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आकाशवाणी एवं दूरदर्शन तकनीकी कर्मचारी संघ A.I.R. & D.D. Technical Employees Association

(भारत सरकार द्वारा पंजीकृत एवम् मान्यता प्राप्त)
(Registered and Recognised by Govt. of India)
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Letter No.TEA/2014/MIB(S)/08

Dated: 17-06-2014

The Secretary,
Ministry of Information and Broadcasting
Shastri Bhawan,
New Delhi – 110001.



Subject: Implementation of order dtd. 02-04-2014 in OA-1949/2012 passed by Principal Bench of CAT, New Delhi on all the Helpers working in AIR & Doordarshan irrespective of whether they were the applicants or not in the case.

Respected Sir,

It is indeed painful to note that underprivileged and deprived class of employees viz. Helpers of Doordarshan had to knock the doors of justice to get covered under the ACP scheme formulated by the Government of India to remove stagnation due to lack of promotional avenues because persons recruited as Helpers are retiring at the same post. In order to get the benefit of the aforesaid scheme, 46 Helpers of our department, who stand lowest in the hierarchy of the technical employees, had to seek the legal remedy on account of decades of neglect, indifference and apathy of our department.

On introduction of ACP scheme, our department downplayed with the Helpers and granted them the pay scale of LDC(non-technical cadre) i.e. Rs. 3050-5490 as first ACP notwithstanding the fact that they all were entitled to be given next promotional scale of Technician(Technical Cadre) i.e. Rs. 4500-7000. Therefore, they were deprived of their legitimate right of reaping the benefit of ACP Scheme due to arbitrary, irrational & unfair treatment by the authorities. However, the contention of the department that the post of Technician is not a hierarchical post of the cadre of Helpers did not hold water under legal scrutiny and was rejected by the Honorable CAT. **Under such circumstances, on dated 02-04-2014, the Principal Bench of Honorable CAT in O.A. No 1949/2012 has directed the department to grant pay-scale of Technician i.e. Rs. 4500-7000 to the eligible 46 applicants (Helpers of Doordarshan) within 8 weeks time from the date of receipt of a certified copy of the order. They have also been held entitled for grant of arrears consequential to the re-fixation of their pay.**

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Moreover, the controversy raised in the court case as to what should be the promotional channel of the Helpers and to which pay-scale there are entitled on getting ACP universally applies to all the Helpers of AIR and Doordarshan and the said controversy by its very nature cannot be confined to a section of employees (applicants). However, if only the applicants are allowed to reap the benefits of the court's order as has been directed by DG: Doordarshan to be done, it will have a very demoralizing effect on the Helpers left out of the purview of court's order. **The government under such circumstances should apply the law on its own to all the similarly situated persons instead of forcing an individual or an association to resort to unnecessary litigation. The government as a welfare state should rather see to it that the litigation in the court is minimized. After the courts lay down the law, it should see to it that all similarly placed employees automatically get the same relief without resorting to litigation.** The matter is one of principle and should not depend upon who comes to court or who does not. In the case titled **Santosh Kumari versus Union of India and others** reported as **1994 (7) Supreme Court Cases 565**, the Apex court has lamented that **a more deserving candidate may not have the means to approach the court, should he be denied the same benefit which has been granted to those who dared the department with court order.**

Further, the order in this case cannot also be said to be *in personam* but the same has to be treated *in rem* and must be complied with in respect of all similarly situated Helpers. If an employee aggrieved by the action of the government department has approached the court and obtained a declaration of law in his favour, others, in like circumstances, should be able to rely on the sense of responsibility of Department concerned and expect they will also be given the benefit of that declaration without the need to take their grievances to court. In a case titled **Uttranchal Forest Rangers' Association (direct recruits) Vs. State of UP** reported as **(2006) 10 Supreme Court Cases 346**, referring to a decision in the case of **State of Karnataka versus C Lalitha (2006) 2 SCC 747** Hon'ble Apex Court has held, **'service jurisprudence evolved by this court from time to time postulates that all persons similarly situated should be treated similarly. Only because one person has approached the court that would not mean that a person similarly situated should be treated differently.'**


Reiterating and reinforcing the stand taken by the Apex court, the 5th Pay Commission also recommended in para no. 126.5 of its report, **'we recommend that decisions taken in one specific case either by the judiciary or the government should be applied to all other identical cases without forcing the other employees to approach the court of law for an identical remedy or relief.'**

In the case under hand, the aforementioned order of the Principal Bench of CAT, New Delhi has been implemented by issuing a departmental order vide **File No. 3/24/2012-S-IV/1669 dated 13-05-2014 by DG: Doordarshan**. Consequently, the office of **ADG (NZ)**, has also directed the **DDK, Delhi** to take necessary action in this behalf to implement the order only on the applicants by issuing an **Order No. C-17/14/2014-EPC dated 21/05/2014**.

In such a situation, it is of paramount importance that a departmental order may be issued in respect of all the Helpers of AIR & Doordarshan apart from 46 applicants in the aforesaid court case so that substantial justice is meted out to the whole cadre of Helpers. Otherwise, the remaining hapless Helpers will also have to approach the court and undergo the same agony and ordeal which their fellow Helpers have felt all this while in the court to get justice. Any such kind gesture and magnanimity on the part of authorities as to extend and cover all Helpers under the umbrella of Honorable CAT's order is likely to save both the precious time and litigation expenses of all the parties concerned and restore the faith of the employees in the system.

It is, therefore, requested that your graciousness be pleased to direct the competent authority to issue administrative order in such a manner so that all the eligible Helpers of AIR & Doordarshan may reap the benefits of the aforesaid favorable order of the Honorable CAT. It is further requested that Ministry of I&B may also direct the authorities to re-designate the Helpers as Broadcast Assistants in view of the recommendations of Cadre Review Committee and also in terms of the above said order of Principal Bench of CAT, New Delhi.

With deep regards!


(PAWAN KUMAR KOHLI)
General Secretary
Mob: 9868129029

- Encl: 1. Copy of Court's Order
2. Order No. C-17/14/2014-EPC dated 21/05/2014
3. Order No. 3/24/2012-S-IV/1669 dated 13-05-2014
(Total 10 Pages)

Copy to:-

1. CEO, Prasar Bharati, Parliament Street, New Delhi.
2. Director General: AIR, Akashvani Bhawan, Parliament Street, New Delhi.
3. Director General: Doordarshan, Mandi House, New Delhi.

