

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

Ref. No. ARTEE/2022/49-52

To,

1. The Secretary to Govt. of India,
Ministry of I&B, Shastri Bhawan,
Dr. R. P. Road, New Delhi-110001

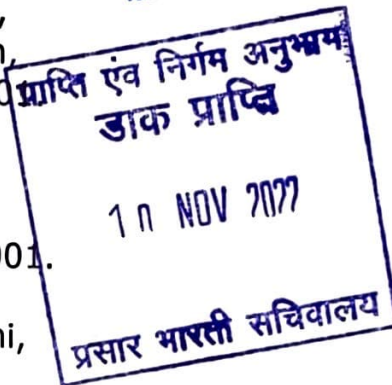
2. The Chief Executive Officer,
Prasar Bharati, Tower C,
Mandi House, New Delhi -110 001.

3. The Director General, Akashvani,
Akashvani Bhawan,
Sansad Marg, New Delhi 110 001.

4. The Director General, Doordarshan,
Doordarshan Bhawan,
Mandi House, New Delhi -110 001.

11/11/2022
CRU SECTION
Min. of Information & Broadcasting
Govt. of India, New Delhi
Tele. No. 23384994

Date 16/11/2022



Ch 10/11/2022 11-11-22

Subject:- Issuance of fresh clarification/direction to all the PAOs regarding re-fixation/recoveries on grant of MACP.

Ref: Hon'ble CAT, Principal Bench, New Delhi interim order dated 28/10/2022 passed in OA No. 2647/2022 filed by ARTEE & Ors.

Sir,

Your kind attention is invited to the communication No. 16/15/2022-SIV(B)/237 dated 30.06.2022 issued by the DG: AIR (Copy enclosed) where in it was clarified that promotion from EA to SEA would be counted as an up-gradation for the purpose of MACP in terms of Para 8 of Annexure-I of DoP&T OM dated 19.05.2009 which provides that promotions earned in the post carrying the same grade pay in the promotional hierarchy as per Recruitment Rules shall be counted for the purpose of MACP.

2. The said communication dated 30.06.2022 was assailed before Hon'able CAT, PB, New Delhi by this Association & ors. The court has passed an interim order on dated 28.10.2022 (Copy enclosed) directing **"Respondents not to give effect to for any purpose whatsoever, to the impugned Communication No.16/15/2022S.IV(B)237 dated 30.06.2022 till the next date of hearing, and further that henceforth no recovery shall be effected from the applicants pursuant to the aforesaid order, till the disposal of this OA."**

3. The background of the case is being submitted herewith for your kind perusal:-

(i) That subsequent to the Notification of CCS(RP) Rules, 2008, the Ministry of Finance (DOE) has issued OM dated 13.11.2009 reiterating the provisions at Para (ii), Section-I in Parts B and C of the First Schedule to the CCS (Revised Pay) Rules, 2008 that inter alia the posts in the pre-revised scale of Rs.6500-10500 should be upgraded to the next higher grade in the PB-2 with GP Rs.4600 corresponding to the pre-revised scale of Rs.7450-11500, and in case a post already exists in the scale of Rs.7450-11500, the post being upgraded from the scale of Rs.6500-10500 should be merged with the post in the scale of Rs.7450-11500.

(ii) That, in AIR & Doordarshan, the post of EA was in the pre-revised scale of Rs.6500-10500 and the SEA (the promotional post of EA), was in the scale of Rs.7450-11500. It was therefore imperative to upgrade post of EA in PB-2 with Grade pay of Rs.4600 and merge the post with that of SEA which existed in the pre-revised scale of Rs.7450-11500.

(iii) That, the DGAIR, vide Office Order F.No.3/20/2008-SIV(A) dated 16.01.2009, accordingly upgraded the post of EA to the next higher grade in PB-2 with Grade Pay of Rs.4600 w.e.f. 01.01.2006 pending the merger of two posts of EA & SEA which was otherwise mandatory as per Para (ii), Section-I in Parts B and C of the First Schedule to the CCS (Revised Pay) Rules, 2008 and also MF(DOE) OM dated 13.11.2009.

(iv) That, Praveen Kumar and others filed OA NO. 2940/2010 before CAT, PB, New Delhi for merger of the posts of EA & SEA and for granting them permission to appear in the LDCE for promotion to the post of AE which was allowed vide order dated 30.11.2010.

(v) When the respondents did nothing in compliance of the order dated 30.11.2010 of Hon'ble CAT within the stipulated time, the applicants filed Contempt Petition No.297/2011 in OA No. 2940/2010. During the course of contempt petition, the Secretary, Ministry of I&B (RespondentNo.1) submitted Progress Report dated 27.03.2012 and made submissions vide Para 13 and Para 14 of the affidavit that the concurrence of Department of Expenditure, Ministry of Finance for the merger of cadre of EA with SEA was received, and therefore, with the approval of DOP&T and Ministry Finance, one action i.e. "merger of SEA and EA" is complete. The Ministry of I&B had prayed for six months time to complete the process of notification of RR for the merged cadre which was although granted by Hon'ble CAT vide judgment dated 17.05.2012, yet never done.

(vi) That, then Vijay R. Haror and others filed OA No. 282/2018 before the CAT, PB, New Delhi for merger of EA & SEA and notification of the RR of the merged post. The OA was allowed vide order dated 08.02.2018.

(vii) That, during the course of CP No. 310/2018 in OA No.282/2018 when notices were issued to the parties, the Govt. instead of complying with the order of Hon'ble Tribunal in OA No. 282/2018, have moved to Delhi High Court, to challenge Hon'ble Tribunal's order dated 08.02.2018, by filing Writ Petition (C) No. 8712/2018. In an interim order passed on 20.08.2018, Hon'ble High Court has expressed grave displeasure on inaction of the Govt in issuing modified RR of the merged post in 6 years from the year 2012 onwards, and sought clarification through an affidavit to be signed by an officer of the Petitioner/ Ministry of I&B not below the rank of a Joint Secretary.

4. Para 5 of Annexure-1 of DoP&T Order dated 19.05.2009 provides that Promotions earned in the past to those grades which now carry the same grade pay due to up-gradation of posts recommended by the Sixth Pay Commission shall be ignored for the purpose of granting up-gradations under Modified ACPS.

5. Further, FAQ No. 15 of the FAQs issued by DOP&T vide F.No.35034/3/2008-Estt.(D) dated 09.09.2010, 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?

Ans: The cases would be regulated in accordance with Para 5 of Annexure-I of MACPS. The Ministries/Departments are expected to re-organize cadres and frame common RRs for the post in merged scales.

6. The MACP granted earlier to the employees under Para 5 of Annexure-I of DoP&T OM dated 19.05.2009 was sought to be withdrawn by invoking Para 8 of the said Annexure-I vide the said communication No.16/15/2022-SIV(B)/237 dated 30.06.2022 issued by the DG: AIR which was assailed by this association before Hon'ble PB of CAT, New Delhi through OA No. 2647/2022.

7. Hence the interim order dated 28.10.2022 of Hon'ble CAT.

In the circumstances as mentioned above, I therefore request you to kindly issue fresh clarification/direction to all the PAOs that there shall be no re-fixation/recovery pursuant to the DG:AIR communication dated 30.06.2022 till the disposal of OA.

Yours faithfully,



(Hari Gopal Sharma)

President

Mob: 9509934851

Encl: 1. DG:AIR order dated 30.06.2022.

2. Hon'ble CAT's interim order dated 28.10.2022 in OA No. 2647/2022.

प्रसार भारती/ PRASAR BHARATI
(भारत का लोक सेवा प्रसारक)/(INDIA'S PUBLIC SERVICE BROADCASTER)
आकाशवाणी महानिदेशालय/ DIRECTORATE GENERAL, ALL INDIA RADIO
आकाशवाणी भवन /AKASHVANI BHAVAN,
नई दिल्ली-110001 /NEW DELHI-110001

File No. 16/15/2022-S.IV(B)/937

Dated: 30.06.2022

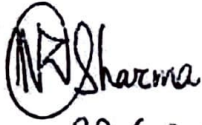
Subject: Clarification regarding re-fixation/recoveries on grant incorrect MACP.

Reference is invited to PAO, AIR, Mumbai's letter No. PAO/AIR/MUM/PENSION, dated 04.04.2022 wherein it has been asked that whether 1st MACP granted on 1.9.2008 to such Engineering Assistants (EA) who have been regularly promoted to Senior Engineering Assistants (SEA) prior to 1.9.2008 is correct or otherwise.

2. The matter has been examined as per extant rules at Directorate level. As per DOP&T OM dated 19.05.2009, Annexure-1 Para-8, promotions earned in the post carrying same Grade Pay in the promotional hierarchy as per Recruitment Rules shall be counted for the purpose of MACP.

3. Therefore, promotion from EA to SEA will be counted as an upgradation under MACP. Further, there is no stay order from any court for making such corrections as on date. Necessary action may be taken accordingly.

4. This issues with the approval of competent authority.

 Sharma

30.6.2022

(Narendra Sharma)

Dy. Director Admn.(Engg.)

To,
Senior Accounts Officer,
Pay and Accounts Office, All India Radio,
Akashvani Bhawan, Mumbai-400020.

Copy to: All other PAOs under Prasar Bharati.

 P. S. Senthia
06/07

**CENTRAL ADMINISTRATIVE TRIBUNAL
61/35, COPERNICUS MARG, NEW DELHI-110001**

Order Sheet

Item no.: 39
O.A./2647/2022 (DELHI)
[UPGRADATION]
Court No.: 2

No of Adjournment: 3

Order Dated: 28/10/2022

**ASSOCIATION OF RADIO AND TELEVISION ENGINEERING EMPLOYEES ARTEE
THROUGH ITS PRESIDENT HARI GOPAL SHARMA**

Vs

PRASAR BHARTI

For Applicant(s) Advocate : Dr. Ashwani Bhardwaj

For Respondent(s) Advocate : Mr. B. S. Rawat

Order of The Tribunal

The applicants in the instant matter are aggrieved by Communication/Order dated 30.06.2022 bearing the following subject:-

"Clarification regarding refixation/recoveries on grant incorrect MACP."

Learned counsel for the applicants draws our attention to the order passed by the Hon'ble High Court of Delhi in W.P. (C) No. 8712/2018 pointing out that the impugned communication is in contravention to the position taken by the respondents before the Hon'ble High Court of Delhi in the aforesaid Writ Petition. He submits that the respondents have already started effecting recovery from the applicants and in case his prayer for interim relief is not allowed, the entire O.A. is likely to become infructuous, and also create complications by way of the claim of the applicants in future if they were to succeed in the same. He vehemently argues that his prayer for interim relief was heard on 26.09.2022, wherein the respondents were allowed adequate time to file a short reply which they failed to do. Thereafter, the case came up for hearing on 18.10.2022, further time of one week was granted to the respondents and today, they

are obliged to file a reply or to submit their arguments on appropriate instructions.

On the other hand, learned counsel for the respondents points out that the brief has been assigned to him very recently and today for the first time, he has put in appearance in the present matter, and accordingly, in all fairness seeks reasonable time to seek instruction to file the short reply.

While allowing learned counsel for the respondents four weeks' time to file reply to the O.A. and further two weeks, thereafter, to file rejoinder to the applicants, we have to take into consideration the fact that on two previous occasions, the issue has come up before us and we have not considered interim relief only on account of allowing fair opportunity to the respondents to responded to the same. We are of the considered view that in case, consequential action upon the impugned order is not stayed, the applicants' prayer in the O.A. may become infructuous. On the other hand, if action on the impugned communication is stayed, no prejudice is likely to be caused to the respondents. Accordingly, by way of the present Interim Order, the respondents are directed not to give effect to for any purpose whatsoever, to the impugned Communication No.16/15/2022-S.IV(B)237 dated 30.06.2022 till the next date of hearing.

It is further clarified that henceforth no recovery shall be effected from the applicants pursuant to the aforesaid Order, till the disposal of this O.A.

List the matter on 20.12.2022.

Tarun Shridhar
Member (A)

R. N. Singh
Member (J)

/yaksh/