

**MINUTES OF THE MEETING OF THE STANDING COMMITTEE HELD BETWEEN THE STAFF-SIDE, NATIONAL COUNCIL (JCM) AND THE OFFICIAL SIDE UNDER THE CHAIRMANSHIP OF SECRETARY (P) AT 4.30 P.M. ON 25.10.2016.**

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The Standing Committee meeting with the Staff-Side, NC(JCM) was held at 4.30 p.m. on 25.10.2016 under the Chairmanship of Secretary(P) in Room No. 119, North Block, New Delhi.

2. The names of the officers and officials who participated in the meeting have been mentioned in the list attached herewith. The Staff-Side of the NC(JCM) had sent their agenda on which discussion was held.

3. Initiating the discussion, Secretary, Staff-Side drew attention to the requirement of holding Standing Committee meetings once every four month. He stated that meetings were not being held defeating the very purpose of JCM. He requested that all Ministries and Departments where Departmental Councils existed, be instructed to hold meetings at regular intervals. Emphasizing the vital intermediary role played by the Departmental Councils in removing intra-departmental differences arising between the lower and higher echelons of the hierarchies, he underscored the importance of holding regular Department Council meetings in every Ministry. This sentiment was echoed by all the speakers from the Staff-Side.

4. Secretary, DoPT thanked the Staff-Side for their comments on the functioning of JCM and assured that JCM would be taken very seriously and all efforts would be made to have the JCM machinery re-energised so that it could function as per its mandate.

5. After these introductory remarks, the discussion on the agenda items commenced. JS(JCA) enumerated the following status of action taken on the Minutes of the meeting of the Standing Committee of National Council (JCM) which was held on 09.10.2015:

- (i) **Effect of wage revision of Central Government Employees from 1.1.2014; ensure 5 year wage revision in future; grant of interim relief and merger of 100% DA; Ensure submission of 7<sup>th</sup> CPC report within the stipulated time frame of 18 months.**

JS(JCA) informed that since government has already decided to give effect to the 7<sup>th</sup> CPC's recommendation, no action is pending on this.

However, Staff-Side informed that they are not aware of any action taken report. As such they are not aware of which items have been closed and which are not. So they requested that DOPT should circulate minutes and ATR since 2012. They informed that under the rules of JCM, minutes will go directly to the members including Secretary, Staff-Side. But this had been dispensed with by DOPT and this needed to be revived.

**(Action: JS(JCA),DoPT)**

**(ii) Include Grameen Dak Sewaks within the ambit of 7<sup>th</sup> CPC**

JS(JCA) informed that it has been learnt from D/o Posts that a one man committee had been set up by them and that the Report is awaited.

**(Action: D/o Posts)**

**(iii) Settle all anomalies of the 6<sup>th</sup> CPC**

JS(JCA) informed that as per record there are 4 anomalies only which were required to be settled. The others had either been closed or resolved.

*Staff-Side stated that they had not received the copy of the Action Taken statement and were not aware of the manner in which the Anomaly Committee items barring 4 were closed or disposed of. They also pointed out that the items where disagreements had been recorded, ought to have been sent to arbitration. A final decision could only be taken after the ATS was circulated and further discussed.*

JS(JCA), however, clarified that DOPT had communicated it to Secretary, Staff side on 19.6.2015. However, it was decided to re-circulate it.

**(Action: JS(JCA), DoPT)**

**(iv) No privatisation, PPP or FDI in Railways and Defence Establishments.**

JS(JCA) informed that M/o Railways had informed that huge investments were necessary for bringing about urgently-needed improvements. Hence, they were going in for PPP mode. No information had been received from M/o Defence.

Staff-Side stated that the decision in the Standing Committee meeting held on 25.02.2015 had been that the Ministries/Departments would hold discussions with JCM on this issue. But no discussion had taken place so far.

**(Action: M/o Defence/Railways)**

**(v) No corporatisation of postal services.**

Staff-Side was informed that D/o Posts has communicated that there is no proposal to corporatize the postal services at this juncture.

**(Action: D/o Posts)**

**(vi) No Ban on recruitment/creation of Posts.**

Staff-Side had urged Department of Expenditure not to insist on the concept of matching savings before according approval for any creation of posts as in organisations like Railways there were many operational needs. D/o Expenditure had informed that blanket exemption could not be given from providing matching savings, but on a case to case basis, wherever there was a new functional requirement, DoE did not insist on matching savings. JS(Pers.) in the meeting further clarified that while there was no specific instruction on matching savings, it was a desirable principle of financial prudence. However, it was not insisted upon in case of functional requirement, on a case to case basis.

Staff-Side, however, contended that matching savings were being insisted upon for creation of any post. Railways was not creating any new posts even for new railway tracks. In Railways, there were orders issued by M/o Railways to cut down all work-charged posts and more than 50% of posts had been surrendered. Therefore, they requested that the M/o Railways should be empowered to take decision on creation of posts.

Secretary, DoPT informed that the points raised by Staff-Side had been noted.

**(Action: JS(Pers.), D/o Expenditure)**

**vii) Scrap PFRDA Act and reintroduce the defined benefit statutory pension scheme**

It was informed that DoPT had not received any information from D/o Financial services. Secretary, DoPT stated that a committee has been set up to look into this issue.

**(Action: D/o Financial Services)**

**(viii) No outsourcing, contractisation, privatisation of governmental function; withdraw the proposed move to close down the Printing Press, the publication, form store and stationery departments and medical stores depots.**

JS(JCA) informed that in the last meeting it was decided that Staff-Side would hold meetings separately with M/o Urban Development and M/o Health and Family Welfare.

JS(Health) informed that they had held Departmental Council meeting and are processing the action to be taken. It was also informed that M/o Health is going to hold another meeting shortly.

**(Action: MoHFW/MoUD)**

- (ix) **Regularise the existing daily rated/casual and contract workers and absorption of trained apprentices. No labour reforms should be carried out which are not in the interest of workers.**

JS(JCA) informed that the representative of M/o Labour & Employment had in the last meeting said that they were in constant touch with the stakeholders. But no information had been received from M/o Labour & Employment.

Staff-Side informed that M/o Railways had sent a proposal to cover the casual labourers who had temporary status prior to 01.01.2004 but been absorbed later which was pending in DoPT/DoP&PW for the last 6 years. It was informed that these persons had put in more than 28 years of service and were given temporary status prior to 01.01.2004. They had to be covered under the liberalised pension scheme as was done in the case of substitutes.

Since AS (DoP&PW) was not aware of the issue, Secretary, DoPT asked the Staff-Side to provide more details.

It was also informed that M/o Defence had sent a proposal for regularization of casual employees deployed on temporary status. This was pending with DoPT.

*Pointing out that engagement of casual labourer is caused by the ban on regular requirement, the Staff-Side observed that throwing them out after receiving their services would not be correct.*

(Action:JS(Estt.), DoPT & Staff-Side, NC(JCM))

- (x) **Revive JCM functioning at all levels as an effective negotiating forum for settlement of demands of the Central Government employees.**

It was decided to issue a D.O. letter from Secretary (DoPT) to all Ministries/Departments to hold meetings of Departmental Council on regular basis.

*The Staff-Side emphasised that DoPT should urge other Ministries to hold Department Council meetings regularly besides monitoring them as mere writing of letters has not yielded the desired result in the past.*

(Action: JS(JCA),DoPT)

- (xi) **Remove the arbitrary ceiling on compassionate appointments.**

1. On the demand of the Staff-Side to remove the arbitrary ceiling of 5% on compassionate appointment, JS(Estt.) explained that the judgments

of the Hon'ble Supreme Court on the matter of Umesh Kumar Nagpal Vs. State of Haryana(SC 525) and UoI Vs Joginder Sharma(6415/2002) underlined the need to follow service rules and recruit through open invitation of applications and merit.

2. Staff -Side stated that Hon'ble Supreme Court had in the Joginder Sharma Judgment only stated that no court could compel Government to cross 5%. It, however, did not bar the Government from increasing the 5% ceiling.
3. Secretary, DoPT clarified that the Nagpal Judgment had laid down the principle that, as a rule, appointment should be strictly on the basis of open invitation of applications and merit. Compassionate appointment was an exception to the rule to be exercised with utmost care, and not as a matter of course which would make it legally impermissible. So the ceiling was appropriate. It was agreed to share the judgment copy with the Staff-Side.
4. Mentioning that the requirement does not remain the same every year as employees dying in harness differ from year to year, the Staff-Side observed that restricting such appointment to a fixed 5% only was not appropriate. Relieving the family from financial distress should be the only point of consideration to be addressed immediately.
5. Staff-Side further stated that Railways were allowing more than 5%. They further informed that thousands of cases were pending in different ministries. A proposal for one time relaxation with the approval of Raksha Mantri had been sent to DoPT but the same was rejected. They also stated that in M/o Defence 50-100 workers die every year due to accidents in workplace; but there was no compassionate grounds-based appointment because of 5% ceiling. Therefore, Staff-Side requested for a review of this ceiling.
6. It was pointed out that the Parliamentary Standing Committee had also recommended for enhancing the limit for compassionate appointment. Moreover, as the Staff-Side also stated that Shri B.K. Chaturvedi, the then Cabinet Secretary, had in one of the JCM meetings agreed to this; but it had not seen the light of the day.
7. Secretary, DoPT assured that DoPT would trace the minutes of the meeting where the then Cabinet Secretary had agreed to enhance the limit and get the Court orders legally examined.

**(Action: JS(Estt.), DoPT)**

xii) **Ensuring Five Promotions in the Service Career**

Staff-Side stated that instead of ensuring five promotions in the service career, whatever promotions were there had been taken away. They pointed out the anomalies in the MACP scheme.

JS(Estt.) explained that MACP or any assured ACP was basically a social safety net and not a substitute for promotion; so it could never be more beneficial than regular promotion.

*Staff-Side contended that it was not correct to state that the ACP and MACP schemes were more lucrative than regular promotions. The schemes were introduced to provide financial benefits to an employee who stagnated due to non-availability of vacancies even though he had become eligible for the next promotion.*

Secretary, DoPT summed up the situation by observing that the reason behind delay in promotion was also due to delay in completion and implementation of cadre review report and instructions would be issued to speed up cadre review.

*Staff-Side said that a time-bound financial upgradation scheme viz. MACP had to be operationalised as recommended by the Pay Commissions, since the cadre review and the consequent creation of posts were always subject to functional requirement and financial implications.*

*Staff-Side also reiterated their demand that MACP should be granted on promotional hierarchy and not on pay matrix hierarchy.*

(Action: JS(Estt.)/CRD, DoPT)

6. **NEW AGENDA SUBMITTED BY THE STAFF-SIDE**

i) **Non-implementation of the decision taken in the 46<sup>th</sup> National Council (JCM) Meeting held on 15<sup>th</sup> May 2010 with regard to Item No.20.**

Staff-Side highlighted the issue of non-applicability of the CCS(RSA) Rules, 1993 to the workers employed in Defence Establishments who, as industrial workers, were governed under the provisions of the Industrial Disputes Act, 1947 and Factories Act, 1948 and resented the continued renewal of recognition being given to these Associations despite the contrary rule position and clarification given by DoPT & M/o Law.

Shri Anil Kumar, Deputy Secretary, Ministry of Defence, while stating that no Departmental Council meeting had taken place during the last two years, confirmed that the next meeting is scheduled to be held on 18.11.2016 in the

Ministry of Defence where a common solution would be considered in consultation with all stakeholders.

Secretary (P) affirmed that there should be adherence to the rule and that any action which did not fit into the overall framework of the specific rule/law should be avoided. **Ministry of Defence *should accordingly take necessary action in this regard.***

**(Action: All Ministries)**

**ii) Reduction of one day Productivity Linked Bonus (PLB) to the employees of OFB & DGQA under Department of Defence Production against the Cabinet decision and Government orders.**

Staff side informed that as per existing instructions on PLB issued by the D/o Defence Production, M/o Defence for civilian employees of Defence Production Establishments, the payment limit was restricted to 41 days. However, from 2007-08 onwards, in spite of the approval by the Hon'ble Raksha Manthri for 41 days' PLB to the concerned employees, the Dept. of Expenditure had started reducing PLB by one day i.e 40 days in spite of the above mentioned Cabinet-approved formula.

JS(Pers.) informed that the 6<sup>th</sup> Central Pay Commission had recommended introduction of Performance Related Incentive Scheme (PRIS) in place of the Productivity Linked Bonus Scheme as is given in D/o Posts, Ordnance Factories and M/o Railways. The recommendation of the Commission relating to PRIS was accepted by the Government in 2008 with the comment that detailed guidelines would be issued by the Nodal Ministry. In view of that situation, the existing scheme had been continued with, although its quantum was restricted to the amount paid during the preceding year. Based on this, the PLB amount in Ordnance Factories had been restricted to 40 days' salary.

The 7<sup>th</sup> CPC has recommended introduction of Performance-related Pay (PRP) for all categories of government employees which was to be based on RFD, APAR and broad guidelines. In the meanwhile, the existing bonus scheme would be reviewed and linked with increased profitability/productivity under well-defined financial parameters. Implementation Cell had asked DoPT to process the matter.

***Staff-Side reiterated that pending a decision on PRIS and PRP as recommended by both 6<sup>th</sup> and 7<sup>th</sup> CPC, the existing Cabinet-approved formula should be in operation. Hence the reduction of one day's PLB in the Departments of Defence Production and EME under MoD is not justified. So the unpaid PLB should be given back to the employees to avoid any litigation on the subject. Secretary (P) desired that JS (Pers.) may re-examine the matter.***

**(Action: JS(Pers.),M/o Expenditure)**

- iii) **Grant of one time relaxation to the Central Government Employees who have availed LTC-80 and travelled by air by purchasing Ticket from other than authorised agent.**

Staff-Side informed that many non-entitled Central Government employees had availed themselves of the benefit of LTC-80 and purchased tickets from unauthorised agents, unaware of the rule position. Subsequently, Audit had returned the LTC final claims without sanctioning them and advised the Administrative Divisions of the Ministries concerned to recover the entire LTC advance from their salary. Staff-Side also informed that the M/o Defence, with the approval of Hon'ble Minister, had forwarded a proposal to the DOP&T seeking one time relaxation in such cases. DoPT should consider the same.

*Staff-Side also pointed out that the extant instructions of the Government on purchase of air ticket from the authorised agents only or from Air India website direct and travel only on Air India flights had created insurmountable problems as abiding by the said conditions was not always feasible. The Government should review these instructions as cheaper tickets were often offered by private airlines online. They also pointed out that the strict interpretation of the rules by the Accounts Department without going into the circumstances and rejecting even genuine claims had complicated the situation. They informed that even in the case of the staff side members who had attended the official meetings for which certificate of attendance had been provided by the concerned department, the travelling allowance claims were rejected on the specious plea that the tickets were not booked through the authorised agents.*

*Secretary (P) informed that the entire issue is under consideration of the DOP&T*

(Action: JS(Estt.), DoPT)

- iv) **Grant of House Rent Allowance to the employees who vacated govt. Quarters.**

Staff-Side informed that in conformity with the National Housing Policy, many government employees including the civilian employees of the Ministry of Defence had availed House Building Advance either from the Department or from different banks and constructed their own houses/purchased flats and vacated the Govt. quarters. However, such employees were denied House Rent Allowance on the plea that 'No Accommodation Certificate' could not be issued since quarters were lying vacant. It was informed that CAI, Chennai had given direction to release HRA to the employees who had vacated quarters without insisting on 'No Accommodation Certificate'. On an appeal filed by the Department in Madras High Court, Hon'ble High Court had upheld the decision of the Tribunal.

Since no representative from M/o Urban Development was present in the discussion, Secretary, DoPT informed that the matter would be taken up with Ministry of Urban Development.

**(Action: JCA, DoPT & M/o Urban Development/JS(Pers.) M/o Expenditure)**

v) **Restoration of interest-free advances withdrawn by the Govt. based on 7<sup>th</sup> CPC recommendations.**

Staff-Side informed that these advances were paid as a welfare measure and recovered in easy instalments from the employees. With a number of festivals celebrated every year, the Staff-Side feels, giving interest-free advances will be symbolic gesture of goodwill from the govt. side.

JS(Pers.) informed that this issue would be taken up separately and reviewed.

**(Action: Staff-Side(JCM) & D/o Expenditure)**

vi) **Grant of entry pay recommended by 6<sup>th</sup> CPC to the promotees under the provisions of CCS(RP) Rules-2008.**

The issue about grant of minimum entry pay to the promotees while fixing the pay in the 6<sup>th</sup> CPC pay band was discussed as an anomaly item in the 6<sup>th</sup> CPC National Anomaly Committee (NAC). As per the agreement reached in the National Anomaly Committee meeting, DoP&T had forwarded the proposal to Ministry of Finance. However, the M/o Finance did not agree. Aggrieved at this, the Ordnance Clothing Factory Workers Union and Heavy Vehicle Factory Employees Union under the Ministry of Defence had filed a case in the CAT, Chennai Bench. CAT, Chennai Bench in OA No.310/00033/2014, dated 22<sup>nd</sup> July 2016 and in the case of HVF Employees' Union directed the Govt. of India to implement the decision of the National Anomaly Committee for grant of entry pay to all the promotees working in the concerned Ordnance Factories, regardless of whether any direct recruitment had taken place or not, to HS-II and HS-I posts with all attendant benefits like allowances, arrears of pay etc., if any, and as per the direction passed in WP 727/2015 of the Hon'ble High Court of Delhi.

JS(Pers.) informed that the recommendation of NAC had been considered by the Department of Expenditure, and with the approval of Finance Minister, the recommendation of NAC was not agreed to, as it was in modification of the recommendations of the 6<sup>th</sup> CPC. However, JS(Pers.) has informed that the Department is not aware of the CAT order and D/o Expenditure would look into it.

*The staff side stated that they would forward a copy of the Judgment of Chennai CAT and Principal Bench CAT to JS (Pers) for favourable consideration.*

**(Action: Staff-Side and JS(Pers.), D/o Expenditure)**

- vii) **Grant of 3<sup>rd</sup> MACP in GP Rs.4600 to the Master Craftsman (MCM) of Defence Ministry who were holding the post of MCM in the pre-revised pay scale of Rs.4500-7000 as on 31/12/2005.**

As per M/o Defence's instructions dated 20<sup>th</sup> May 2003, MCM in the pay scale of Rs.4500 – 7000 are not part of the hierarchical structure for Highly Skilled employees and hence the placement of the posts of HS in the same ladder as MCM should be ignored for the purpose of ACP benefits. After the implementation of 6<sup>th</sup> CPC's recommendations, and based on the recommendations of Fast Track Committee, Govt. had revised the pay scale of MCM from Rs.4500-7000 to Rs.5000–8000 at par with M/o Railways without any conditions. This upgradation of pay scale was based on the recommendations of an Expert Committee and hence, going by DoP&I's instructions, such higher pay scales granted to the employees could not be treated as a promotion/ upgradation for the purpose of ACP/MACP.

JS(Estt.), DoPT informed that the issued would be re-examined

**(Action: JS(Estt.), DoPT)**

- viii) **Carrying forward of Earned Leave by Defence Industrial Employees on transfer / appointment from non Industrial to Industrial Establishment.**

Staff side informed that the industrial and non-industrial employees of M/o Defence were governed under CDS (IE) Leave Rules 1954 and CCS (Leave) Rules, 1972 respectively. There was a lot of disparity in the past in the matter of leave between industrial employees and non industrial employees working in the same Defence Establishment.

Before November, 2006, non industrial employees could accumulate and encash Earned Leave upto 300 days and industrial employees upto 120 days. After November, 2006, the above disparity was removed and now industrial employees also can accumulate and encash EL upto 300 days. Therefore, the Staff-Side argued that there was no justification in asking non industrial employees to encash the Earned Leaves which are in excess of 120 days and not transfer the same to their Leave account after their transfer to the segment of Industrial Employees as is still being done.

Representative from the M/o Defence, present in the discussion, has stated that they have examined the proposal and are waiting for comments from Navy.

***The demand would be considered after receipt of the proposal from Ministry of Defence.***

**(Action: M/o Defence)**

**ix) Reimbursement of actual medical expenditure incurred by the employees in recognized hospitals.**

Staff-Side pointed out that in many cases the employees are not being paid the actual medical expenditure. Accounts authorities are restricting reimbursement only to the package rates as approved by the Government which have not been revised for years. The affected employees have started approaching Courts which, including the Hon'ble Supreme Court, have given judgments in their favour directing the Government to reimburse the actual expenditure.

Staff-Side demanded that the CGHS beneficiaries should at least get what is charged by AIIMS. Staff-Side also pointed out that there is only one recognised hospital in Mumbai.

Representative from M/o Health, present in the discussion, informed that the rates were in the process of being revised.

**Secretary, DoPT stated that Secretary, M/o Health would be requested to take a meeting on the issue with the staff side.**

**(Action: M/o Health & Family Welfare/ DoPT)**

**x) Dental Treatment in private hospitals recognized under CGHS / CS(MA) Rules, 1944 for CS(MA) beneficiaries.**

Staff-Side informed the Ministry of Health had issued clarification that medical facilities including dental treatment could be availed by CS(MA) beneficiaries in any private hospitals recognized under CGHS / CS(MA) Rules, 1944 and the hospitals recognized by the State Government on the recommendation of their concerned AMA and after obtaining permission from their respective Department / Ministry. In spite of this clarification, the Accounts Departments had rejected the same on the grounds that the requirement of Non Availability Certificate (NAC) from nearest Government hospital in respect of dental treatment as per OM dated 23.01.1989 had not been dispensed with.

Representative from M/o Health informed that the Ministry would issue clarification for withdrawal of the old order.

**(Action: M/o Health & Family Welfare)**

**xi) Review of the income criteria for the dependent parents of Government employees in the wake of the recent legislation of "Maintenance and Welfare of Parents and Senior Citizens Act 2007".**

Staff-Side informed that the existing income criteria fixed at Rs. 3500/- for the dependent parents of Government employees should be reviewed. .

M/o Health informed that after the implementation of 7<sup>th</sup> CPC's recommendations, the income limit from all sources for determining dependency for the purpose of availing CGHS benefits had been proposed to be revised as fixed by the D/o Pension and Pensioner's Welfare vide their Office Memorandum dated 4<sup>th</sup> August 2016 i.e. Rs. 9000/- plus the dearness relief on pension/family pension and the same had been sent to D/o Expenditure for their final approval on 22/8/2016.

**Staff-Side was also of the opinion that in the changed circumstances the limit of Rs. 9000/- also needed to be reviewed in view of the provisions under "Maintenance and Welfare of Parents and Senior Citizens Act 2007**

**(Action: MoHFW & D/o Expenditure)**

- xii) Amendment to the definition of anomaly as notified by Government in the orders of constitution of anomaly committees at various levels.**

Staff-Side stated that the definition of Anomaly should be as per O.M. No. 19/97-JCA(DoPT) dated February, 6, 1998. They also pointed out that earlier the definition had been finalised after consultation with them.

JS(JCA) stated that the existing definition of 'Anomaly' was notified after vetting of the same by D/o Expenditure. Therefore, the point raised by Staff-Side would be referred to D/o Expenditure.

**(Action: JS(JCA), DoPT & D/o Expenditure)**

- xiii) Withdraw the stringent conditions unilaterally imposed by Government for grant of Modified Assured Career Progression (MACP) in promotion and grant MACP on promotional hierarchy.**

Staff-Side, while referring to the recommendation of 7<sup>th</sup> CPC about upgrading the bench-mark from 'good' to 'very good' as the primary criterion for MACP, stated that instructions of DoPT issued vide its O.M. dated 01.11.2010 and 04.10.2012 about the bench-mark fixed for filling in the vacancies through promotion by selection or non selection method should rather be adopted for granting financial upgradation. Those Office Memoranda were issued after an agreement with JCM. Now the agreement has been broken.

JS (Estt.) explained that the principle still remains the same as, for promotion also, the benchmark is 'very good'.

Staff-Side stated that when ACP had been introduced, it was pay scale-centric. But after discussion with the Government, it was agreed that it should be promotional hierarchy-centric with the condition that when the financial upgradation was to be such, all the conditions prescribed for the eligibility for promotion should be applied. However, when MACP was introduced it was made Grade Pay hierarchy-centric and not promotional hierarchy-centric. But the

government did not withdraw the conditions. In the 7<sup>th</sup> CPC also it is stated that it will be to the next level irrespective of the fact whether the level is available in the particular department or not. As such, Staff-Side has stated that the government cannot apply the condition of 'very good' because now it is simply a matter of upgradation without any increase in responsibility. Therefore, the Staff-Side demanded that Government should either make MACP promotional hierarchy-centric or they should not make it conditional.

**(Action: JS(Estt.), DoPT)**

- xiv) **Removal of ambiguity in fixation of pay of re-employed ex-servicemen and grant of the same benefit extended to Commissioned Officers to personnel below officers rank also.**

Staff-Side stated that DoPT had clarified that on re-employment, the pay should be the pay of the re-employed post. But D/o Financial Services has given another clarification. They drew attention to an Indian Bank Association Circular to all banks and insurance companies etc in which D/o Financial Services is stated to have clarified that pay-fixation of an ex-servicemen would be through protection of pay plus DA drawn by him at the time of release from the armed forces. The Order had also stated that in addition to the pay so fixed, pension and other retirement benefit should also be allowed. This is being implemented in banks. Whereas, DoPT had given a clarification to D/o Posts that the pay structure of the re-employment posts applicable in the case of Direct Recruit, appointed on or after 01.01.2006, as notified by Government of India would be applicable. So there is a contradiction in the two clarifications of Government of India. As a result of this ambiguity, one section is benefited while others are not.

JS(Estt) informed that the matter would be examined and a decision taken.

**(Action: JS(Estt.), DoPT)**

- xv) **Permission to opt for pay fixation in the revised pay structure on a date after the date of issue of CCS(RP) rules 2016 notification (25.7.2016) in case of employees whose promotion becomes due after 25.7.2006.**

JS(Pers.) informed that this was a fresh issue and Implementation Cell would be examining the same.

**(Action: JS(Pers.),D/o Expenditure)**

- xvi) **Extension of the benefit of bonus calculation ceiling enhancement of Rs. 7000/- to Gramin Dak Sevaks (GDS) of the postal department also.**

JS(Pers.) informed that the proposal had reached D/o Expenditure and was under examination.

**(Action: JS(Pers.),D/o Expenditure)**

xvii) **Regularise the services of casual labourers by absorbing them against vacant post of MTS as one time measure.**

JS (Estt), DoPT informed that the issue is under examination as a number of references are being received on the same. Referring to the Court judgments, he has explained that there is a distinction between two classes of employees' i.e.

- (i) Irregularly employed against regular post;
- (ii) Those who have been illegally employed without the existence of any post.

These are the two distinctions, and in respect of employees of the first category who have completed 10 years of duty, the Court vide Uma Devi judgment had given one time opportunity for regularisation of those irregularly employed against regular posts. Barring this, there was a general ban on any kind of regularisation without following the due process. JS(Estt) also asked the Staff-Side if there was any later judgment in this case. If yes, this should be brought to the notice of DOPIT. Otherwise, in the present circumstances no other regularisation is feasible.

*Staff-Side informed that in one of the ordnance factories (GSF Cossipore), in the Ministry of Defence more than 60 employees have continued as casual labourers for more than 3 years carrying the tag of 'Temporary status' based on court judgment. Vacancies are there both on the industrial and the non-industrial posts in the GP of Rs.1800/- and they can be considered by Ministry of Defence, and other ministries if such cases are there. Therefore, instructions may be issued to regularise such casual employees on a permanent basis. A proposal of Ministry of Defence in this regard is pending with DOP&T. The same should be considered favourably.*

However, JS(Estt.) explained that post-Uma Devi judgement, there are very few judgements which strictly are not in conformity with the scheme of Government of India formulated in 1993 regarding temporary workers. Whatever appointments have taken place in conformity with that scheme, they are getting the benefit from Hon'ble court. It was stated that one time exemption is only for those people who have been appointed irregularly against a regular post.

*Staff-Side explained that most of the casual/daily rated workers were engaged after adhering to the recruitment procedure. It was only because of the existing ban on recruitment that their appointment is considered not against permanent posts which was purely technical. The rationale laid down in the case of Ms. Uma Devi Vs. UOI had thus no application as they were not covered by the two classes of irregular appointments stated by the official side. As the ban on recruitment had virtually remained in force for nearly 12 years and since these employees have served the Government during this period, they deserved to be regularised. The Staff-Side*

*requested that the Government may consider introduction of a scheme for regularisation of the casual workers as was done in 1993.*

(Action: JS(Estt.)DoPT)

- xviii) Fill up all vacant posts including promotional posts in a time bound manner

JS(Estt), DoPT informed that there is already an action plan in place for holding DPC before the 31<sup>st</sup> March of every year so that the employees are promoted on time. DoPT would issue model Action Plan for recruitment and promotion.

(Action: JS(Estt.)DoPT)

- xix) Abolish and upgrade all posts of Lower Division Clerks (LDCs) to Upper Division Clerks(UDCs)

*The cadre of Lower Division Clerks in Government service have now become redundant as many of the jobs assigned to them are part of the duty list of MTS and the rest has also been assigned to UDCs. The abolition of Group D cadre and introduction of MTS with certain clerical functions and computer-linked functioning in all organisations of Government of India have made the cadre superfluous. As pointed out, UDCs whose educational qualification is graduation has overlapping functions of LDCs. Recognising this fact, many departments have reduced the cadre strength of LDCs. Staff-Side, therefore, requested that the existing number of LDC posts may be upgraded as a one time measure as UDCs and the posts of LDCs totally abolished.*

*It was informed that the case would be examined based on the points raised by the staff side.*

(Action: JS(Estt.)DoPT)

Meeting ended with vote of thanks to the chair.

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