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**Representation to convey widespread resentment against the DG,  
DoordarshanDelhi's arbitrary and against the natural justice decision to treat EA to  
SEA promotion as one Upgradation in MACP**

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12 March 2021 at 16:47

**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**

ARTEE/P/02/2020-21/53

Date:12.3.21

**Hon'ble Secretary to Govt of India,  
Ministry of Information&Broadcasting,**6<sup>th</sup> Floor, ShastriBhawan,  
New Delhi – 110001**Chief Executive Officer,**PrasarBharati,  
Copernicus Marg,  
New Delhi – 110001**Chief Controller of Accounts/Principle Accounts Officer,**7<sup>th</sup> Floor, Ministry of I & B,  
ShastriBhawan, New Delhi – 110001

Subject :[1]. Representation to convey widespread resentment against the DG, Doordarshan Delhi's arbitrary and against the natural justice decision to treat EA to SEA promotion as one Upgradation in MACP, violating the DoEXP Order dated 13/11/2009 &MACP guidelines issued from time to time by DoPT resulting in huge loss to the retiring employees in their terminal benefits.

[2]. Intimation about protection granted by Hon'ble High Court, Delhi in case of Shyamli Biswas (Interim Order dated 12/11/18 in WP(C) 11639/2017 instructing to release the deducted amount with 9% interest – enclosed as Annexure- )from any Recovery as per verdict of Hon'ble Supreme Court in RafiqMasih case.

Respected Sir,

With most affectionate regards, we want to convey this Association's strong resentment against the DG:Doordarshan, Delhi's arbitrary and against the natural justice decision to treat EA to SEA promotion as one Upgradation in granting MACP, violating the DoEXP Order dated 13/11/2009 &MACP guidelines issued from time to time by DoPT, resulting in huge loss toretiring employees in their terminal benefits. **(copy of DG DD Order 20/4/2021S.IV/765**

**dated 05.3.21 enclosed as Annexure I)** issued in case of an individual Late Ravi Kant Verma, Retired SEA, DDK Jammu).

Through this letter, the DG DD has insructed Station Head, DDK Jammu to refix the Pension and other terminal benefits of Late R.K Verma after counting EA to SEA as one promotion and henceforth withdrawing one MACP granted w.e.f. 01.09.2009. This will cause in huge loss of pension to Shri Verma and other similar employees. About grant of MACP we want to bring following facts for your kind consideration :

[1]. The clause-5 mentioned on Page 4 of MACP order 35034/3/2008-Estt. (D) dated 19/5/2008 (**Copy enclosed as Annexure II**) issued after grant of 6<sup>th</sup> CPC, clearly insructs to ignore any promotion earned in past to those grades which now carry the same Grade pays. The clause is reproduced below :

*5. Promotions earned/upgradation~ granted under the ACP Scheme in the past to those grades which now carry the same grade pay due to merger of pay scales/upgradations of posts recommended by the Sixth Pay Commission shall be ignored for the purpose of granting upgradations under Modified ACPS.*

[2]. The Deptt of Expenditure further clarified the same thing through its order dated 13<sup>th</sup> November 2009. This order also makes it amply clear that post of EA having pre-revised scale 6500-10500 and post of SEA carrying pre-revised scale of 7450-11500 are to be merged in Grade Pay 4600. Please see para 3 of aforesaid Order (**DoEXP Order enclosed as Annexure III**).

[3]. The DoEXP order dated 13/09/2011 is implemented in our department through DG(AIR) Order dated 16/11/2009 and through DG(DD) Order dated 7/10/2010. (**Copy enclosed as Annexure IV& Annexure V**)

[4]. After this in the issue of grant of G.P. 5400 PB-II to AEs of this department DG(AIR) issued a very clear order dated 03.09.2010 ignoring EA to SEA Promotions on the basis of DoEXP Order dated 13/11/2009. (**Copy enclosed as Annexure VI**).

[5]. In FAQ issued by DoPT to clear the provisions of MACP scheme, it is clearly mentioned that the issue of pre revised scales of 5000-8000/5500-9000 & 6500-10500/7450-11500 will be governed as per clause 5 of MACP order as mentioned above. (**copy of FAQ is enclosed as per Annexure VII**).

[6]. In Compliance of orders by DG(AIR) and DG(DD) as per DoEXP, the MACP is granted to the cadres of Helpers to AEs in AIR & DD throughout the country.

It is a very sad state of affairs that now after passing more than a decade PAOs has started questioning these orders and delaying the clearance of terminal benefits of retiring employees despite strict orders to clear the Pension and other benefits in a time bound manner. The recent order by DG DD will cause huge loss of lakhs of Rupees to all the pensioners.

It is requested that above order may please be withdrawn in the light of facts mentioned above.

**Intimation about protection granted by Hon'ble High Court, Delhi in Shyamli Biswas Case (Interim Order dated 12/11/18 in WP(C) 11639/2017 instructing to release the deducted amount with 9% interest – enclosed as Annexure- ) from any Recovery as per verdict of Hon'be Supreme Court in RafiqMasih case.**

Further we want to intimate your high office about protection granted by Hon'ble High Court, Delhi in SmtShyamli Biswas Case (Interim Order dated 12/11/18 in WP(C) 11639/2017 instructing to release the deducted amount with 9% interest – enclosed as Annexure- ) from any Recovery as per verdict of Hon'ble Supreme Court in RafiqMasih case. The RafiqMasih case is explained below in brief :

**[7]. Impermissibility of Recoveries as per RafiqMassiah Case.**

The Hon'ble Supreme Court about Recovery from Employees. On 18.12.2014, Hon'ble Supreme Court in its verdict in 242 Civil Appeals about Recovery of excess payment to employees, clearly settled this issue in favour of Employees. In verdict delivered in case State of Punjab others vs RafiqMasih (White Washer) etc. In civil Appeal No. 11527 of 2014 arising out of SLP No. 11684 of 2012. **(Copy of DoPT Order dated 02/03/2016 is enclosed as Annexure VIII).**

The Apex Court has clearly laid down the circumstances where the Recovery from employees shall be impermissible which are given below :

- (a). Recovery from Employees belonging to Class III and Class IV services. (Class 3 and class 4 employees).
- (b). Recovery from employees retired or retiring within one year from the date of Recovery.
- (c). Recovery for excess payment done more than five years prior to order of Recovery.
- (d). Recovery where Employee performed duties equitable to higher post but paid for lower.
- (e). In any other case when Court arrives at the conclusion that recovery if made from employees would be iniquitous or harsh or arbitrary to such an extent as would far outweigh the equitable balance of the employer's right to recover.

[8]. Protection against Recoveries by Hon'ble High Court in Shyamli Biswas case through WP(C) 11639/2017.

There have been several litigations on the issue but two cases OA 1118/2015 **(copy enclosed as Annexure IX)** by Shyamli Biswas and OA 2479/2015 by this Association ARTEE are allowed by learned Principal Bench of CAT Delhi with clear directions to the Respondents, not to treat 25/2/99 scales as an Upgradation while granting MACP. The case OA 1118/2015 of ShyamliBiswas is challenged by department in Hon'ble High Court Delhi through WPC 2034/2017. The Case OA 2479/2015 is also allowed in terms of OA 1118/2015 and clubbed with WPC 2034/2017 by Shaymli Biswas Case and it is clearly mentioned in the verdict that the outcome of WPC 2034/2017 will be applicable on the applicants of OA 2479/2015.**(Verdict of OA 2479/2015 as Annexure- X).**

Meanwhile,Smt.Shyamli Biswas filed another WPC 11639/2018 with the prayer to release her deducted Amount of Rs. 6,90,104/- with 18% interest. The WPC 2034/2017 and WPC 11639/2017 came up for hearing on 12/11/2018. The interim order in WPC 2034/2017 which stayed the implementation of verdict of learned Tribunal in OA 1118/2015 by Shyamli Biswas is modified to the extent that **her dues to be paid with 9% interest** to Shyamli Biswas in 15 days as the issue is squarely covered by RafiqMassiah Case. **(Copy of Interim order of WPC 2034/2017 and WPC 11639/2017 is enclosed as Annexure – XI).**

As mentioned above that the case filed by ARTEE, OA 2479/2015 is clubbed with this case and any verdict in this case will be implemented for all ARTEE Members. That makes amply clear

that all Members of this Association are entitled to get protection from Recoveries as per Rafiq Masih Case.

In all cases the payment of terminal benefits are delayed without any fault of employees. **It is pertinent to mention that by not releasing the terminal benefits shall cause the loss of interest @ 9% to the exchequer.**

It is pertinent to mention that this is employees' legitimate right to get timely payment of Terminal benefits. The Department of Pension and Pensioners Welfare under Ministry of Personal & Public Grievance has issued instructions from time to time in this regard. In its recent letter No. 3(6)/2021-P&PWH/7083 dated 09/3/2021, the DOPT has expressed its disappointment on delay in payment of Terminal benefits as they are receiving large number of complaints. It is again reiterated that all the benefits must be cleared within 21 days of Retirement. **(Copy of the letter enclosed as Annexure XII )**.

Respected Sir, in the light of above mentioned facts it is humbly requested to repeal/withdraw the DG DD Order dated 05/3/2021, and to allow MACP by ignoring EA to SEA promotion. PAO (Doordarshan) Delhi may kindly be instructed/advised not to do any recovery as envisaged in Rafiq Masih Case.

We pray your urgent intervention to kindly issue clear instructions to PAOs/HOO/DDOs for timely payment of Terminal Benefits to all retired/retiring employees to save them from unwanted sufferings and humiliation in the end of their service career.

Thanking you in anticipation.

Yours faithfully,







**M.P.Chaudhari**  
President, ARTEE


Enclosed as Above


**M.P.Chaudhari**

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#### 10 attachments

-  **A I DG DD Mar 8, 2021.pdf**  
458K
-  **A II MACP 35034\_3\_2008-Estt.(D).pdf**  
536K
-  **A III ,IV V DoEXP 131109 DG(A)-DG(D).pdf**  
345K
-  **A VI MACP GP5400 AE of 30 yrs Service\_25.08.10.pdf**  
138K
-  **A VII FAQ MACPS\_Estt\_D.pdf**  
124K
-  **A VIII DOPT Order 02032016 Rafiq Massiah.pdf**  
199K
- A IX Shaymli Biswas Verdict OA 1118-15.pdf**

 102K

 **A X Verdict OA 2479-15 ARTEE.pdf**  
91K

 **A XII bhavishya portal.pdf**  
215K

 **A XI HC Interim Verdict Shaymli Biswas.pdf**  
126K