

MINUTES OF THE FIRST MEETING OF THE NATIONAL ANOMALY COMMITTEE

The first meeting of the National Anomaly Committee was held on 12th December, 2009. Secretary (Personnel) chaired the meeting. On behalf of the Confederation, Com. S.K. Vyas, President and Com. K.K.N. Kutty Secretary General attended and participated in the discussion. In the opening remark, Com. Umraomal Purohit drew the attention of the Chairman of the non-functioning of the Departmental Councils in various departments and the consequent non setting up of Departmental Anomaly Committees. He also raised the issue of the order of the DOPT defining the term Anomaly, which was at variance with the one given in 1997. He recalled the discussion he had with the official side in the matter when it was agreed that the definition of the term would be the same as was in the order of 1997. Responding to the remarks made by the Staff Side Secretary, the Chairman said that his office would take steps to ensure the functioning of the JCM at all levels and informed the meeting that the National Council of the JCM would meet on 16th January, 2009 and the notice therefore has already been issued. On the question of anomaly, it was informed by the Chairman, that all efforts would be taken to address all questions of anomaly and resolve them. The official side clarified that all questions of disparity in relativities would also be addressed except on those on which the 6th CPC has gone into and taken decision enumerating reasons. The Chairman asked the staff Side to bring to the notice of the DOPT/DOE of all those items which stand rejected by the concerned Departmental Anomaly Committees taking shelter under the extant definition.

We now reproduce the items which were discussed and the decisions arrived on each of them.

1. The item Nos. 1 to 4 and 5(iii)(iv) and 7 were grouped together and discussed as they were identical in content. For the sake of convenience, we reproduce item No. 3 which covers all the above mentioned items.

Fixation of Pay in Revised Pay Scale

The VI CPC in para 2.2.19 (vii) has indicated that where prerevised pay scales have been merged it has been done by extending the existing minimum prescribed for the highest pay scale with which the other scales are being merged. Accordingly it has also been stipulated in 7(1) (A) of the CCS (Revised Pay) Rules, 2008 that if the minimum of the Revised Pay Band / Pay Scale is more than what is determined by multiplying the existing basic pay as on 1.1.2006 by a factor of 1.86 and rounding of the resultant figure to the next multiple of 10, the pay shall be fixed at the minimum of the revised Pay Band / Pay Scale. Note 2B below Rule 7, ibid and illustration 4B given in the Explanatory Memorandum to the Revised Pay Rule apply to cases of merger of Pay Scales. Note 2 B states that pay in the revised Pay Bands will be fixed in the manner prescribed in accordance with Clause (A) (i) And clause (A) (ii) of Rule 7. In illustration 4B a case of an employee in the pre revised pay scale Rs.5000-8000 drawing Rs.5600 as on 1.1.2006 in the pay scale of 6500-10500 has been indicated with which the pay scale of Rs.5000-8000 stands merged.

Taking these into account the pay in the Pay Band in the case of all employees in the Pay Scales of Rs.5000-8000 and Rs.5500-9000 has to be fixed at Rs. 6500 multiplied by 1.86 i.e. Rs.12090. The fixation tables for pay scales 5000-8000 and 5500-9000 may therefore be modified fixing the pay in the pay band at Rs.12090 wherever it is less than that amount.

Illustration 4B in the explanatory memorandum to the Revised Pay Rules 2008 may be modified as under:-

Existing Scale of Pay 5000-8000

Pay Band PB-2 9300-34800

Merged with Pay Scale 6500-10500

Existing Basic Pay as on 1.1.06 Rs.5600

Pay in the PB-2 Rs.5600 X 1.86 = 10420 As per Clause (A) (i) of Rule 7(i) of Revised Pay rules 2008

Pay in the PB-2 Rs.6500- X 1.86 = 12090

As per Clause (A) (ii) of Rule 7 (i) of Revised Pay Rules 2008

Grade Pay Rs.4200

Revised Basic Pay Rs.16290

Decision:

The Staff Side pointed out that what has been recommended by the 6th CPC in Para 2.2.19(vii) in respect of fixation of minimum pay in the Pay band for merged pay scales had not been taken into account while computing the pay band and the table. After some discussion, the official side stated to have a re-look into the matter.

Item No. 5(i)
On Revised Pay Rules. 2008

(i).Option

It has been mentioned under sub rule 4 thereof that the option once exercised shall be final and should be exercised within three months from the date of notification of the rule vide Sub rule 1 thereof. Since it is very difficult to comprehend and assess the implication of such option, we propose that the first option exercised within three months may not be treated as final and the employees be permitted to revise the option within six month of the date of exercising the first option.

Decision.

The official side has agreed to allow another option. The Side Side also pointed out during the discussion that the option exercised by the officials under F.R. 22(I)(A(1) on promotion has been restricted to only first promotion, which appears to be unreasonable. The official side has agreed to examine whether the above option can be allowed to cover all promotions.

Item No. 5(ii)

(ii). Special allowance and qualification pay which are taken for fixation purposes on promotion should be doubled with effect from 1.1.2006 and not from 1.9.2008 as it cannot be construed to be an allowance. If this is not done, senior employees will suffer loss in emoluments, in case of persons who are promoted during the period between 1.1.2006 and 1.9.2008.

It was pointed out that the item relating to 5th CPC is still pending at the Standing Committee. The Official Side stated that the item would be covered when a decision is taken on the item relating to 5th CPC.

Item No. 5(vi)

(vi) Rule 9. Date of next increment

It is seen after going through the stipulation in the above rules that a person whose increment falls on 1.1.2006 will get the increment on 1.1.2006 in the pre revised pay scale and will get the next increment in the revised pay structure on 1.7.2006 i.e. on expiry of six months. Similarly those, whose next increment is between 1st July, 2006 and 1st December, 2006 would also be granted next increment in the revised pay structure on 1.7.2006. On the other hand, the persons whose increment dates are between 1st Feb. 2006 and 1st June 2006 have to wait for more than 12 months to get the next increment on 1.7.2006. This is quite anomalous. In the case of those who retire during the period between 1st Feb. and 30th June, they will suffer a loss of one increment perpetually thus affecting their pension. It is, therefore proposed that the persons whose increment falls between 1st February and 1st June, 2006 may be given one increment on 1.1.2006 as a one time measure.

The official side agreed to issue orders to cover those in service between 1.1.2006 and 1.7.2006 as a one time measure. The Staff Side however, pointed out that they have made the suggestion for a one time measure on the specific understanding that Rule 9 of the Revised Pay Rules 2008 has no applicable in the fixation of increment date in future as in those cases, the Fundamental Rules will have the application. The Official side was of the opinion that the Revised Pay Rules will override the provisions of the Fundamental Rules. The Staff Side then contended that the increment of an official cannot be postponed except on award of a penalty after initiation of the disciplinary proceedings. The official side after some discussion agreed to reconsider the issue in the light of the contention made by the Staff Side.

Item No. 5(vii).

(vii). Tax deduction from salary:

Spread over of the arrears of salary is permissible under section 89 (a) of the I.T. Act. No tax will thus become payable by Group D employees on account of receipt of arrears eventually. Therefore, executive instructions may be issued not to deduct any tax from the arrears payment pertaining to the Group D employees. In respect of others, they may be allowed to exercise option to tax the arrears either on receipt basis or accrual basis.

Decision .

Since the arrears have all been paid after deduction of tax, this item was not pressed.

Item No. 5(vii)Temporary Status Casual Labourers

As per existing scheme the employees who are afforded temporary status are paid the wages computed with reference to the minimum of the corresponding scale of pay of regular

employees. In the case of Group D temporary status employees, it will become necessary that they are afforded the requisite training if they are non-matriculates.

Decision.

Orders would be issued in the case of temporary status employees. In the case of those who died /retired between 1.1.06 and 1.9.2008 grant of grade pay of Rs. 1800 without training was raised by the Staff Side. It was agreed that the Govt. would take a decision in their case favorably.

Item No. 6.

Benefit on promotion.

It is an accepted proposition that an employee when promoted to a higher post involving higher responsibility should get a suitable raise in his salary. It was on this consideration that FR 22-C was framed whereby the promotee was first granted an increment in the lower Pay Scale and then fixed at the appropriate (next) stage in the higher grade.

At the time of V CPC it was agreed that minimum increase in salary on promotion shall not be less than Rs.100/- There are certain grades in which, on promotion, a hike of Rs.650/- is being allowed with reference to pre-revised pay scale.

In these circumstances grant of only one increment in the lower Pay Band / Pay scale and difference in grade pay, if there be any, being granted on promotion is certainly inadequate. We therefore propose that minimum benefit on promotion should not be less than 10% of the Pay+Grade Pay of the feeder post.

Decision:

The official side stated that the above item was not covered under the definition of anomaly. However, after some discussion, it was agreed that the official side would further discuss the issue outside the forum of the Anomaly Committee.

Item No. 7.

Fixation of pay on promotion.

The minimum Entry pay with Grade Pay in the revised pay structure for direct recruits appointed on or after 1.1.2006 has been specific vide first Schedule, Part –A, Section II of the Gazette Notification of the Govt. of India, Ministry of Finance No. G.S.R. 622 (E) dated 29.8.2008.

On promotion, the pay of the promotees should not be less than the direct recruits.

In VI CPC structure there is no pay scale and new concept of grade pay has been inducted, which should determine the status. As such the following provisions need to be inserted below clarification 2. "The method of Fixation of Pay on promotion on or after 1.1.2006.

"on promotion to the higher grade pay of an employee should be fixed appropriately and in any case it should not be less than the entry Pay in the revised pay structure for direct recruits appointed on or after 1.1.2006 for the post." further, on promotion to the next higher grade pay an employee should be fixed by adding 10% of pay, plus the grade pay as demanded by NC/JCM in its memorandum submitted to the Chairman, NC/JCM/Cabinet secretary on 8.4.2008.

Decision.

The Official Side agreed to issue enabling orders in the matter.

Item No. 8.

Refixation of pension/family pension.

Para 9 of the Ministry of Personnel, Public Grievances and Pension's O.M. No. F.No. 38/37/08-P&PW (A) dated 1.9.2008 states as under:-

"The consolidated pension / family pension as worked out in accordance with provisions of para 4.1 above shall be treated as final basic pension with effect from 1.1.2006 and shall qualify for grant of Dearness Relief sanctioned thereafter."

This has left uncovered the provision made in para 4.2 of the same OM, which lays down as under:-

"The fixation of pension will be subject to the provision that the revised pension in no case, shall be lower than fifty percent of the minimum of the pay in the pay band plus the grade pay corresponding to the pre-revised pay scale from which the pensioner had retired. In the case of HAG + and above scales, this will be fifty percent of the minimum of the revised pay scale."

Since refixation of pension has been allowed both under paras 4.1 and 4.2, they should both be covered in para 9 of the OM. It is requested that para 9 of the said OM may be revised including both paras 4.1 and 4.2 thereof.

Decision.

Orders have been issued vide O.M.dated 12th and 14th September, 2009

Item. No. 9.

Anomaly in pension for Government Servants who retired/Died in harness between 1.1.2006 and 1.9. 2006

The Sixth Central Pay Commission lays down inter-alia that once an employee renders the minimum pensionable service of 20 years, pension should be paid at 50% of the average emoluments received during the past 10 months or the pay last drawn, whichever is more beneficial to the retiring employee.

As per the Ministry of Personnel, Public Grievances and Pension O.M. F.No. 38/37/08-P&P(W)(A) dated 2nd September 2008, these orders shall come into force with effect from the date of issue of this OM, namely 2nd September 2008 and shall be, applicable to all Government Servants becoming entitled to pension after rendering the minimum qualifying service of 20 years or on completion of 10 years qualifying service in accordance with rule 49(2) of the CCS (Pension) Rules, 1972.

However, the Govt. servants who have retired on or after 1.1.2006 but before the date of issue of this OM (2.9.2008) have been debarred from this benefit. They will be governed by the rules/ orders which were in force immediately before coming into effect of these orders. In other words their pension will be calculated on average emoluments received during the last 10 months and not on the actual pay last drawn. It is requested that this discrimination should be removed.

Decision.

Orders are under issue. The Staff Side raised the inordinate delay in fixing the revised pension and disbursement of arrears to pensioners. The official side assured to monitor the payment of arrears to pensioners. The refusal on the part of many banks to issue the due and drawn statement even on requisition was also brought to the notice of the Chairman. The Director (Pension) assured that suitable instructions would be issued in this regard to all Banks.

Item No.10.

Commutation of pension.

The minimum period of service for eligibility for pension is 10 years. For appointment to Government Service the minimum age is 18 years. In view of this, if a person is appointed at the age of 18 years he cannot become eligible for pension unless he has served for a period of at least 10 years and attained the age of 28 years i.e. when his birthday falls in the 29th years.

The table adopted as per the Ministry of Personnel, Public Grievances and Pension's OM No. 38/37/08-P&PW (A) dated 2.9.2008 shows the minimum age of next birthday after retirement as 20 which is not understood. It is requested that suitable amendment to the table referred to may be notified.

The item was withdrawn by the Staff Side.

Item No.11 to 14. These items were deferred for discussion at the next meeting.

Item No.15.

Parity in pension of all pre 1996 retirees with those who retired on or after 1.1.2006

The Government have already accepted in principle that there shall be parity in pension amongst pensioners irrespective of the date from which they had retired.

Accordingly pension of all pre 1986 retirees was revised with effect from 1.1.96 by first determining the notional pay which would have been fixed as on 1.1.86 (treating as if the employees were in service on that date) and then the Notional Pension was updated by applying the same fitment formula which was applied to serving employees.

We, therefore demanded that the notional pay of all pre 1996 retirees may be fixed as on 1.1.96 in terms of Revised Pay Rules, 1996 and the notional pension as on 1.1.96 may be revised w.e.f. 1.1.06 by applying the same fitment formula which is applied in the case of serving employees i.e. by multiplying the notional pension as on 1.1.96 by 1.86 + the Grade Pay of the Pay Scale (V CPC) from which they would have retired.

The revision of pension has been done by applying the formula of Basic Pension as on 1.1.96 + Dearness Pension (50% of Basic Pension) + Dearness Relief on Basic Pension + Dearness Pension+40% of Basic Pension.

This is not the same that has been granted to serving employees. In whose case the Grade Pay which is the fitment benefit is 40% of the maximum of the Pre-revised Pay Scale.

As such the Pensioners should also be granted 50% the of Grade Pay of the Pay Scale from which they had retired by way of fitment benefit and not 40% of Basic Pension.

Decision.

The Staff Side pointed out that the 6th CPC in order to maintain the existing modified parity between the present and future retirees had indicated that it would be necessary to allow the same fitment benefit as is being recommended for the existing Government employees vide para 5.1.47 in page 338. However, the Commission recommended that all past pensioners should be allowed fitment benefit equal to 40% of the basic pension. The statement and the recommendation made to give effect to the statement was at variance giving rise to anomaly and disparity in pension entitlement between the past pensioners and the future pensioners.

After detailed discussion, the official side agreed to consider the issue once again.

At the conclusion of the meeting, the Staff Side took up the matter concerning non representation of Postal Federations in the National Council as some members of a Federation which could not muster even 5% membership had been approaching one court or the other in a bid to delay the verification process and consequent recognition of the Associations and Federations in the Postal Department. As it would be a never ending process, the denial for the unions who had mustered more than 75% of the membership representation in the National Council would be a miscarriage of justice, the Staff Side added.. The Director (SR) of the Postal Department, who had represented the Postal Department in the official side agreed with the contention of the Staff Side and reported to the Chairman, that they had granted adhoc recognition to the Unions who had mustered the requisite membership and the Department Council had also been convened and met on adhoc basis. The question of granting of representation to the representatives of the Staff in the National Council had been referred to the Department of Personnel and their advice in the matter was being solicited. The Chairman assured the Staff Side to look into the matter and take appropriate decision soon.

The denial of revised higher Grade Pay to Master Craftsmen of Workshops in MMS in the Postal Department, while affording the same to those in Railways and Defence was also raised by the Staff Side. The Department of Expenditure pointed out that they had not received any reference from the Postal Department in this matter, whereas the official side representative of the Postal Department stated that they had referred this matter to them earlier. After some discussion, it was agreed that the Department of Expenditure and the Postal Department would sort out this matter expeditiously.