



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)

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REF: BPMS / MACPS / 64 (7/3/M)

Dated: 05.05.2014

To,
Shri Shiva Gopal Mishra,
Secretary, Staff Side,
National Council JCM,
New Delhi.

Subject: Agenda for next meeting of the Standing Committee of the National Council JCM: Grant of MACP benefit to the eligible employees in the Hierarchy of promotional grade.

Dear Sir,

I have come to know that a meeting of the Standing Committee of the National Council JCM is scheduled to be held on 07.05.2014 under the Chairmanship of Secretary (P). Being a constituent of National Council (JCM) but not of Standing Committee, I would like to submit one of the issues regarding grant of MACP benefit in the hierarchy of promotional grade instead of hierarchy of grade pay.

An affected employee had challenged the Government's decision on the subject vide his O.A. No. 1038/CH/2010 in CAT Chandigarh and that the Hon'ble CAT Chandigarh vide its order dated 31.05.2011 granted the prayer of the petitioner and directed the authorities 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. In view of the above, the issue now stands settled that eligible employee needs to be given MACP benefits in the promotional hierarchy only.

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.

Further, your attention is invited to Para 126.5 of 5th Central Pay Commission which reads as under:

Extending judicial decisions in matters of a general nature to all similarly placed employees. - We have observed that frequently, in cases of service litigation involving many similarly placed employees, the benefit of judgment is only extended to those employees who had agitated the matter before the Tribunal/Court. This generates a lot of needless litigation. It also runs contrary to the judgment given by the Full Bench of Central Administrative Tribunal, Bangalore in the case of C.S. Elias Ahmed and others v. UOI & others (O.A. Nos. 451 and 541 of 1991), wherein it was held that the entire class of employees who are similarly situated are required to be given the benefit of the decision whether or not they were parties to the original writ. Incidentally, this principle has

been upheld by the Supreme Court in this case as well as in numerous other judgments like G.C. Ghosh v. UOI, [(1992) 19 ATC 94 (SC)], dated 20-7-1998; K.I. Shepherd etc. **Accordingly, we recommend that decisions taken in one specific case either by the judiciary or the Govt. 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. We clarify that this decision will apply only in cases where a principle or common issue of general nature applicable to a group or category of Government employees is concerned and not to matters relating to a specific grievance or anomaly of an individual employee.**

Contrary to above, DoP&T has replied (letter No. No. P-26012/5/2011-AT, 19.08.2013 & No. P-13025/11/2014-AT, dated 04.04.2014) under RTI Act that the SLP was dismissed on technical grounds and not on merit, hence, the Department had decided to implement the order dated 31.05.2011 of CAT Chandigarh Bench for grant of financial upgradation in the promotional hierarchy under MACP to Shri Rajpal on personal basis not to be treated as a precedent

The stand taken by DoP&T is a matter of great concern for the trade unions as whether Govt of India wants to add 35 Lakh 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.

You may be agree that the JCM Forum has been evolved for promoting harmonious relations and securing the greatest measure of cooperation between the Government, in its capacity as employer, and the general body of its employees in matters of common concern and increasing the efficiency of the public service. Hence, it is our moral and legal responsibility to protect the rights of our fellow members through JCM forum also.

Therefore, you are requested to add the above agenda point in the meeting and try your level best to prove the worthy of existence of this National Council (JCM) by resolving the issue without further delay and litigations in the interest of employees.

Thanking you.

Yours Sincerely

SADHU SINGH
Member, National Council (JCM) &
Organizing Secretary/BPMS

No. P-13025/11/2014-AT
Government of India
Ministry of Personal, Public Grievances & Pensions
Department of Personal & Training

New Delhi, dated the 4th April, 2014

To
Sh. Vithba Gopala Dahekar
Plot No. 43, Om sai Society
Duttawadi
Post-Lawa, Nagpur
Maharastra-440023

Sub: Information under Right to information Act, 2005.

Sir,

Kindly refer to your RRI application dated 01/03/2014 (transferred to the undersigned by the CPIO (Estt. D) DoP&T on 26/-3/2014) and to say that the SLP No. 7467/2013 was filed by the Department against the judgement of the Hon'ble High Court Chandigarh in CWP No. 19387/2011. The SLP was dismissed on technical grounds and not on merit. The Department decided to implement the order dated 31.05.2011 of CAT Chandigarh Bench for grant of financial upgradation in the promotional hierarchy under MACP to Shri Rajpal on personal basis not to be treated as a precedent. A copy of the Department's letter No. 26012/5/2011-AT dated 19/08/2013 issued in this regard is enclosed. You have not indicated details of the matter of OA No. 914/2012. However the same does not appears to be related to any employee of CAT and therefore is not being dealt with in AT Division.

2. The issue concerning policy on ACP and MACP scheme for the Central Government Employees are being handled in Estt (D) section of the Department. CPIO (Estt. D) DoP&T has already sent a reply to the applicant vide letter No. 41011/3/2014-Estt. (DF)/01309 dated 26/03/2014.

3. The first appellate Authority in respect of the information furnished above is Shri A. Asholi Chalai, Director (AT), Department of Personal & Training, Room No. 2080 A, North Block New Delhi.

Encl: As above

Yours Sincerely

Sd/

(D.D. Maheswari)

Under Secretary to the Government of India
& CPIO (AT)

MOST IMMEDIATE

COURT CASE

No. P-26012/5/2011-AT

Government of India

Ministry of Personal, Public Grievances & Pensions

Department of Personal & Training

New Delhi, dated the 19th August, 2013

To

The Registrar

Central Administrative Tribunal

Principal Bench

61/35, Copernicus Marg

New Delhi-110001

Subject: OA No. 1038/CH/2010-Raj Pal Vs UOI & Ors.

Madam,

I am directed to refer CAT's letter No. PB/4/36/2010-R dated 23/05/2013 on the subject cited [above and](#) to say that matter was examined in consultation with Ministry of Law & Justice and the Establishment Division of the Department. It has been decided to implement the CAT's Chandigarh Bench's order dated 31.05.2011 in the subject OA absolutely.

2. Since the special leave petition (SLP) filed against subject OA was dismissed on the ground of in-sufficient explanation given to condone the delay in re-filing the SLP and not on merit, this order of granting of financial up-gradation in the promotional hierarchy under MACP to Sh. Raj Pal is personal to him and will not be treated as a precedent.

Sd/

(D.D. Maheswari)

Under Secretary to the Government of India