrears as are mentioned in the order dated 25.02.1999, shall not be recovered;
- ii. The difference of the Pay Scale extended to them through the said order shall be adjusted towards the MACP that becomes due for them;
- iii. If the MACPs are yet to accrue to them, the recovery shall be deferred till the same is extended to them;

(b) If in spite of exercise referred to above, any recovery becomes inevitable, the principle laid down by the Hon' ble Supreme Court in **State of Punjab and others Vs. Rafiq Masih (White Washer) etc., (2015) 4 SCC 334**, shall be followed. 26 OA No.2449 /2018

(c) The Pay Scales of the applicants shall be re-determined in the light of the above, within a period of four weeks from the date of receipt of a certified copy of this order, subject to the conditions referred to above. 11.

the course of implementation of the impugned orders, the respondents shall ensure that the applicants and similarly situated employees are not in a condition disadvantageous to the one compared to the employees of similar category working in the other establishments with similar avenues of promotion.

(d) So far as the reliefs (ii), (iii), (iv) and (v) in the O.A. are concerned, they are rejected leaving it open to the applicants to pursue the remedies, in accordance with law.

There shall be no order as to costs."

2.5 Presently, [Association of Akashvani and Doordarshan Engineering Employees (**unrecognized as on date**)] AADEE has assailed the Court verdict in High Court of Delhi by filing Writ Petition No. 9890/2019. The High Court by passing an interim order stayed the CAT Orders. Accordingly the Ministry of I&B vide V-11013/20/2018-BAE dated 15.06.2020 issued instructions to maintain *status quo* in respect of applicants and other similarly placed officials till the next date of hearing. The Counter Affidavit, advocating the merits based on which MIB issued order dated 31.01.2018 has been filed. The next date of hearing in the matter was 14.4.2020 but due to lockdown and thereafter limited working of the Hon'ble High Court, the next date of hearing in the matter is not yet notified.

#### TYPES OF COURT CASES DUE TO MIB OM Dated 25.02.1999

3.1 Some of the Employees are contesting court cases on the plea that these Scales must be treated as replacement Scales and not upgraded Scales. Accordingly, they may be given ACPs/MACPs. It is worth mentioning that some of such employees who were otherwise eligible for grant of ACP, have not been given ACPs but have been given MACP(s) instead.

3.2 Another set of Employees contested their cases on the plea that the

Pay Scales of EA, SEA and AE i.e. Rs. 2000-3200, Rs. 2000-3275 and Rs. 2000-3500 have been merged by 5<sup>th</sup> CPC into a single Pay Scale of Rs. 6500-10500/- hence they may be given 1<sup>st</sup> ACP in Pay Scale of Rs. 8000-13500. In all, 26 such Engineering Employees have got 1<sup>st</sup> ACP in Pay Scale of Rs. 8000-13500 on the basis of Court Orders. **Eleven court cases** are pending in various courts seeking similar benefits.

**Analysis:**

4(a) As apparent from foregoing paragraphs, the Scales granted by MIB vide OM dated 25.2.1999 have already been restored in due course of time by various court judgments in respect of above mentioned 7 Categories of Employees except Helpers, AEs of CCW, Transmission Executives and Programme Executives of Programme Cadre from predates of 5<sup>th</sup> Pay Commission i.e. w.e.f. 1.1.78 and 1.12.83 in case of EAs and Technicians respectively. Hence, upgraded Scales have only regularized the anomaly which has crept in due to reduction of Pay Scales by 5<sup>th</sup> Pay Commission, to draw parity with employees of Film Division and as per the Court orders that has attained finality.

4(b) Department Of Expenditure, Ministry of Finance vide OM dated 13.11.2009 and OM dated 16.11.2009 has upgraded the Grade Pay of Assistants of Central Secretariat Services(CSS), Armed Force Headquarter Services(AFHQ), Indian Foreign Service 'B', Railway Board Secretariat Service, Personal Assistants (PAs) in their counterpart Service, to Rs 4600 from Rs 4200 w.e.f. 1.1.1996. However, this upgradation has not been offset against one MACP as in the case of 11 Categories of Employees of Prasar Bharati which were granted upgraded Scales vide MIB Order 25.2.1999. It indicates that the upgradation vide OM dated 13.11.2009 is considered as replacement and not upgradation as the OM says; "*Grant of the revised Pay Structure of Grade Pay of Rs. 4600 in the Pay Band PB-2 to posts that existed in the pre-revised Scale of Rs. 6500-10500 as on 1.1.2006 and which were granted the normal replacement Pay structure of Grade Pay of Rs. 4200 in the Pay Band PB-2*"



4(c)

Thirdly, the advice of DoPT based on which the above said decision of counting upgradation, as one financial upgradation under MACP was taken, runs counter to the clarifications regarding ACP as contained in their OM dated 18.7.2001, which, inter alia, provides under S. No. 35 that, "where all the posts are placed in a higher Scale of Pay, with or without a change in the designation; without requirement of any new qualification for holding the post in the higher Grades, not specified in the Recruitment Rules for the existing post and without involving any change in responsibilities and duties then *placement of all the incumbents against such upgraded posts is not to be treated as promotion/upgradation.*"

*These conditions are fully met in respect of 11 Categories of Employees in the Ministry of Information and Broadcasting Order dated 25.2.1999 and such employees are, therefore, eligible for grant of ACP and consequently MACP, after ignoring the upgraded Scales of Pay.*

4(d)

It may also be clarified that the upgraded Pay Scales as per OM dated 25.2.1999 were given to the Employees not as Government Servants but as Employees of Prasar Bharati, who opt for Prasar Bharati, in case such an occasion comes up. Such an occasion, never came up as with an amendment to Section 11 of PB Act, as Prasar Bharati employees who joined Prasar Bharati up to 5<sup>th</sup> Oct 2007 are to be treated as Central Government employees on 'deemed deputation' till their retirement and thus exercise of option has become redundant.

4(e)

Further, these upgraded Scales were given with the approval of the Cabinet after consultation with the Department of Expenditure as well as the Department of Personnel and Training.

4(f)

Since ACP is applicable to those employees who joined before 05.10.2007, MACP will also be applicable to them automatically as they are treated as Government Servants and there is no need for obtaining prior approval of administrative Ministry/ Financial Advisor as laid down in DoPT order dated 3.08.2010. The Prasar Bharati Board in its 109<sup>th</sup> meeting held on 6<sup>th</sup> August 2012

गोपी लाल नंदा

GOPAL NANDA

अनुभाग/अधिकारी/Section Officer

आकाशवाणी नए दिल्ली/DG: AIR

नई दिल्ली/New Delhi

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approved the grant of MACP to the employees of Prasar Bharati in general and to employees in 11 Categories covered by MIB OM dated 25.2.1999, in particular.

4(g) It is further submitted that on grant of upgraded Scales vide MIB OM dated 25.02.1999, the pay fixation of affected employees was done in following manner.

Extracts of Service Book of Smt. Madhu Kumar, AE, is reproduced hereunder :

*In compliance with Min. of I&B OM No. 310/173/97-B(D) dated 25.2.99 received under DG, PB F. No. 9(5)/99-Scor/776 dated 26.2.99, pay is fixed in upgraded scale of Rs. 7450-225-115-11500 w.e.f. 1.1.96.*

Pay fixed in upgraded scale w.e.f. 1.1.96	Date of next increment	Pay after increment
Rs. 7450-225-11500 Rs. 8800/	1.1.97	9025/-
1.1.98	9250/-	
1.1.99		9475/-

Vide SDD Del 1(1)/PF/97-98/Technical/S.II dated 28.4.99  
Copy pasted in Service Book

The above pay fixation has been done as is being done for the implementation of Recommendation of Pay Commissions and not as per the pay fixation due to grant of ACP/MACP/Promotion i.e. by giving an increment and the difference of Grade Pay/Pay Level.

4(h) Whereas the standard procedure at the time of grant of ACP/MACP/Promotion is as follows:

*"One increment equal to 3% of the sum of the pay in the Pay Band and the existing Grade Pay will be computed and rounded off to the next multiple of 10. While round off, paise should be ignored but any amount of a rupee or more should be rounded off to next multiple of 10. This will be added to the existing Pay in the Pay Band. The Grade Pay corresponding to the promotion post will thereafter be granted in addition to this pay in the Pay Band. In cases where promotion involves change in the Pay Band also, the same methodology will be followed. However, if the pay in the Pay*

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GOPI LAL NANDA

अनुसंधान अधिकारी/Section Officer  
आकाशवाणी मंदिर, प्रसारण/UG: AIR  
नई दिल्ली/New Delhi

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which promotion is taking place, pay in the Pay Band will be stepped to such minimum."

5. As far as case of employees (Technicians) recruited between 23/11/1997 to 5/10/2007 is concerned, all such employees have been given, so called upgraded Scales by virtue of Court Orders, as their starting Pay Scale. Thus, it can be inferred that such kind of employees have been given upgraded Scales as the starting Scale on joining of their Service. As they have received the benefit of upgraded scale from the date of their joining itself, it is not proper to offset one of the MACP as they never got any upgradation after joining the service. However, clarification vide MIB order dated 31.1.2018 is made applicable to this set of employees also.

6. In view of the facts submitted and analysis drawn herein above, the upgraded Scales granted by MIB vide OM dated 25.2.1999 to 11 Categories of Employees of Prasar Bharati are on the lines of replacement Scales than upgraded Scales. Moreover, as brought out earlier, the Deptt. is facing large number of Court Cases and receiving huge number of grievances from pensioners on this issue. Hence, MIB may consider withdrawal of its order dated 31.01.2018 as most feasible solution to this problem.

This issues with the approval of CEO, Prasar Bharati.

Yours faithfully,  
19-10-2020  
(Kamranjeet Singh)  
Deputy Director Administration (65/1)

गोपी लाल नंदा  
Gopi LAL NANDA  
अनुशासक अधिकारी/Section Officer  
आकाशवाणी महानिदेशालय/DG: AIR  
नई दिल्ली/New Delhi