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DDK Thrissur - Audit objection based on misinterpreted Rules – imminent threat of downfixation & recovery – request to stop same

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To: ceo@prasarbharati.gov.in

**ASSOCIATION OF RADIO AND TELEVISION ENGINEERING EMPLOYEES
(ARTEE)****Largest Employees Welfare Association of Electronic Media****Affiliated to Bharatiya Mazdoor Sangh***Affiliated To Union Network International, Geneva***WWW.arteeindia@gmail.com****Ref: ARTEE/P/02/2020-21/77****Date: 27th July 2021**

To,
The Chief Executive Officer,
Prasar Bharati,
Parasr Bharati House,
Copernicus Marg,
New Delhi -110001

SUB : DDK Thrissur - Audit objection based on misinterpreted Rules – imminent threat of downfixation & recovery – request to stop same – reg

- REF : 1) AG Office Audit Para dated 30 June 2020, at DDK Thrissur
- 2) DoPT MACP Order No. 35034/3/2008-Estt-D dated 19.05.2009 & related FAQ dated 09.09.2010
- 3) DoExp OM No.10/02/2011-E.III/A, dated 07.01.2013 on fixing pay
- 4) DoExp OM No. 1/1/2008-IC, dated 13.11.2009 on granting revised GP of Rs. 4600/-
- 5) MoIB's proposal F.No. V-13014/1/2019 – BAE, dated 27.02.2020 to merge Sr Tech&Tech in Rs.4200 GP
- 6) Prasar Bharati proposal A-10/66/2010-PPC, dated 20.01.2017 to merge EA & SEA in Rs.4600 GP
- 7) Ld. CAT Delhi Stay in CP 371/2018 in OA 2479/2015 against DG-AIR Order No.16/2/2018-S IV (B) / 433 dated 26.06.2018
- 8) DoPT OMs FNo.22034/4/2020-Estt(D) of 23.03.2020 & 05.04.2021 -MACP to be given in GP Hierarchy

Esteemed Sir,

We draw your attention to a disturbing development at DDK Thrissur, where the AG Office Audit party, acting under mistaken assumptions and misinterpreted rules, observed that the MACP granted to a few employees at that office was wrong (Ref. 1). It is understood that the concerned office is in the process of initiating withdrawal of MACP & refixation, based upon this audit para.

We submit that the audit party's conclusions are wrong. We are hereby attaching a detailed note on the factual rule position.

In the meanwhile, we request your good self to immediately instruct the concerned field office NOT TO INITIATE ANY COERCIVE ACTION LIKE DOWN-FIXATION / WITHDRAWAL OF MACP / RECOVERY.

Thanking you & with sincere regards,

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A note on the audit party observations and the factual rule position:

The audit party observed that the MACP granted to the employees at DDK Thrissur at a higher Grade Pay is wrong. It came to this conclusion under the assumption that payscales of EA&SEA came to be identical (Rs.4600/- GP) *as per recruitment rules*. Likewise, they assumed that Tech & Sr Tech are in same GP (Rs.4200) *as per Recruitment Rules*. Hence, as per their conclusion, based upon FAQ No. 6 of the FAQs issued by DOP&T vide F.No.35034/3/2008-Estt.(D) dated 09.09.2010 (Ref. 2), promotion and MACP should be given in same Grade Pay.

The audit party's assumptions in both cases are wrong. ***As per the extant Recruitment Rules, the payscales of Tech and Sr Tech are distinct and separate from each other. Same holds true for the payscales of EA & SEA.***

The Grade Pay of Tech & Sr Tech came to be identical because of judicial action - not because of Recruitment Rules. The Grade Pay of EA&SEA came to be identical because of the implementation of 6th CPC recommendations -not because of Recruitment Rules. Based upon these new scales, ***the department is in the process of merging Tech-Sr Tech and EA-SEA, and amending the concerned Recruitment Rules.***

Consequent upon implementing the Rs.5000/- scale to Technicians, Ministry initiated a merger exercise (proposal to merge Tech, Sr Tech, Diesel Tech & Mast Tech in Rs.4200/- scale) which is presently under the consideration of nodal ministries (Ref.5).

When 6th CPC was implemented w.e.f. 01.01.2006, EA was placed in 4200 GP as replacement for 6500 scale and SEA was placed in 4600 GP as replacement for 7450 scale respectively. Later, as per DoExp OM (Ref.4), DG AIR granted 4600 GP to EA. By such action, our ministry implemented the DoExp OM only partially. The other part of the DoExp OM which instructs to merge the two cadres (EA&SEA) and amend Recruitment Rules has not been implemented yet. ***The relevant Recruitment Rules have not been amended so far. A proposal from Prasar Bharati for such merger and modification of relevant RR is presently with Ministry*** (Ref.6).

In connection with MACP, FAQ No. 6 of the FAQs issued by DOP&T vide F.No.35034/3/2008-Estt.(D) dated 09.09.2010, states (Ref. 2) :

Q: Whether the promotions in same grade would be counted for the purpose of MACPS?

A: The financial upgradation under the MACPS is in the immediate next higher grade pay in the hierarchy of recommended revised pay bands and grade pay as given in CCS (Revised Pay) Rules, 2008. However if the promotional hierarchy as per recruitment rules is such that promotions are earned in the same grade pay, then the same shall be counted for the purpose of MACPS."

FAQ No. 15 of the same document states:

Q: How the cases of pre- revised pay scales (Rs.5000-8000 & Rs.5500-9000 and Rs.6500-10500 & Rs.7450-11500) merged w.e.f. 01.01.2006 are to be decided under MACPS?

A: The cases would be regulated in accordance with para 5 of Annexure-1 of MACPS. The Ministries/ Departments are expected to re-organise cadres and frame common RRs for the post in merged scales."

Para 5 of Annexure -1 of MACP Order dated 19.05.2009 states :

"Promotions earned in the past to those grades which now carry the same grade pay due to up-gradations of posts recommended by the Sixth Pay Commission shall be ignored for the purpose of granting up-gradations under Modified ACPS".

The auditors wrongly assumed that FAQ 6 is applicable in this case, whereas in fact, FAQ 15 is applicable in this case and other such cases. Because, as stated above, in subordinate engineering hierarchy, EA and SEA posts are in different scales as per existing Recruitment Rules. Likewise, Tech and Sr Tech posts are also in different scales, as per existing RR Rules. ***The exercise of reorganizing cadres and framing common RRs for the post in merged scales is still ongoing in our department.***

As per DoExp Rules, if the payscale of feeder and promotion posts becomes identical (due to pay commission recommendations or judicial actions), then it is the duty of the concerned department to do following:

(A) Either it has to merge those two posts so that previous promotions from feeder to promotion posts stand ignored OR

(B) it has to give a higher scale to the promotion post, and, with permission from DoPT, modify the RR of both feeder & promotion post accordingly.

In our department, merger exercise is presently going on in the Ministry.

Kindly note that ACP / MACP are built upon promotion rules. As per the promotion rules mandated in our RRs, our promotion is given to a different, higher scale. Not in the same scale. ***It is extremely disappointing that the Audit party referred to DoExp OM of 7th January 2013 (Ref.3), while ignoring that this very OM very clearly refers to the most important DoExp OM of 24.11.2000 which recommended cadre restructure exercise in such cases!***

The audit para also refers to the DG-AIR Order dated 26.06.2018. However, there is a stay on the operation of this Order granted by Ld. CAT Principal Bench, Delhi, dated 29.06.2018 (Ref.7).

There is a DOP&T order dated 24.03.2009 on how to frame RR Rules for cadres merged / upgraded due to 6th CPC recommendations. It directed all Ministries to complete the formalities within 6 months. *Sadly, our department could not do it even after 12 years. The resulting confusion and the unhelpful stance taken by sections among the administration is leaving the staff with tears in their eyes.*

Finally, we invite your attention to the DoPT Orders of 23 March 2020 and 05 April 2021 stating that MACP must be granted strictly in Grade Pay Hierarchy, NOT in promotional hierarchy (Ref.8). Even by these Orders, the MACP granted to the staff of DDK Thrissur is in order.

In conclusion, we reiterate that merger process of Tech&Sr Tech as well as EA & SEA is ongoing. Hence, the audit observations are infructuous. And we request your good self to immediately direct DDK Thrissur administration to cease all down fixation / MACP withdrawal / recovery.