

INDIAN RAILWAYS TECHNICAL SUPERVISORS' ASSOCIATION

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No:IRTSA/Memo-9

Date:24.03.2025

**Director General (HR)
Railway Board.**

Respected Sir,

Sub: Counting of training period of Junior Engineers (JEs), Senior Section Engineers (SSEs) and other Technical non-gazetted staff for financial upgradation under MACPS.

- Ref:**
1. Railway Board's letter No.E(NG)/90/IC1/1, Dated 04.02.1991, implementing DoPT OM no 16/16/89-Estt(Pay-I) dt 22.10.1990.
 2. DoPT OM no 16/16/89-Estt(Pay-I) dt 31.3.1992.
 3. Railway Board's letter No.E(NG)1-93/PM1/4 dated 18.01.1993.
 4. Ministry of Communications, Department of posts letter No. 44-2/2011-SPN-II, dated 24.04.2023.
 5. Judgment and order dated 03-01-2019 in WP(C) No. 6963/2018 passed by the Hon'ble High Court of Orissa.
 6. Hon'ble Supreme Court Order on Special leave petition (Civil) Diary No(s). 28896/2019.
1. IRTSA once again seeks your kind attention to the ongoing injustice faced by Technical Supervisors and urges its prompt resolution. **The exclusion of the training period from financial upgradation under MACPS has resulted in discrimination against Technical Supervisors in the Railways, especially compared to their counterparts in other Central Government Departments, where the training period is considered for MACPS.**
 2. Persons selected for regular appointment in technical departments for the posts like Junior Engineers (JEs), Senior Section Engineers (SSEs), CMA, CMS, DMS and CDMS are required to undergo training for a period of one year. **Training being essential part of service, there is no reason not to count the period spent on training for all purposes.**
 3. Non-technical employees who are not required to undergo any training recruited on the same date along with the technical employees in the same pay level earn their financial upgradation through MACPS well before the Technical Staff. This put the technical employees in a disadvantageous position vis-a-vis the non-technical employees, since the period spent in the training by the technical employees are not counted for the purpose of financial upgradation, under MACPS.
 4. Railway Board's letter No.E(NG)/90/IC1/1, Dated 04.02.1991, implementing DoPT OM no 16/16/89-Estt(Pay-I) dt 22.10.1990 (Copy of letter in Annexure-I) on the subject of Counting of training period for the purpose of drawing increments, states that, in case where a Railway servant has been selected for regular appointment and before formally taking charge of the post for which selected, the Government servant is required to undergo training, the training period undergone by such Railway servant whether on remuneration of stipend or otherwise may be treated as duty for the purpose of drawing increments.
 5. DoPT OM no 16/16/89-Estt(Pay-I) dt 31.3.1992 (Copy of OM in Annexure-II) allowed treating such training as duty for the purpose of increment, in case of the employees undergone such training on or after 01.01.1986.

6. These orders had been implemented for the purpose of drawing increments as otherwise the concerned employee, would be put to perpetual disadvantage vis-a-vis the staff in non-technical cadres who are recruited along with technical staff in the same scale of pay.
7. Moreover, Training imparted to those recruited through the Railway Recruitment Boards and later absorbed as Junior Engineers (JEs), Senior Section Engineers (SSEs), etc on Railways is not pre-appointment training in nature (as that of the Apprentices recruited under the Apprentices Act).
8. Railway Board in their letter No.E(NG)1-93/PM1/4 dated 18.01.93 (Copy of letter in Annexure-III) states that time spent by a Railway Servant under training immediately before appointment to service is to be counted as service for the purpose of appearing for departmental examination for promotion to Lower Gazetted Service (LGS) / Group-B.
9. Non-inclusion of training period for the purpose of financial up-gradation under MACPS, discriminates the Technical employees compared to the non-technical employees recruited in the same Scale of Pay/Grade Pay in the same period, defeats the basic spirit of Railway Board's letter No.E(NG)1/90/IC1/1, Dated 04.02.1991 in removing the disadvantageous position of Technical employees in getting their training period counted for annual increment, pensionary benefits, pass eligibility etc.
10. **Ministry of Communications, Department of posts through its letter No. 44-2/2011-SPN-II, dated 24.04.2023** (copy of letter in Annexure-IV) **clarified that training period is counted for all purpose i.e MACPS, Promotion, Pension, etc.**
11. MACP scheme is uniformly applied for all central Government employees. As such, the counting of training period for the purpose of financial upgradation under MACPS for Railway employees is quite genuine and just.
12. In its judgment & order dated 03-01-2019 in WP(C) No. 6963/2018 passed by the Hon'ble High Court of Orissa said that, since the Training period has to be treated as regular service for the purpose of ACP as has already been observed in earlier judicial pronouncement, the Respondents (Railways) are duty bound to honour such verdict and to grant such financial upgradation treating induction of the applicant as in-service Trainee. Copy of part of the Judgement is placed at Annexure-V.
13. Arising out of impugned final judgment and order dated 03-01-2019 in WP(C) No. 6963/2018 passed by the High Court of Orissa, Hon'ble Supreme Court in its order said that, ***"We find no ground to interfere with the impugned order(s) passed by the High Court on the ground that the petitioners were given the regular pay-scale and the increments were also given to them right from day one. Even during the training period, increments were given to them. We have considered the policy pertaining to ACP. On perusal of the same, we find no ground to deny the benefit of training period, which was after appointment"***. Copy of part of the Judgement is placed at Annexure-VI.
14. **It is, therefore requested, that the training period of Junior Engineers (JEs), Senior Section Engineers (SSEs) and other similarly placed technical employees in Chemical & Metallurgical Department and Stores on Railways be counted as regular service for the purpose of ACPS / MACPS.**

Thank you in anticipation

Copy for kind information and necessary action
Secretary, Railway Board

Yours' truly



K.V.RAMESH
General Secretary, IRTSA
9003149578

Annexure-I

Copy of Railway Board's letter No.E(NG)I/90/IC1/1, Dated 04.02.1991

Subject: - Counting of training period for the purpose of drawing increments

Please find enclosed a copy of Department of Personnel & Training's O.M. No. 16/16/89-Estt (Pay-I) dated 22.10.90 on the above subject for information and necessary action. The instructions contained in this O.M. will be applicable to non-gazetted railway employees mutatis – mutandis w.e.f. 1.10.1990.

2. This issue with the concurrence of the Finance directorate of Ministry of Railways.
3. Please acknowledge the receipt.

Director, Establishment (N)
Railway Board

No.16/16/89-Estt (Pay-I)

Government of India

**Ministry of Personnel, Public Grievances and Training
(Department of Personnel & Training)**

New Delhi-110001, Dated the 22nd October-1990

Office Memorandum

Subject: - Counting of training period for the purpose of drawing increments – Clarification regarding.

The undersigned is directed to say that under FR 26 only duty in a post on time scale counts for increments in that time scale. As per FR 9 (6) (a) (i) the service as probationer or apprentice is treated as duty provided that service as such is followed by confirmation. As such, the training period during which a Government servant is not remunerated in the scale of pay attached to this post can not be treated as duty.

2. The staff side in the National Council (JCM) have raised a demand that the training period should be counted for the purpose of drawing increments as otherwise the concerned staff, particularly the non-gazetted in technical departments, where the training period is a long one is put to perpetual disadvantage vis-avis the staff in non-technical jobs who are recruited along with technical staff in the same scale of pay.
3. The matter has been considered in the National Council (JCM) and it has been decided that in case where a person has been selected for regular appointment and before formally taking over charge of the post for which selected, the person is required to undergo training, training period undergone by such Government servant whether on remuneration of stipend or otherwise may be treated as duty for the purpose of drawing increments.
4. These orders take effect from the 1st of the month in which this O.M.is issued.
5. Ministry of Finance etc, are requested to bring the above decision to the notice of all concerned.
6. In so far as the persons serving in the Indian Audit and Accounts Departments are concerned, these orders issue with the concurrence of Comptroller & Auditor General of India.

---Sd---

(T.O.Thomas)

Under Secretary to Govt. of India.

Annexure-II

No. 16/16/92_Estt. (Pay-I)
Government of India
Department of Personnel & Training.

New Delhi, the 31st March, 1992.

OFFICE MEMORANDUM

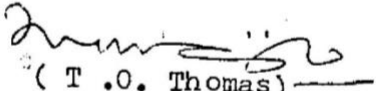
Subject:- Counting of training period for the purpose of drawing increments- clarification regarding.

The undersigned is directed to say that in accordance with the orders contained in this Ministry's O.M. No.16/16/89-Estt(Pay-I) dated 22.10.90 the period spent on training is treated as duty for the purpose of increment in cases where a person has been selected for regular appointment but before formally taking over charge of the post for which selected is required to undergo training. These orders take effect from 1.10.90. On the demand of the staff Side in the National Council(JCM) the matter has further been examined and the President is pleased to decide that the benefit of treatment of such training as duty for the purpose of increment may be allowed in the case of those Govt. servants also who had undergone such training on or after 1.1.86. However, in such cases the benefit of counting period for pay will be admissible on notional basis from 1.1.86 and actual basis from 1.10.90.

2. Ministry of Communications etc. are requested to bring these provisions to the notice of all concerned.

In so far as the persons serving in the Indian Audit and Accounts Department are concerned these orders issue with the concurrence of Comptroller & Auditor General of India.

(Hindi version will follow)


(T .O. Thomas)
Under Secretary to the Govt. of India.

To
All Ministries /Deptts. to the Govt. of India
(as per standard list) C&AG

Annexure-III

Copy of Railway Board's letter No.E(NG)1-93/PM1/4 dated 18.01.93.

Sub: Initial Training Period – counting towards eligibility for appearing in departmental examination.

In terms of instructions contained in the Ministry's letter No.E(NG)I-81/ PM1/76 dated 25.4.81, the time spent by a Railway Servant under training immediately before appointment to service is to be counted as service for the purpose of appearing in departmental examination.

2. It is clarified that the 'departmental examination' includes Limited Departmental Competitive Examination for promotion to Group 'B'.

Continued – Please see Annexure IV to VI

Annexure-IV

X-44/2/2011-SPN-II

1331/2023

No.44-2/2011-SPN-II
Government of India
Ministry of Communications
Department of Posts
(SPN-II Section)

Dak Bhavan, Sansad Marg
New Delhi -110001,
Dated the 24-April, 2023

To
The Chief Postmaster General,
Telangana Circle,
Hyderabad

Subject: Subject: Revision of Date of joining and preponement of financial upgradation and MACP-I in respect of PAs (CO/RO)O/o CPMG Hyderabad duly taking into account the induction training period at PTC, Madhurai from 29.03.2010 to 15.05.1010 - regarding.

Madam/Sir,

I am directed to refer to Telangana Circle's letter No. Accts/CO/Service/2021 dated 28.03.2023 on the above-mentioned subject.

2. DOPT OM No. 16/16/89-Est(Pay-I) dated 22.10.1990 provides that *In cases where a person has been selected for regular appointment and before formally taking over charge of the post for which selected the person is required to undergo training, training period undergone by such a Govt. servant whether on remuneration of stipend or otherwise may be treated as duty for the purpose of drawing increments.*

3. In view of the above OM, training period undertaken by person before taking charge of post formally for which they have selected, is to be counted for increment. For counting of this period for increment is tantamount that the date of appointment in government service is to be reckoned from the date of reporting for training. Further, training period is also to be counted for all purpose i.e. MACP, Promotion, Pension etc.

4. Circle is requested to take necessary action accordingly.



Yours faithfully,


20/04/2023
(DILEEP SINGH SENGAR)
सहायक महानिदेशक (एस.पी.एन.)
Assistant Director General (SPN)
डाक विभाग/Deptt. of Posts
नई दिल्ली/New Delhi-110001

**HIGH COURT OF ORISSA
W.P. (C) No. 6963 of 2018**

03.01.2019

Heard Mr. A.K. Mishra, learned counsel for the petitioner-East Coast Railway and Mr. N.R. Routray, learned counsel for the opposite party.

2. By way of this writ petition, the petitioner has challenged the judgment and order dated 14.11.2017 passed by the learned Central Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No.260/00763 of 2014 whereby the learned Tribunal has allowed the original application.

3. Having heard learned counsel for the parties, we are in complete agreement with the view taken by the Tribunal at paragraphs-7 and 8 of its order dated 14.11.2017, which reads as under:

“7. Before delving into the merit of this case, some factual/legal matrix needs to be stated to make the dispute straight and transparent.

(a) Under Annexure-R/2 appointment letter was issued to the applicant stating that he has been selected to undergo training in Painting for a period of six months. Admittedly, the Railways did not extend the training period at any point of time though the Skilled Artisans continued under the training.

(b) As per the Railway Board Estt. Sl. No. 109/1992 (Annexure-R/4) there was direction for counting of training period before regular appointment for the purpose of drawing increments and, accordingly, Skilled Artisans were granted annual increments.

(c) Since the applicant and other similarly situated Artisans were not regularized, they approached this Tribunal in various O.As. for regularization of their service in 1989 wherein there was order for regularization of their services and, accordingly, subsequently the Respondents have regularized different employees undergoing Artisan Training.

(d) Since the department did not consider the period of training as regular service, the affected employees moved before this Tribunal in various O.As. in connection with grant of ACP. This Tribunal in O.A.No. 192/2010 vide order dated 22.03.2012 directed the Respondents to count the period of service of the applicant from 29.03.1988 for the purpose of grant of ACP and to allow the applicant financial benefit under ACP thereby recognizing the period spent by the applicant as a Trainee Artisan on notional basis from 01.01.1986 and on actual basis from 01.10.1990.

(e) Being aggrieved by the said order passed in O.A. No. 192/2010, the Respondents filed W.P.(C) No. 12425/2012 before the Hon'ble High Court of Orissa. The Hon'ble High Court vide judgment dated 06.02.2013 not only dismissed the Writ Petition but also observed that the employees on being appointed as Direct Recruits were sent for training. Therefore, the period for which the opposite party was under training has to be calculated for the purpose of grant of ACP. The Railways instead of complying with the said order of the Tribunal, affirmed by the Hon'ble High Court, approached the Hon'ble Supreme Court in Special Leave to Appeal (Civil) 11010/2013. Their Lordships of the Hon'ble Apex Court after hearing both the parties, vide order dated 02.08.2013 categorically observed that they did not find any reason to interfere with the impugned order and, accordingly, dismissed the SLP. Thereafter, the Department complied with the order.

(f) Subsequently, the other similarly situated persons, who were not granted the benefit of ACP counting from training period, approached this Tribunal and as the Tribunal passed favourable order against them, Railways preferred a bunch of Writ

Petitions (W.P.(C)Nos. 16565, 7958, 7961, 16965, 17482, 17484, 18035 of 2016 and 18879 and 6749 of 2015) challenging the order of this Tribunal. The Hon'ble High Court disposed of all the bunch of Writ Petitions vide judgment dated 01.05.2017 categorically observing that the said training period is in-service training and since the applicants have been absorbed under regular establishment the said period of training has to be counted for the purpose of ACP. Hon'ble High Court have also taken into consideration earlier judgment of the Hon'ble High Court of Orissa so also the Hon'ble Apex Court.

8. The moot question that comes for consideration is when by way of catena of judicial pronouncements, similarly placed persons undergoing Artisan Training have been treated as in-service training, this Bench is not competent or empowered to take a different view and is rather bound by the aforesaid authoritative pronouncements of the Hon'ble High Court and Hon'ble Supreme Court. There is nothing left to be adjudicated in the present O.A. as the Respondents intentionally delayed the training period and there was inordinate delay in regularizing the service of the Artisan Training Holders. If there was no necessity of continuance of the training period, the Railways could have dispensed with their services but once the Railways utilized their services regularly, denying them service benefit amounts to unfair trade practice. That apart, had they been only granted stipend, the matter would have been different. Since regular increments were granted to the Trainees, it cannot be treated as a stipend as they were getting the same pay scale, which were available to regular appointees. In any view of the matter, since the Training period has to be treated as regular service for the purpose of ACP as has already been observed in earlier judicial pronouncement, the Respondents are duty bound to honour such verdict and to grant such financial upgradation treating induction of the applicant as in service Trainee.

4. In that view of the matter, the order of the Tribunal dated 14.11.2017 passed by the learned Central Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No.260/00763 of 2014 is required to be affirmed and the same is affirmed. Even otherwise, we do not find any good ground to entertain the writ petition. The writ petition being devoid of merit deserves to be dismissed and the same is accordingly dismissed. All the connected Misc. Cases/I.A. stand disposed of.

.....
(K.S. Jhaveri)
Chief Justice

.....
(K.R. Mohapatra)
Judge

**S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S**

SPECIAL LEAVE PETITION (CIVIL) Diary No(s). 28896/2019

(Arising out of impugned final judgment and order dated 03-01-2019 in WP(C) No. 6963/2018 passed by the High Court of Orissa At Cuttack)

UNION OF INDIA & ORS.

Petitioner(s)

VERSUS

ASHOK KUMAR BARIK

Respondent(s)

O R D E R

SLP (C) D. No. 28896/2019, SLP(C) No. 32999/2014, SLP(C) No.33184/2016, SLP(C) No. 851/2017, SLP(C) No. 10820/2017, SLP(C) No.34915-34923/2017, SLP(C) No. 824/2018, SLP(C) No. 8102/2018, SLP(C) No. 22186-22188/2018

Delay condoned.

We find no ground to interfere with the impugned order(s) passed by the High Court on the ground that the petitioners were given the regular pay-scale and the increments were also given to them right from day one. Even during the training period, increments were given to them. We have considered the policy pertaining to ACP. On perusal of the same, we find no ground to deny the benefit of training period, which was after appointment.