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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)
No. 2298/63

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No. TEA/04/14/MIB(S)

Dated : 05/06/2014

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



Subject: Pay-Parity of Technicians with Lighting Assistants.

Ld. Sir,

The instant representation begs to seek pay-parity between Technicians and Lighting Assistants working in AIR and Doordarshan despite Apex Court's categorical finding vide its judgment in SLP(C) No. 33048/2011 passed on 10-01-2013 that Technicians are entitled to pay scale at par with Lighting Assistants. The specific averment of the Union of India that the two posts are distinct and separate and lack similarity did not hold water under legal scrutiny and was outrightly rejected and no rationale of denial of parity to the Technicians vis-à-vis Lighting Assistants could be pointed out on behalf of Union of India. The Hon'ble Supreme Court while upholding the judgment dated 24-11-2010 in W.P.No. 27155/2609 passed by the Hon'ble Madras High Court, also held that by ordering revision of pay scales of the Technicians at par with the Lighting Assistants, the High Court has acted in consonance with the spirit of the Constitution of India.

Pay-parity is a continuous process and runs from moment to moment without any interruption or break and only the judicial fora have power, authority and jurisdiction to hold contrary, that too, on examining the question of parity on the touchstone of well-settled principles of law. There can be no denying the fact that pay-parity between equals and similarly placed employees is a never-ending phenomenon. The Union of India has not been able to reconcile with the repeated findings of fact by the courts meaning thereby that the pay-parity is a static but not a dynamic concept and the **employees once held equal by the judiciary cannot be made to suffer inequality by paying them different wages.** This has been well demonstrated by an order of Hon'ble High Court of

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Delhi in Writ Petition(Civil) No. 6544/2007 passed on 05-12-2010 whereby pay scale of Rs. 5000-8000 was granted to Lighting Assistants of Doordarshan at par with Assistant Cameramen of Film Division despite the fact that a lower pay scale of Rs. 4500-7000 was granted to the former by the 5th Pay Commission w.e.f 01-01-96 because even prior to 5th Pay Commission the incumbent employees of both the posts were drawing the same pay scale. However, by further widening the scope of the question of parity, the Hon'ble Madras High Court has established parity between the posts of Lighting Assistants and Technicians on the basis of nature of their duties thereby also rejecting the contention of Union of India that the two cadres are distinct and separate and there is no similarity between the two. Before Supreme Court, Ld. Counsel for Union of India failed to explain any justification or reason behind denial of parity in the matter of pay parity to the Technicians vis-à-vis Lighting Assistants despite the fact that they were paid salary in the identical pay scale till 01-07-1983 and that the same parity was restored after a gap of about 13 years with effect from 01-01-96. It was further held that **in the absence of any cogent explanation for differentiating the two cadres in the matter of revision of pay scales it is not possible to find any fault with the direction given by the Division Bench of the High Court. Rather, it must be held that by ordering revision of pay scales of the Technicians at par with the Lighting Assistants, the High Court has acted in consonance with the spirit of Articles 14&16 of the Constitution.**

Since the downsizing of the pay scale of Lighting Assistants by 5th Pay Commission from Rs. 5000-8000 to Rs. 4500-7000 could not pass the test of legal scrutiny before Delhi High Court which w.e.f 01-01-96 granted the pay scale of Rs. 5000-8000 to the Lighting Assistants vide its **order dated 15-12-2010 in W.P.(C) No. 6544/2007**. Therefore, the government was left with no option but to grant the higher pay scale to Lighting Assistants of Doordarshan vide its order released on dated 26-04-2012 in pursuance of the above said judgment of High Court of Delhi. This fact may not be lost right of that Delhi High Court had granted pay parity to the Lighting Assistants with the Assistant Cameramen of Films Division. Therefore, drawing an analogy by applying a simple arithmetic formula, if A=B and B=C, then A must be also held equal to C. In such a situation, the pay scale of Assistant Cameramen / Lighting Assistants must be

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held applicable in the case of Technicians also and since the Government of India has already granted the pay scale of Rs. 5000-8000 to the Lighting Assistant/Assistant Cameraman, the Technician should also get the same benefit. **Resultantly, given the status of two posts namely Technicians and Lighting Assistants being analogous to each other, as also established by the courts, there cannot be any differentiation in the matter of pay and the former are entitled to the same pay scale as being accorded to their counterparts (Lighting Assistants) in Doordarshan.**

Moreover, when the controversy of pay parity between the above said two posts has been set at rest by the Hon'ble Supreme Court and the **government has also admitted and accepted the same position of law vide its O.M.No. 310/173/97-B (D) dated 25-02-1999 whereby 100% Technicians w.e.f 01-01-1996 have already been granted the pay scale of Rs. 4500-7000 (corresponding to pay scale of Rs. 1400-2300) as was being enjoyed by the Lighting Assistants ever since the implementation of the 4th Pay Commission, then no further discrimination should follow on this count and total parity between them should hold the field.**

The order dated 24-11-2010 by Madras High Court has been wrongly and incorrectly interpreted through DG:AIR's order no. 8/8/2006 S-IV (A)/Part-I/107 dated 11/03/2014 in which it has been decided to fix the pay of Technicians/Senior Technicians from 01-07-1983 to 31-12-1985 in the pay scale of Rs.425-700 from 01-01-86 to 31-12-95 in the pay scale of Rs. 1400-2300 without any financial outgo on the payment of arrears.

As a matter of fact, Fifth Pay Commission granted a Pay Scale of Rs. 4000-6000 to the Technicians and Rs. 4500 – 7000 to the Lighting Assistants. Therefore, in order to remove this anomaly the Union Cabinet in its meeting held on 06/11/1997, as advised by the Fast Track Committee of Secretaries, enhanced the Pay Scale of Technicians to Rs. 4500-7000 at par with the Lighting Assistants. However, the crux of the matter is that a granting a pay scale of Rs. 4500-7000 to the Lighting Assistants of Doordarshan by 5th Pay Commission further created a disparity and destroyed parallel /horizontal harmony between them and the Assistant Cameramen of Films Division - who were granted a

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