

30

Before,

In the Central Administrative Tribunal,

Patna Bench, Patna,

(An application filed under section 19 of A. I. Act 1985)

Regn. O.A. No. 514 / 2007

1. Akashwani & Dondarshan Diploma Engineers Association through its president namely Brij Kishore Roy, S/o Sri Laxmi Roy I/O. Qr. No. 115, Phase-I, Radio Colony, Champahat, Patna-I.
  2. Harendra Kumar Mishra S/o Adya Saran Mishra, working as Sr. E.A. at DDK, Patna.
  3. Manoranjan Kumar S/o Shri Ranga Lal, working as Assistant Engineer DDK, Patna.
  4. Nagma Singh S/o Hanjish Singh, working as Assistant Engineer, AIR, Patna.
  5. Manju Kumari Sanyal D/o Late H.N. Sanyal working as Assistant Engineer, AIR, Patna.
  6. Sudhansu Kumar S/o Late Kameshwar Prasad working as Sr. E.A., DDK, Patna.
  7. Binod Kumar S/o Laxmi Prasad Saha, working as E.A., AIR, Patna.
  8. Radhika Raman Prasad Singh, S/o Sarju Pd. Singh working as Sr.E.A. DDK, Patna.
  9. Prabhakar Singh, w/o Ram Narayan Singh, S/o Long Chak, P.S.P.O. P.O. No. 115, Phase-I, Radio Colony, Patna-I.
  10. Shyamal Naskar S/o H.P. Naskar, working as Assistant Engineer, DDK, Patna.
  11. Omi Prakash Ram S/o Pankaj Ram working as Sr. E.A., DDK, Patna.
  - Chuni Lal Sharma S/o Late Gyan Chandra Sharma, Assistant Engineer, DDK, Patna.
- Applicants.



VERSUS

1. Union of India through Secretary, Ministry of Information and Broadcasting, Shastri Bhawan, New-Delhi.
2. Secretary, Dept. of Personnel and Training, New Delhi.

B

-2-



3. Chairman, Prasad Bharti, Mandi House, Copernicus Marg, New Delhi.
4. Chief Executive Officer, Prasad Bharti, Mandi House, Copernicus Marg, New Delhi.
5. Director General, AIR, Akashvani Bhawan, Sansad Marg, New Delhi.
6. Director General, Doordarshan, Mandi House, Copernicus Marg, New Delhi.
7. Chief Engineer, T & E, First Zone, Akashvani Bhawan, 4th Floor, Eden Garden, Calcutta-1.
8. Director, Doordarshan Kendra, Patna.
9. Station Director, All India Radio, Patna.

----- Respondents. 16

OA 514/2002

CENTRAL ADMINISTRATIVE TRIBUNAL  
PATNA BENCH, PATNA  
OA No. 514 of 2002

Date of order : 7<sup>th</sup> September, 2009

CORAM

Hon'ble Mr. Justice Anwar Ahmad, Member [Judicial]  
Hon'ble Mr. Amit Kushari, Member [Admn.]

Akashwani & Doordarshan Diploma Engineers Association through  
its president name Brij Kishore Roy, S/o Langtu Roy R/o Qr. No.  
D'S, Phase - I, Radio Colony, Chazubagh, Patna -1 and 11 others.

Applicants

Vrs.

Union of India & Others


Respondents

Counsel for the applicant : Shri S.K. Bariar.

Counsel for the respondents : Shri S.K. Tiwari, ASC

ORDER

Amit Kushari, Member [A] :-



The applicants are working as Engineering Assistant, Sr. Engineering Assistant and Assistant Engineers in the Prasar Bharti, Patna. They are working in the pay scale of Rs. 6,500-10500 since the implementation of the 5<sup>th</sup> Pay Commission in 1996. The Engineering Assistants and Sr. Engineering Assistants were in a lower scale before the coming of the 4<sup>th</sup> Central Pay Commission, i.e. before 1986. They had filed cases in Central Administrative Tribunal, for their up-gradation to a higher level. This was

ultimately achieved after a prolonged litigation with the Hon'ble Apex Court putting their case on approval. Thereafter all the three categories of officials who are the applicants in this case were placed in the same scale of Rs. 2000-3500 before 1976 and consequently in the pay scale of Rs. 6,500-10500 after 1996. Since they have completed 12 years of service in the same pay scale they are seeking ACP promotions which were sanctioned by the Govt. of India in 1993.

2. The respondents have not replied to the repeated representations made by the applicants for grant of ACP and thereafter they filed this O.A. Since the respondents did not reply to the representations, there is no impugned order in this case. The reluctance of the respondents to grant them ACP promotion is now clear, on perusal of the written statement which they have filed.

3. Shri S.K. Tiwari, Id. ASC for the respondents reiterates the points what have been high-lighted in their written statement and explains, why ACP promotions have been refused to these applicants. The learned counsel for the respondents says that the applicants have already enjoyed a number of up-gradations in the last few years and, therefore, they are not entitled for any ACP benefits which were admissible to only such

employees who have stagnated in the same pay scale for many years. The learned counsel for the respondents says that initially the Engineering Assistants were in the grade of Rs. 425-700. Thereafter, they were granted the pay scale of Rs. 5000-8000 and thereafter Rs. 6500-10500. The learned counsel for the respondents says that in view of this situation they cannot be granted any further higher pay scale through ACP.

4. The learned counsel for the applicant draws our attention to the DOPT O.M. No. 35034/1/97 -Extt.[D] dated 10.2.2000 in which the DOPT clarified certain points of doubts which could arise while granting ACP benefits. The learned counsel for the applicant says that this case is completely covered by the clarifications given by the DOPT on the points of doubts raised. The DOPT clarifications are as follows :-

Points of doubt

"Two posts carrying different pay scales constituting two rungs in a hierarchy have now been placed in the same pay scale as a result of rationalization of pay scales. This has resulted into change in the hierarchy in as much as two posts which constituted feeder and promotion grades in the pre-merged scenario have become one grade. The position may be clarified further by way of the following illustration : prior to the implementation of the Fifth Central Pay Commission



recommendations, two categories of posts were in the pay scale of Rs. 1,200-1800 and Rs. 1320-2040 respectively; the latter being ~~promoted post~~ for the former. Both the posts have now been placed in the pay scale of Rs. 4000-6000. How the benefits of the ACP Scheme is to be allowed in such cases?"

Clarification

"Since the benefits of upgradation under ACP Scheme [ACPS] are to be allowed in the existing hierarchy, the mobility under ACPS shall be in the hierarchy existing after merger of pay scales by ignoring the promotion. An employee who got promoted from lower pay scale to higher pay scale as a result of promotion before merger of pay scales shall be entitled for upgradation under ACPS ignoring the said promotion as otherwise he would be placed in an disadvantageous position vis-a-vis the fresh entrants in the merged grade."

5. On perusal of this clarification given by the DOPT, Shri S.K. Tiwari, learned counsel for the respondents concedes that the up-gradation granted to the Engineering Assistants and the Sr. Engineering Assistants earlier have to be ignored while considering grant of ACP promotions to the applicants.

6. The next point which was argued by both the counsels was that if the applicants have to be granted ACP then what should be the scale in which they should be granted ACP. Both the sides agreed that since 6500-10500 is

the pay scale of Assistant Engineer, the ACP promotion should be in the pay scale of the next post in the hierarchy i.e. the post of Assistant Executive Engineer i.e. Rs. 8000-14500.

7. The learned counsel for the applicant also quotes from the DOPT circular dated 10.2.2000 mentioned earlier clarifying the points under ACP scheme. In this order it has been clarified that the mobility under ACP is to be allowed under existing hierarchy.

8. After hearing both the counsels and after perusing the records, we have come to the conclusion that the applicants are entitled for grant of ACP promotion and this promotion should be granted in the pay scale of Assistant Executive Engineer i.e. Rs. 8000-14500.

9. This O.A. is, therefore, allowed. The respondents are directed to grant the applicants the pay scale of Rs. 8000-14500 as and when they have completed 12 years service in the pay scale of Rs. 6500-10500. The arrears should also be paid to the applicants. The respondents are directed to issue orders regarding ACP promotion to the applicants within a period of two months from the date of receipt of a copy of this judgment. The arrears may be calculated and paid to them within one month thereafter.

10. With these directions, this O.A. stands disposed. No costs.

[Signature]  
[Amit Kushari]  
Member [Admin.]

"True Copy"

[Signature]  
[Anwar Ahmad]  
Member [Judicial]

certifying that this is a true and correct copy of the document under no. in the file (OA/RA/TA/CP) 514/PT-02159 and that all the names appearing therein have been truly and faithfully copied with no omission or addition.

[Signature]  
7.9.09

[Signature]  
7/9/09  
SENIOR CLERK (JUD.)  
CENTRAL ADMIN. TRIBUNAL  
CENTRAL RECORDS PAYERS