

# Association of Radio & Television Engineering Employees

Post Box No. 422, New Delhi - 110 004



www.arteeindia.org  
ARTEE/02/01/2013

Ref. ....

CCS(RSA) Recognition \*  
Regd. & Recognised by Govt. of India \* Under Process \*  
(Affiliated to U.N.I. Geneva)  
Largest Employees Association of Electronic Media in India

Dated. ....  
06.01.2013

Sh. Jawhar Sircar,  
Chief Executive Officer,  
Prasar Bharati, PTI Building,  
New Delhi - 110001

*[Handwritten Signature]*  
8/1/2013

Subject : Request to conduct Departmental Examination for Promotion to the Post of AE without any further delay as no examination conducted after 2009.

Respected Sir,

With warm regards this is to inform you that Promotions from the post of SEA to AE are done on the basis of Deptt. Examination (75%) and o Sr.Cum.Fitness basis (25%) of the vacancies. I want to remind you that since last three years departmental Examination is not being conducted and as a result the vacancies of Assistant Engineers are laying vacant while department is facing acute shortage of Staff.

*Sir, the incumbent Engg.Asstts. of this department were working in the pre revised scale of Rs. 6500-10500. As a result of implementation of Deptt. Of Expenditure OM dated 13.11.2009 which clearly says that if a post in the pre revised scale of Rs. 7450-11500 exists, employees working in scale of 6500-10500 may be given Grade Pay of Rs. 4600 after merging them in 7450-11500. This O.M. is implemented and all incumbent EAs and SEAs were granted Grade Pay Rs. 4600. In fact financial merger of EAs and SEAs is done.*

*In 2010 when Examination for the Deptt. Examination notified some of these EAs approached CAT Delhi through OA 2940 for allowing them to appear in Examination for the post of AE as they are having same G.P. which SEAs are having i.e. Rs. 4600. In this OA filed by Praveen Kumar and others, Hon'ble Court gave its verdict that without Amending RRs it is not possible and asked department to Amend RRs and than consider the claim of Applicant for appearing in Examination on the basis of vacancies available. Hon'ble CAT also said that in such case Law will take its own Course. In this OA clearly says that the Claim of Applicants can not override that RRs as per decision of Apex Court in Union of India v/s K.P.Joseph, 1973(1) SCC 194.*

Sir It is indeed very disappointing that Management has tried to utilize this opportunity in downgrading all EAs and SEAs in Grade Pay 4200 with placing extra Amount in Personal Pay. The entire fiasco is in your complete knowledge and we are thankful that now Ministry of I & B has sent back the proposal to Prasar Bharati for reconsideration. Due to this exercise of EA and SEA Merger is taking unlimited time and how much more time it will take it is also can not be ascertain. It is also very disappointing that some segments in Management are misinterpreting that Deptt. Examination for the Post of AEs can not be conducted without the Merger of EA and SEAs.

Sir I want to mention that it is established by so many rulings of various courts that Any Amendment in Recruitment Rules can not be retrospective and it has to be implemented from the date Amendment takes place. Some of the court Rulings are mentioned below :

..... contd.

## Zonal Offices

East Zone  
Post Box No-2713  
Kolkata (WB)  
PIN-700001

North Zone  
Post Box No-331  
New Delhi  
PIN-110001

North-East Zone  
Post Box No-83  
Guwahati (Assam)  
PIN-781001

South Zone  
Post Box No-176  
Triplicane, Chennai (TN)  
PIN-600005

West Zone  
Post Box No-11228  
Mumbai (MS)  
PIN-400020

**COURT RULINGS ABOUT IMPLEMENTATION OF AMENDMENT IN RRs PROSPECTIVELY**

On 28.9.1983 KPSC invited applications for recruitment of Motor vehicle Inspectors ( MVI). The KPSC commenced the holding of interview in august. 1984 but the process of selection got delayed due to some litigation and stay orders granted by the Karnatak hight Court (KHC). Finally the selection was completed by 2<sup>nd</sup> june,1987 and result declared on 22.06.1987.The selected candidates were also given intimation of their selection .

In the meanwhile the state GOVT.amended the RR, by NOTIFICATON dated 4<sup>th</sup> may 1987, omitting the qualification of Dip. In Mech. Engg. For for the MVIs. Consequent to this amendment ,the Holder of Dip. in Automobile engg. Became exclusively eligibly for the post of MVI and the holder of Dip. In Mech. Engg. ceased to be eligible for selection and appointment to the said post

Thereupon ,some of unsuccessful candidates preferred application befor KAT for quashing the select List on the ground that after the amendment of rule in 1987 no persion holding Dip. In Mech.Engg.was qualified for appointment to the said post and hence fresh selection should be made in accordance with the amended rules. The KAT allowed the application and quashed the Advt.issues for the post on 28.9.1983 as well as the select list and directed the KPSC to make fresh selection in accordance the with the amended rules.

**The matter came up before the SC in appeal ,and also means of of WP filed under Atr.32 by some of the selected candidates. Hon'ble Supreme Court set aside the order of the KAT and held "that the amending rule of 1987 did not contain any express provision giving the amendment retrospective effect nor there was anything therein showing the necessary intendment for enforcing the rule with retrospective effect."**

There was also laid down by the Hon'ble Supreme Court earlier in *Y.V.Rangaiah case (AIR 1983 SC 852) and A.A. Calton case (AIR 1983 11453)*. the selection had validly been made in accordance with the unamended rule.( *P.Mahendra v.State of karnataka, AIR 1990 SC 405 Recruitment Rules cannot be amended retrospectively so as to affect or impair the vested rights employees*

It was so held in *T.R. kapur V. State of Haryana,AIR 1987 SC 415) and M.T.Puttalingappa V state of Karnataka,1996 AIR SCW 3127.*

However,a circular clarificatory in nature does not amount to amendment of the rules (*O.P.Lather v.Sathish kumar kakkar,(C.A. Nos.1012-1013 of 2001) decided by Hon'ble Supreme Court on 2.2.2001 Amendmend to RR- vacancies which occurred prior to the amended rules would be governed by old Rules and not by Amended rules*

**" Y.V. Rangaiah v. J.sreenivasa Rao, AIR 1983 SC 852"**

**" Bevin Katti v. KPSC , AIR 1983 SCR 239"**

**" Ramehs kumar Choudha V. State of M.P.91996 ) 7 SCALE 619"**

It is very much clear that the vacancies are to be filled by the Rule of that year which vacancies belongs to. In such case that vacancies of previous years since that exam is not conducted are to be filled up with existing Rule. It is pertinent to mention that so many of Asstt. Engrs. are laying vacant due to not conducting the examination. It is highly unjustifiable and injustice with the aspirants waiting to appear in Examination and Exam is not being conducted since last three years.

It is requested that process of conducting examination should be initiated and the examination should be conducted without any further delay.

Thanking You,  
Yours faithfully,

  
UMESH CHANDRA 4/1/13

President, ARTEE

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Enclosed : Copy of verdict of OA 2940 by Praveen Kr. And Others