



# **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: 16.01.2014**

To,  
The Secretary,  
Govt of India, Min of Defence,  
South Block, DHQ PO,  
New Delhi – 110011

**Subject: Granting of 3<sup>rd</sup> MACP in GP 4600/- after Restructuring of Cadre of Artisan Staff in Defence Establishments in modification of recommendations of 6<sup>th</sup> CPC – Clarification regarding.**

Reference: 1. MOD I.D. No. 11(5)/2009-D (Civ-I), Dated 28.12.2013

Respected Sir,

With due regards, your attention is invited to S.R.O. 13(E) Dated 04.05.1989 / S.R.O.-191 dated 28.11.1994 / S.R.O.-66 dated 27.05.2003 "Indian Ordnance Factories Group C Supervisory and Non-Gazetted Cadre (Recruitment and Conditions of Service) Rules" which stipulates that the post of Chargeman (Tech) will be filled up by-

- (a) 25% by direct recruitment after adjustment of surplus and transfer,
- (b) 25% by Limited Departmental Examination and
- (c) 50% by promotion from panel prepared by relevant DPC for each category and on failure of recruitment by promotion, by transfer failing which by direct recruitment {as mentioned in Point No. 2 of Annexure to OFB Letter No. 01/CR/AI/Vol.II/658, dated 21.02.2011}.

It further stipulates that the post of Chargeman will be filled up by Promotion from Draughtsman or equivalent in scale of Rs.1200-2040 with 3 years service and by promotion from Highly Skilled Grade-I with 3 years of regular service failing which from Highly Skilled Grade-II with 6 years regular service in respectively category.

The above Recruitment Rule (SRO) nowhere says that the post of Chargeman will be filled by promotion from Master Craftsman.

It is to be noted that the post of Master Craftsman was created in pursuance of the recommendations of the 3<sup>rd</sup> Central Pay Commission made in Chapter 19 of Volume I of its Report, vide MOD letter No. 1(2)/80/D(Civ-I), dated 21.09.1982 in the pay scale of Rs. (425 – 640) at par with the Chargeman. Para 2(iv) of the letter stipulates that the incumbents selected for the post of Master Craftsman will forego their normal promotion to the supervisory grade; i.e., Chargeman.

The pay scale of Master Craftsman & Chargeman was revised to Rs. (1400 – 2300) as per 4<sup>th</sup> CPC but the 5<sup>th</sup> CPC revised the pay scale of Master Craftsman to Rs. (4500 – 7000) whereas Chargeman was revised & upgraded to Rs. (5000 – 8000) w.e.f. 01.01.1996.

Subsequently, Restructuring of Cadre of Artisan Staff in Defence Establishments in modification of recommendations of the 5<sup>th</sup> CPC has been introduced vide MOD letter No. 11(1)/2002/D(Civ-I), dated 20.05.2003 which states that the post of Master Craftsman shall not be part of the hierarchy and the placement in this grade will not be treated as promotion for Highly Skilled Grade either under normal promotion rules or under ACP Scheme. Para 4(iv) of the letter states that the post of Master Craftsman (Rs. 4500 – 7000) shall continue to be considered as Highly Skilled grade for the purpose of promotion to the grade of Chargeman-II (Rs. 5000 – 8000).

**It is worth to mention here that Hon'ble Supreme Court of India has already decided that the administrative instructions cannot be issued in contravention of the statutory rules {C&AG of India vs. Mohan Lal Mehrotra, 1991 Lab IC (SC) 2328, para 22} and that there can be no dispute with the proposition that a rule framed under the Proviso to Art. 309 of the Constitution cannot be modified by an executive order {State of Maharashtra & Anr vs Chandrakant Anant Kulkarni & Ors: 1981 AIR 1990, 1982 SCR (1) 665}**

The Supreme Court has held in the case of “Sant Ram Sharma vs State Of Rajasthan & Anr : 1967 AIR 1910, 1968 SCR (1) 111” as under:-

***“It is true that Government cannot amend or supersede statutory rules by administrative instructions, but if the rules are silent on any particular point Government can fill up the gaps and supplement the rules and issue instructions not inconsistent with the rules already framed.”***

Contrary to above, vide letter cited under reference MOD has communicated that the idea of exclusion of the post of Master Craftsman (MCM) from further promotions in the hierarchy (Chargeman in the same Grade Pay) has not found favour with the Defence Finance.

We are surprised to construe from above that Defence Finance may promote any person on any post which may be against the provisions of relevant Recruitment Rules (SRO) made under the proviso of Article 309 of the Constitution of India.

Here, we would like to draw your attention to 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, which 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.”***

It is worth to mention here that Para 2 of Annexure - I of DOP&T O.M. No. 35034/3/2008-Estt. (D), dated 19.05.2009 of MACPS provides that the MACPS envisages merely placement in the immediate next higher grade pay in the hierarchy of the recommended revised pay bands and grade pay as given in Section I, Part – A of the first schedule of the CCS (RP) Rules, 2008 and which is as under;

Grade Pay Rs. 1800/-  
Grade Pay Rs. 1900/-  
Grade Pay Rs. 2000/-  
Grade Pay Rs. 2400/-  
Grade Pay Rs. 2800/-


Grade Pay Rs. 4200/-  
Grade Pay Rs. 4600/-  
Grade Pay Rs. 4800/-  
Grade Pay Rs. 5400/-  
Grade Pay and so on

Hence, a person who is drawing grade pay of Rs. 4200 due to 02 promotions/ACPs and completes 30 years regular service on or after 01.09.2008 will be granted financial upgradation under 03<sup>rd</sup> MACPS in grade pay of Rs. 4600/-.

Therefore, you are requested to review the referred clarifications and withdraw the same without further delay and clarify that since the post of MCM was not in hierarchy of artisan staff cadre upto 31.12.2005, the Highly Skilled worker/MCM who were already drawing the pay scale of Rs. (5000 – 8000) under ACP Scheme may be considered for further financial upgradations in the next Grade Pay (Rs. 4600) in the hierarchy of Grade Pays.

Thanking you.

Yours Sincerely



**(MUKESH SINGH)**

Secretary/BPMS &  
Member JCM-II (MOD)