

**ALL INDIA DEFENCE EMPLOYEES FEDERATION  
INDIAN NATIONAL DEFENCE WORKERS FEDERATION  
BHARATIYA PRATIRAKSHA MAZDOOR SANGH**

**No. 01/AIDEF/INDWF/BPMS/14**

**Dated, the 16<sup>th</sup> Oct, 2014**

To  
The DGOF & Chairman  
Ordnance Factory Board,  
10A, Shaheed Kshudiram Bose Road  
Ministry of Defence,  
Kolkata - 700 001

Through: Shri Rajiv Gupta , Member /TS.  
Chairman of the Sub-Committee.

Sub : Payment of incremental pay to piece workers for working beyond  
44 ¾ hrs and upto 48 hrs in a week under departmental rules.

Ref : Office Order No. 834/PWR/A/A, dated 21/07/2014.

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The representatives of the 3 Federation in the above mentioned Committee tried their best to convince the official side to consider the logic and justification of our demand. However, due to the rigid and adamant attitude of the official side in the Committee there was no unanimity and hence the representatives of the 3 Federations were forced to submit a separate Report for a favourable consideration of your good self. Incidentally we fail to understand that when already OFB has recommended in the past for payment of time wages/DOT to the industrial worker deployed on Piecework System for the period between normal working hours and 48 hours in a week, how suddenly OFB can take a deviation from its earlier stand.

The report of the 3 Federation representatives is enclosed herewith.

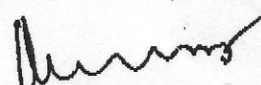
Thanking you,

Yours faithfully,



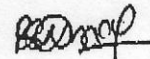
( C. SRIKUMAR )

GENERAL SECRETARY/AIDEF



( R. SRINIVASAN )

GENERAL SECRETARY/INDWF



B.R. NARESH KUMAR

(SADHU SINGH)

ORG. SECRETARY/BPMS

for General Secretary



**REPORT GIVEN BY THE REPRESENTATIVES OF THE THREE FEDERATIONS IN THE COMMITTEE TO EXAMINE THE ISSUE OF PAYMENT OF INCREMENTAL PAY TO INDUSTRIAL WORKERS DEPLOYED ON PIECE WORK SYSTEM IN ORDNANCE FACTORIES, SINCE THERE WAS NO UNANIMITY IN THE DELIBERATIONS IN THE COMMITTEE MEETING HELD ON 16-10-2014 AT OFB KOLKATA**

A committee was constituted by DGOF & Chairman, OFB to study the above subject and to submit its recommendations. In the second meeting of the committee held on 16-10-2014, the official side has shown gross unwillingness and utter disregard to consider the genuineness and acceptability of the justified demand of the 45000 Industrial Workers deployed on piece work system, who happens to be the backbone of the organizational functioning. This is a very unfortunate development, particularly in the light of the fact that in the indefinite strike negotiation meeting held on 06-02-2014, it was agreed by MoD that the demand will be examined and a justifiable decision will be taken. Since the very stand taken by the official side representatives of the committee makes a collaborative and congenial discussion implausible, the representatives of the federations who are members of the committee are left with no other option rather than to submit a separate report for the consideration of DGOF & Chairman and MoD. Accordingly we representatives of the three federations submit our report on each of the terms of reference, which in conformity with the views expressed by the federations in the MoD meeting dated 06-02-2014 and agreed by MoD.

**Terms of Reference - 1**

**The committee will examine the circumstances which led to the decision to stop payment of incremental element of pay as part of piece workers payment for overtime working duty 3 ¼ hrs (per week)/1 hr. per day upto 48 hrs. a week or 8 hrs. a day**

**Views of the Federation Representatives in the Committee**

Till 3rd CPC the hourly rates of piece workers were correlated in the midpoint of the pay scales of the grade which was identified in the Labour estimate and there was no element of incremental difference and the piece worker was required to earn his increment through PW system. The Federation represented against this anomaly and after implementation of the 4th CPC pay scales w.e.f. 01/01/1986 MoD constituted a committee to negotiate with the Federations and subsequently Govt. orders were issued for correlation of hourly rates of the piece worker in the minimum of the pay scale and the difference between the actual basic pay and the minimum of the pay scale was paid as incremental difference. After implementation of the correlation of hourly rates in the 4th CPC pay scale the PC of A(Fys.) referred to OFB about the mode of incremental pay to the piece workers. OFB vide letter No.834/A/A dated: 30th Nov. 1990 clarified to PC of A(Fys.) that the incremental pay is a part of his actual basic pay and the benefit of his increment pay is available to a piece worker like any other Govt. employee, the incremental difference has to be paid across whole of the time wage element including extra hours he may have put in during the month.

PC of A(Fys.) agreed with the above contention of OFB and accordingly the wage package was amended to pay the benefit of the Increment Pay for the period between the prescribed normal working



hours and 48 hrs, in a week, which includes 9 hours wherever the piece worker is deployed on OT during Sundays/Holidays.

During 2006, Chairman/OFB arbitrarily constituted a committee with 3 members of the OFB to examine the entitlement of payment of OT wages under Departmental Rule for work done between 44 ¼ hrs. to 48 hrs. The committee without holding any discussions with the Federations, submitted its report to the Chairman. The committee took the following, thoroughly illogical views:

- a) The Hon'ble Supreme Court in their Judgment against Civil appeal no.1929 of 1990 has upheld the department's contention that piece worker are not entitled to get OT Wages for work done from 44 ¼ hrs to 48 hrs.
- b) There appears to be an error of Judgment while designing computerized package for wage payment. In the confusion that prevailed pieceworkers were paid OT under Departmental rules on the basis of Basic Pay +DP + Small Family allowance+ Transport Allowance. Govt. letter did not address the question of whether Saturday Bonus is payable to piece workers or not. The thought process was restricted as to how such payment would be made on account of incremental pay, or Transport Allowance. This must be applicable for piece work calculation and calculation of OT payment beyond 48 hrs.
- c) The Committee finally recommended that "in absence of any Govt. order, Payment of Saturday Bonus to piece workers is not correct. Payment of such bonus to piece workers should be stopped forthwith"

Chairman/OFB approved the above recommendation of the committee and the payment of Incremental Pay + DA for the period between prescribed normal working hours (44 ¼ hrs.) and 48hrs was stopped w.e.f. 01/04/2006.

#### Terms of Reference 2

**The committee will examine the admissibility of incremental pay for the said 3 ¼ hrs within the frame work of existing piece work scheme.**

#### Views of the Federation Representatives In the Committee

As per the MoD order dated 01/03/2000 on Piece work correlation in the 5th CPC payscales implemented w.e.f. 01/03/2000 "The difference between actual basic pay of a worker and the minimum of his payscale shall be paid to him as a separate element called Incremental Pay". The Incremental Pay is nothing but a part of the basic pay of the worker. Therefore the piece workers are entitled for this element of basic pay like any other Govt. employee for the prescribed working hours of 44 ¼ hrs per week, additional hours put in by the piece worker between 44 ¼ & 48 hrs, and also beyond 48 hrs. After 1/4/2006 the piece workers are paid the incremental pay portion of the actual basic pay upto 44 ¼ hrs, in a week and beyond 48 hrs, in a week as per Section - 59 of the Factories Act 1948. However the piece workers are not paid the incremental pay portion and DA element for the period between 44 ¼ hrs & 48 hrs. in a week and whenever the piece workers are deployed on OT during Sundays/holidays. The Federations also analyzed various Govt. orders issued from 1959 onwards on the subject of calculation of overtime pay under Departmental rules and Factories Act 1948. The MoD order No.F8(5)J/D(Civ.II), dtd. 1/9/1959 stipulated as follows:



"for work in excess of normal working hours and upto 9 hours on and day or 48 hrs, in a week, overtime will be paid at the rate prescribed in the Departmental Rules. for calculating overtime pay under this item only basic pay and Dearness pay shall be taken into account".

Subsequently MoD Vide OM Dtd. 11/9/1987 and OM Dtd: 14/01/1988 and OM Dtd: 1st July 1999 has also clarified that employees of Industrial Establishment are entitled for Overtime allowance in the time rate for the work done between the prescribed working hours and upto 48 hrs, in a week. the same instruction was reiterated after 6th CPC also. None of these Govt. orders never discriminate between Day worker and piece worker.

However, the official side representatives were rejecting the claim of the piece workers by quoting the contents of MoD order dated 13/12/1963 which reads as follows: " No overtime will be admissible for overtime in the day shift. But for the purpose of distribution of piece work profits, the time wages elements in respect of OT upto 9 hours a day or 48 hrs a week will be determined at the rate of P/200 per hour, where P represents the monthly basic pay. It is pertinent to bring out the following points which are relevant to the above clarification but have not been considered by the official side of the committee, despite repeated representation by the Federation representatives, during the deliberations of the committee meeting:

- (a) At the time the above order of MoD was issued, the PW rates were correlated in the mid-point of the pay scale and there was no element of incremental pay.
- (b) Even otherwise, P, as envisaged in the above formula, represents actual basic pay, and not the minimum of pay scale (Rs 7100/- in the present system), as being done in present system of Pay. As such, the formula which was applicable at that point of time, is irrelevant after implementation of 4<sup>th</sup> CPC PW correlation, since it was converted to minimum of the pay scale and incremental difference was introduced.
- (c) Therefore, after implementation of 4<sup>th</sup> CPC PW correlation, when the concept of incremental difference became applicable, it would have automatic application on the period between 44 ¾ hours and 48 hours as well, as is being repeatedly explained by the Federation representatives.

The Federation representatives also studied the Judgment of the Hon'ble Supreme Court in Civil appeal No.1929 of 1990. It is seen from the Judgment that the applicant Union in the case has claimed for extra wages for 3 ¼ hrs at double the normal rate in accordance with Sec. 59(1) of the Factories Act, which they are not eligible. Moreover when the original case was agitated by the applicant Union at Madras High Court and subsequently in the Supreme Court the Piece work correlation was in the midpoint of the payscale and the element of Incremental pay was not in vogue, and hence the same was not claimed by the applicant union in the case. Since the Piece workers are not entitled for OT Wages at double the rate for the period between 44 ¾ hours and 48 hours, the Supreme Court has dismissed the petition. Rejecting the claim of the Industrial Employees deployed on Piece Work System on the basis of above judgement of the Hon'ble Apex Court is erroneous, as the reference in itself has been incorrectly drawn between two totally unconnected issues.

The Federation representatives is of the view that the Industrial worker deployed on piece work system generally called as "Piece Workers" are eligible for OT wages at time rate / single rate for the period between the prescribed normal working hours of 44 ¾ hours and 48 hours in a week and also when the pieceworker is deployed on OT during Holidays / Sundays.



The Federation representatives has also noted that as per the provision of the Govt. orders other employees of the Ordnance Factories including industrial employees deployed on day-work system are paid overtime at time rate /single rate by including Basic Pay + Dearness Allowance when they are deployed beyond normal working hours of 44 ¾ hours and upto 48 hours in a week and also when they are deployed on OT during Holidays /Sundays.

As regards Pieceworkers, they are getting the minimum of their pay scale during the above period through their piecework earnings. What they are not paid is a portion of their basic pay i.e. the Incremental Pay (difference between minimum of the pay scale and actual basic pay) and DA element from 1/4/2006 to 3/3/2014 and from 4/3/2014 (date of correlation of hourly rate to the pieceworker in the 6<sup>th</sup> CPC pay-scale) the pieceworkers are eligible for the difference between Rs.7100/- and their actual Pay and DA element for the above mentioned period.

#### Justification

In the existing piece work scheme introduced w.e.f. 4/3/2014 in 6<sup>th</sup> CPC Payscale and in the 5<sup>th</sup> CPC Payscale w.e.f. 1/3/2000, the pieceworkers are eligible for Incremental Pay as per Govt orders which is nothing but a part of their basic pay. They are eligible for this element whenever they are Deployed to work beyond 44 ¾ hrs, and beyond 48 hrs. Beyond 48 hrs, they are entitled for double the rate which they are getting. They are entitled for single rate for the period between normal working hrs of 44 ¾ hrs, and 48 hrs. in a week and also whenever they are deployed on OT during holidays/sundays. The Pieceworkers are paid the actual basic pay up to 44 ¾ hrs, and beyond 48 hrs. There is no justification in not paying the actual basic pay between 44 ¾ hrs and 48 hrs, and whenever they are deployed on OT during Sunday/Holidays and restricting the same to the minimum of the worker's payscale from 01/04/2006 to 3/3/2014 and to Rs.7100/- from 04/03/2014 onwards. As per MoD instruction on calculation of OT Wages under Departmental Rules the element of Basic Pay + DA has to be taken in to account. Accordingly for calculating OT wages under Departmental Rules to the piece worker w.e.f. 01/04/2006 the following element may be taken into account.

Incremental Pay + DA

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200

The Ordnance Factories are production Units and the industrial workers who are also Govt. Employees are detailed on piecework system in the interest of production and productivity. While all other employees of the Factory including Industrial worker deployed on Day Work System who are basically for supportive function to the work performed by piece workers are entitled for OT for the above period, there is no justification in subjecting the piece workers in a disadvantageous position. Since there is an unrest amongst the piece workers in this regard, the Federations are repeatedly representing this issue in various JCM forum and also in the strike notice etc. Therefore to settle this



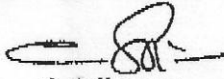
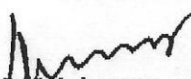
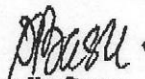
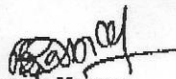
outstanding grievance of the majority of the workforce of OF organisation, the committee recommends for payment of Overtime wages under single rate to the piece workers for the above mentioned period.

**Terms of Reference-3**

The committee may explore the possibility of payment of incremental pay for the said 3 ¼ hrs., as a new element to the existing scheme.

**Views of the Federation Representatives in the Committee**

The Committee is of the view that since the payment of Incremental Pay/difference and OT under Departmental rules are already governed under existing Govt. orders, there is no requirement for treating the incremental pay for the period between normal working hrs & 48 hrs, as a new element to the existing scheme. However, since the PC of A(Fys.) have opined for a Govt. letter in this regard, OFB may take up the matter with the MoD for getting a clarification issued in this regard. This element of incremental difference was already justifiably paid to the Industrial Workers deployed on PW System from the year 1990 to 31-03-2006. Since this was stopped without any application of mind by the OFB, this element has to be paid we.f. 01-04-2006 to 03-03-2014 on the basis of difference between the actual basic pay of the worker and the minimum of his pre-revised pay-scale and from 04-03-2014 (date of correlation in the 6<sup>th</sup> CPC scales), the element of difference between actual basic pay, including grade pay and Rs 7100/-. For example, if the actual Basic Pay of a worker is Rs 20,000/-, then the incremental difference of Rs 12,900/- (Rs 20000 – Rs 7100) has to be paid to him in the formula of Rs (12900/200) X No. of OT hours between normal working hours and 48 hours in a month. Since the Day workers and other NIEs are paid full Basic Pay plus DA, i.e. P+DA, there is all justification to extend the benefit of DA element also to the IEs deployed on PW System.

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| S.N. Pathak    | C. Sri Kumar  | Srinivasan  | Pradip Basu  | Sadhu Singh    | Naresh Kumar  |
| President/AIDF | GS/AIDF   | GS/INDWF  | VP/INDWF   | Org. Secy/BPMS | Org. Secy/BPMS  |

**Dated: 16-10-2014**