



# **BHARATIYA PRATIRAKSHA MAZDOOR SANGH**

(AN ALL INDIA FEDERATION OF DEFENCE WORKERS)

(AN INDUSTRIAL UNIT OF B.M.S.)

(RECOGNISED BY MINISTRY OF DEFENCE, GOVT. OF INDIA)

**CENTRAL OFFICE: 2-A, NAVEEN MARKET, KANPUR – 208001, PH & FAX : (0512) 2332222  
MOBILE: 09415733686, 09235729390, 09335621629, WEB : www.bpms.org.in**

**REF: BPMS / MOD / AGENDA / 90<sup>th</sup> SCM**

**Dated: 30.06.2014**

To,  
The Deputy Secretary (CP),  
Govt of India, Min of Defence,  
Room No. 136, 'B' Wing,  
Sena Bhawan, New Delhi - 110011

**Subject: Projection of Demands for the Meeting of the Steering Committee for the 90<sup>th</sup> Departmental Council (JCM) of MOD scheduled to be held on 01.08.2014.**

Reference: MOD F. No. 5(2)/2013/D(JCM), Dated 25.06.2014

Respected Sir,

With due regards, it is submitted that this federation has decided to nominate the following persons to participate in the ensuing Steering Committee meeting which is scheduled to be held on 01.08.2014 under the Chairmanship of JS (E):-

1. Shri D. S. Upadhyay, Member JCM-II Level Council (MOD)
2. Shri Mukesh Singh, Member JCM-II Level Council (MOD)

Further, I am submitting Agenda Points on behalf of this federation's JCM Members in Steering Committee as Annexed to this letter, for your kind perusal & inclusion please.

Kindly acknowledge.

Thanking you.

Sincerely yours

**(M P SINGH)**  
General Secretary

Encl:- As above

**(Annexure of letter no. BPMS / MOD / AGENDA / 90<sup>th</sup> SCM, Dated: 26.06.2014)**

1. Unresolved issues raised by BPMS in the Steering Committee meeting for 90<sup>th</sup> Departmental Council held on dated 15.03.2012, 16.03.2012 & 27.09.2013.
2. Unresolved issues discussed in the meeting held under the Chairmanship of AS (A), MOD on 06.02.2014 on the notice of 'Indefinite Strike' from 17.02.2014 by the Defence Civilians.
3. Judicial pronouncements may be extended to similarly placed non-petitioner employees in the following cases:-
  - (i) Hon'ble CAT Calcutta has passed the directions in OA No 172/2012, dated 16.01.2014 {Indranil Chowdhury & 162 others versus Union of India through Secretary Min of Defence, Finance & DoP&T} to grant financial upgradation under the MACP Scheme by ignoring the movement from Highly Skilled to HS-I due to restructuring of Artisan Staff in Defence Establishments in modification of recommendations of 6<sup>th</sup> CPC.
  - (ii) Hon'ble CAT Chandigarh has granted the prayer of the petitioner and directed the authorities in O.A. No. 1038/CH/2010, dated 31.05.2011 to grant MACP benefit in the hierarchy of promotional grade. Thereafter, the Union of India represented by the Secretary, DoP&T appealed to the Hon'ble High Court of Punjab and Haryana vide CWP No. 19387 of 2011. This appeal of the DoP&T was subsequently dismissed vide order dated 19.10.2011. The Government thereafter approached the Hon'ble Supreme Court vide SLP No. 7467/2013, the Hon'ble Supreme Court dismissed the said SLP.  
Recently, CAT Principal Bench has issued direction on 12.03.2014 in OA No. 864/2014 that once an order has been passed by this tribunal and it has also been upheld at the level of the Supreme Court, there is no question of waiting for an approval from any Govt. department for implementation of the same.  
In view of the above, the issue now stands settled that eligible employee needs to be given MACP benefits in the promotional hierarchy only.
  - (iii) Ernakulam Bench of Hon'ble High court of Kerala in WPC No. 21384/2007 directed (on 17.01.2012) to grant all consequential benefits of the ACP Scheme to casual workers on the basis of their regularization from the date of initial appointment (including the services rendered on casual basis). The Hon'ble High Court in their judgement have stated that if any employee entitled to the benefit

of the order, though not a party by name to these proceedings, he may make appropriate representations to the competent authority and such representations shall be considered and orders issued on a case to case basis considering all relevant aspects. It is learnt that for the compliance of above order, Naval Transport Pool, Mumbai have intimated to the Hqrs, Western Naval Command vide letter No. NTP/ADM/266/1/D, dated 26.10.2013 that an amount of Rs. 26,75,000/- is estimated as an approximate financial implication.

Therefore, you are requested to issue necessary directives to the concerned authorities so that the casual employees of all Dtes / Hqrs of Ministry of Defence including (petitioner/non-petitioner of) Naval Transport Pool, Mumbai may be granted the financial upgradations under ACP / MACP Scheme on the basis of their regularization from the date of initial appointment (including service rendered on casual basis).

- (iv) On 25.07.2013, Hon'ble Supreme Court of India in SLP No. 17419/2009 with Civil Appeal No. 1119 of 2013 & SLP (Civil) No. 37255/2012 upheld the decision dated 9-07-2008 passed by the High Court of Calcutta in Writ Petition No. 632 of 2007, which confirmed the judgment dated 9-11-2006 passed by the Central Administrative Tribunal, Calcutta Bench in O.A. No. 939 of 2004. Due to above decision of Hon'ble Supreme Court, the incumbents – Junior Hindi Translators, Senior Hindi Translators & Hindi Officers of Ordnance Factories became eligible for upgraded pay scales (5500-175-9000, 6500-200-10500 & 7500-12000 respectively) notionally w.e.f. 01.01.1996 and financially w.e.f. 01.02.2003. This should be implemented.
- (v) Grant of Higher Pay Scale to Photo Etcher (Graticule) from date of appointment in OLF Dehradun:- 05 IEs of Ordnance Factory Dehradun were granted higher pay scale from the date of appointment in terms of decision of Hon'ble Tribunal in O.A. No. 956-69 of 2008 and Hon'ble High Court Nainital decision in W.P. No. 362 of 2011. These 05 IEs after getting Boy Artisan Training were appointed as Optical Worker (Skilled) in the pay scale of Rs. (260-400). The basic contention of these individuals was that they were assigned the work of Photo Etcher (Graticule), which was declared high precision job by ECC and upgraded to the pay scale of Rs. (330-480) from Rs. (260-400). Due to above recommendation, the Hon'ble Tribunal/High Court has given decision and accordingly they were granted upgraded pay scale from the date of appointment. Quoting the above order of Hon'ble CAT & High Court of Nainital, 02 employees of OLF Dehradun namely Shri Sanjai Kumar Gusain

and Shri Naresh Kumar Tomar have also claimed upgraded pay scale at par with the aforesaid 05 OFD employees with the contention that they were also engaged with the work of Photo Etching (Graticule) while appointed in OFD and were transferred to OLF to carry out the same work. These 02 employees were initially appointed at Ordnance Factory Dehradun on the post of Optical Worker (Skilled) w.e.f. 27.09.1983 & 25.01.1988 respectively and later on transferred to OLF in the year 1995.

Shri Sanjai Kumar Gusain and Shri Naresh Kumar Tomar requested the authorities to grant them higher pay scale from the date of appointment at par with their similarly placed counterparts/colleagues of OFD but the same were not acceded to on the plea that they were not party to the Court case. Vide this federation's letter No. BPMS / OFB / CZ 23 (1/5/L), Dated: 04.06.2014 OFB has been requested to extend the judicial pronouncement in favour of Non-petitioners, but no avail.

The stand taken by the authorities is a matter of great concern for the trade unions as whether concerned Authorities/Departments/ministries want to add Lakhs of more court cases filed by each and every Central Government Civilian employees where the courts are already overloaded and several lakhs of litigants are waiting for judgment for decades.

Therefore, it is requested to issue necessary directives to the concerned authorities so that non-petitioner Govt employees (Shri Sanjai Kumar Gusain and Shri Naresh Kumar Tomar) of OLF who were appointed as Optical Worker (Skilled) and performed the job of Photo Etcher (Graticule) may also be granted the pay scale of Rs. (330-480) from the date of their initial appointment.

4. Posting of Physically Handicapped Candidates - Implementation of Govt Policy in Army Hqrs etc. in respect of Defence Civilians: Vide O.M. No. AB-14017/41/41/90-Estt (RR), Dated 10.05.1990 Govt of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel & Training has communicated that the holders of Group 'C' or Group 'D' posts who have been recruited on regional basis and who are physically handicapped, such persons may be given posting, as far as possible, subject to administrative constraints, near their native places within region and requests from physically handicapped employees for transfer to or near their native places may also be given preference.
5. Defence installations should be exempted from 5% limit of Compassionate ground appointment and one time relaxation for all pending cases.
6. Re-draft the role of Defence (Finance) so that service matters like Recruitment Rules, Cadre Review, revival of sanctioned posts, payment of arrears, revision of allowances etc. may be settled at the earliest.

7. The meeting of Departmental Council (JCM), MOD should be convened regularly. None of the Administrative Joint Secretaries of Departments of MOD has implemented the instruction {MOD I.D. No. 1(1)/2013/D(JCM), dated 22.10.2013} on the Mechanism to provide additional meeting opportunities to Staff Side to sort out their grievances.
8. Probable date of completion (PDC) on the pattern of citizen charters should be fixed for resolving the issues, for movement of file/paper from desk to desk/section in respect of issues raised by JCM/Federations and latest position should be updated in website.
9. A permanent cell of empowered officers from Min of Defence, Finance, Law, Labour, DoPT etc. should be constituted in MoD so that the Cadre Review & Recruitment Rules of Group 'B', 'C' & 'D' may be revised expeditely.
10. Remove the artificial restriction of 40 days PLB for AOC, Navy, Air Force, EME & Ordnance Factories. The PLB should not be less than the Adhoc Bonus of 30 days, and all ceilings on payment and eligibility of Bonus should be removed.
11. Para 3.1 of Govt. of India, DoP&T O.M. No. 22011/5/86-Estt.(D), dated 10<sup>th</sup> April, 1989 issued as consolidated instructions on Departmental Promotion Committee stipulates as under:-

***“ ..... A vacancy shall be filled in accordance with the recruitment rules in force on the date of vacancy, unless rules made subsequently have been expressly given retrospective effect. Since amendments to the recruitment rules normally have only prospective application, the existing vacancies should be filled as per the recruitment rules in force. Holding of DPC meetings need not be delayed or postponed on the ground that recruitment rules for a post are being reviewed/amended.”***

Hence, all the concerned authorities of Ministry of Defence should be instructed to hold the meetings of DPC regularly.



**(M P SINGH)**  
General Secretary