

 **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 / NDA / 200 (8/2/L)

Dated: 24.04.2015

To,
Shri R K Mathur,
Secretary, Department of Defence,
Min of Defence, Govt of India,
South Block, New Delhi - 110011

Shri G Mohan Kumar,
Secretary, Department of Defence Production,
Govt of India, Min of Defence,
South Block, New Delhi – 110011

Ms. Vandana Srivastava,
Financial Adviser (Defence Services),
Govt of India, Min of Defence,
South Block, New Delhi – 110011

Subject: Prior Intimation for Contempt Petition: Grant of Night Duty Allowance on the basis of Actual Salary – Implementation of Courts Judgements.

Respected Sir / Madam,

With due regards, it is submitted that the issue of payment of Night Duty Allowance based on actual salary instead of notional pay of Rs.2200/- was under consideration in the Ministry of Defence consequent of Courts judgments. Hon'ble CAT Jodhpur has already passed the following directions in OA No 34/2008 dated 5.11.2009:

- (i) The Night Duty Allowance shall be paid to the **applicants and the similarly situated persons** on the basis of the actual salary after taking out the pay structure determinants like HRA etc., which have no actual relation to the work performed and on the basis of this pay, thus arrived at, Night Duty Allowance is payable to the applicants.
- (ii) The applicants are entitled to such arrears as is applicable to them from April 2007 on the basis of actual pay thus arrived at without any interest if the amount is calculated and arrears paid to them from six months from the date of receipt of a copy of this order and thereafter with 6% interest.
- (iii) The O.A is allowed to the extent as aforesaid. No order as to costs

It is learnt that vide I.D. No. 17(4)/2012/D (Civ-II), dated 04.01.2013 MOD had asked for some data from all the Dtes/Hqrs and since then the matter was pending.

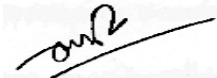
Meanwhile, O.A. No. 2017/2014 was filed in CAT Mumbai on 17th January, 2014 as 'All Employees of Ordnance Factory Ambajhari, Nagpur (1598 applicants) versus Union of India through Secretary, Min of Defence' for payment of Night Duty Allowance on the basis of actual

salary. The O.A. was disposed of at the admission stage with the directive to consider the said representations of the applicants in the light of the judgement passed by Jodhpur within 12 weeks. Aggrieved by the non-compliance of the above directive, Contempt Petition (CP No. 200/2014 Shri Arvind Girija Singh & Ors versus UOI & Ors.) was filed and the subject CP was heard on 23.02.2015 and after hearing both sides Hon'ble CAT Mumbai disposed of the contempt petition with an order to grant night duty allowance as per revised rate within 03 months from the date of receiving the order.

As the period granted by the Hon'ble CAT is going to expire on 23.05.2015, all the concerned authorities are requested to take appropriate action so that Night Duty Allowance may be paid on the actual salary as per CAT directive to the petitioners as well as non-petitioner, failing which by this federation BPMS will be compelled to file Contempt Petition.

Thanking you.

Sincerely yours



(M. P. SINGH)
General Secretary

Copy to:

Shri Nripendra Mishra,
Principal Secretary to Prime Minister of India
Prime Minister office,
152, South Block, New Delhi – 110011

- With due regards, to bring to your kind notice that due to lethargic attitude of the concerned authorities thousands of Central Government Civilian employees are being compelled to approach the judicial forums to redress the service matters whereas the courts are already overloaded and several lakhs of litigants are waiting for judgment for decades.

Ironically, with the approval of Additional Secretary (R), vide MOD ID No. 18 (2)/2014-D(JCM), dated 09.12.2014, all the concerned have been directed that wherever feasible, the grievances of the similarly placed employees about service matters shall be resolved through administrative channels which would help in reducing unnecessary litigation as well as resentment amongst employees.