

INDIAN RAILWAYS TECHNICAL SUPERVISORS ASSOCIATION

(Estd. 1965, Regd. No.1329, Website <http://www.irtsa.net>)

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No:IRTSA/CHQ/ MEMO/2017-5

Date:11- 4-2017

1. Secretary, Ministry of Finance (Expenditure),
Govt. of India, North Block, New Delhi – 110001.
2. Member Staff, Railway Board, Rail Bhawan, New Delhi - 110001

Respected Sir,

**Subject: Appeal for review of decision by MOFE on Proposal of MOR for implementation of decisions of Departmental Anomalies Committee on Railways on Sixth CPC – –
Reg: Grade Pay of Technical Supervisors (Senior Section Engineers & Junior Engineers) on Railways .**

- Reference:
- i) Ministry of Railways (Railway Board) Office Memorandum No. PC VI/2009/DAC/1(pt2) dated 11.06.2010 to Ministry of Finance Expenditure.
 - ii) Ministry of Finance reply to Railways vide letter No. 36(1)/E.III.B/2015 29th Nov 2016.
 - iii) Memorandum submitted by IRTSA No: IRTSA/CHQ/ MEMO/2016-12 Dated 18-8-2016

1. We are deeply grieved and hurt by the decision of the Ministry of Finance Expenditure vide their letter dated 29th November 2016, cited above, vide which the proposal of the Ministry of Railways has unjustly been rejected by the MOFE reg. the upgrading of **Senior Section Engineers (SSE) on the Railways to Rs.4800& Junior Engineers on Railways to Rs.4600 as decided in the Departmental Anomalies Committee, which had made the said recommendations after considering all aspects of the matter and within the parameters of the guidelines laid down by the Ministry of Finance regarding the constitution of Anomalies Committees after the Sixth Pay Commission.**
2. IRTSA, vide its Memorandum dated 18-8-2016 (cited above) had prayed for upgrading the Grade Pay of JEs (Junior Engineers)& SSEs (Senior Section Engineers) on Railways on the grounds that the same should be higher than the Staff working under them, to restore the vertical hierarchy as recommended by the Fifth and Sixth Pay Commissions, based on higher duties& responsibilities shouldered by them and had urged for the implementation of the decisions of the Departmental Anomalies Committee on Railways to upgrade the grade pay of JEs& SSEs on the basis of their Duties and Responsibilities as well keeping in view the violation of Laws of Natural Justice by placing them in the same Pay Scales / Grade Pays as those of the staff working under them.
3. The Ministry of Finance vide their letter dated 29-11-2016 cited above, had turned down the proposal of the Railway Board and had also ignored the submissions of the IRTSA – by not only unjustly negating the facts but also deviating from the core issues involved in the matter.
4. We, therefore, once again urge upon you to very kindly reconsider the matter inter-alia in the light of the following submissions.

5. **Principles of Law of Natural Justice upheld by Supreme Court, violated in this case:**

Technical Supervisors *i.e.* Senior Section Engineers (SSEs) & Junior Engineers (JEs) on the Railways, have unjustly been placed in the Grade Pay of Rs.4600 (Level-7) and Rs.4200 (Level-6) respectively which are the same as those of the employees working under them, which violates the following basic principle of law of natural justice - upheld by various Courts including by the Hon'ble Supreme Court of India:

a) 'Promotion' implies advancement to a higher grade;

b) Supervisor should be in a scale higher than Supervised &

c) "An equal cannot be over an equal"

6. Position of Technical Supervisors (JEs & SSEs) on the Railways is unique and not comparable with any other Ministry or Department in view of the higher qualifications (of Graduate in Engineering for SSEs & Diploma in Engineering for JEs besides one year of intensive training for both of them) on the Railways. Technical Supervisors have very onerous nature of duties and responsibilities for man and material management, public safety and flawless quality control and optimum efficiency of the system.
7. Serious frustration has been caused among the Technical Supervisors (JEs & SSEs) on the Railways due to inadequate pay scales and avenues of promotion and particularly on account of disturbance of vertical and horizontal relativity especially due to the staff working under them being placed in the same Grade Pay / Pay level at par with them thus disturbing the line of control and violating the settled law of justice cited above. This growing frustration is bound to adversely affect the efficiency and jeopardise the safety on the Railways – as has been repeatedly pointed out by Railway Accident Inquiry Committees (RAIC) as well as by the Railway Reforms Committee (RRC).
8. 6th CPC had recommended Grade Pay of Rs.4200 by merging Junior Engineer-II (Rs.5000-8000) & Junior Engineer-I (Rs.5500-9000) vide Para 7.36.77 of its Report and recommended Grade Pay of Rs.2800 (equivalent to Rs.4500-7000) vide Para 3.8.26 & 3.8.27 for the Senior Technicians - specifically to maintain vertical relativity between the Senior Technician and the Junior Engineers.
9. Senior Technicians on the Railways were given the Grade Pay of Rs.4200 not by the 6th CPC but subsequently through separate orders issued vide Board's letter No. PC-VI/2008/IC/9 (RBE No 205/2009) dated 25.11.2009 after the implementation of 6th CPC recommendations.
10. Upgrading of the Senior Technician and placing them in grade Pay of Rs.4200 on the Railways at par with Junior Engineers without simultaneous upgrading the Junior Engineers, had disturbed the vertical relativity which was specifically emphasized and upheld by the 5th and 6th Pay Commissions based on the functional hierarchy of Supervisor & Supervised.
11. 6th CPC in para 3.8.26 had clearly said that it has not been possible to place the post of Master Craftsman (*i.e.* Senior Technician) in the pay band corresponding to the pre-revised pay scale of Rs.5000-8000. Besides, no functional justification also exists for such upgradation, since they are feeder grade for the post of JE in the existing hierarchy.
12. 6th CPC in Para 2.2.11 of its Report - recommended that – "Grade pay will determine the status of a post with a senior post being given higher grade pay. Grade pay being progressively higher for successive higher posts, the employees on promotion will get monetary benefit on promotion in the form of the increased Grade Pay apart from the benefit of one additional increment".
13. The upgrading of Senior Technician from Grade Pay of Rs.2800 to 4200 on the Railways without upgrading the Junior Engineers from Grade Pay of Rs.4200 to Rs.4600 violated the

above said principle laid down by 6th CPC as well as under Article 39 of the Constitution and settled law of Natural Justice cited above that '*Promotion implies advancement to a higher grade*', 'supervisors should be in a scale higher than supervised' and 'an equal cannot be over an equal'.

14. Similarly, placing of the Senior Section Engineer (SSE) in the same scale / Grade Pay of Rs.4600 as that of the Chief Office Superintendents working under them had disturbed the vertical Relativity as well as violated the principle laid down by the 6th CPC vide para 2.2.11 cited above.
15. Railway Board (vide its letter No. E(NG)/I/99/PM7/3 (RBE No.31/2005) dated 22-2-2005) had decided that Senior Technicians should be supervised by Junior Engineers II in the scale Rs.5000-8000 and, para 2(v) directed that "The work of Sr. Technicians in grade Rs.5000-8000 will be supervised by JE grade I scale Rs.5500-9000 instead of JE-II scale Rs.5000-8000."

This accepted norm of Railway Board got violated by placing JE-I, JE-II & Senior Technician in the same Grade Pay of Rs.4200.

16. Ministry of Finance, Department of Expenditure in para,2 (b) of their letter cited above, mentioned that "*The 7th Central Pay Commission also considered the issue of Junior Engineers in Railways. However, the commission has not recommended any change in their pay scale (paras 11.40.104 to 11.40.115)*".
 - a) This is not a fact as this issue was not considered like that- by the 6th CPC, and the Commission itself had recommended a higher Grade Pay Scale for the JEs than the Senior Technicians as was done by the 5th CPC as well.
 - b) Seventh Pay Commission rather mentioned in para 1.27 that the anomalies created subsequent to the modification done in 6th CPC recommendations could not be rectified till date.
 - c) In Para 5.1.21, 7th CPC recommended that Pay matrix comprises two dimensions, "horizontal range" in which each level corresponds to a 'functional role in the hierarchy' and has been assigned the numbers 1, 2, and 3 and so on till 18 and in para 5.1.23 recommended that, when the employee receives a promotion or a non-functional financial upgrade, he/she progresses one level ahead on the horizontal range.
 - d) We humbly seek the implementation of this recommendation of the 7th CPC made vide Para 5.1.21 of its Report.
17. Railways are governed by separate pay rules not by CCS rules. It has been held by courts also. In its Judgment Hon'ble CAT Chandigarh in OA 060/00211/2014 IRTSA Vs Union of India held the arguments placed by Railways that, "***Railways is a multi-disciplinary operational system governed by separate rules. Railway servants are governed by Separate pay rules & DAR rules and not governed by CCS & CCS classification, control & appeal rules. Railway servants specifically excluded from CCS rules 2008 as per explanatory memorandum. Due to unique nature, Railways stands in different footing than other Ministries of Central or State Governments***".
18. Every issue has to be decided on its own merit and the apprehensions raised by the Railway Board are totally unjustified. The Railway Board had proposed Grade Pay of Rs. 4800/- for SSEs in February 2013, as mentioned in para C (iv) of MoF's reply and Office Memorandum No. PC VI/2009/DAC/1(pt2) dated 11.06.2010 of Ministry of Railways (Railway Board) to Ministry of Finance Expenditure.

19. Pay scales of Accounts, Nurses and Teachers had been upgraded in 6th CPC disturbing the horizontal parity with the Technical Supervisors (Junior Engineers and Senior Section Engineers).

Pay scales of various other cadres were also upgraded from time to time on the Railways thus disturbing the horizontal parity and vertical relativity with Technical Supervisors (JEs & SSEs).

20. Fifth Central Pay Commission in paras 54.33, 54.34, 54.35, 54.36, 54.37 & 54.38 of its report, specifically dealt with the problem of supervisor and supervised being placed in the same scale of pay and removed the anomaly by recommending the pay scale of Rs.4500-7000 to Master Craftsman and Rs. 5000-8000 for Technical Supervisors / Chargeman-B (since redesignated as Junior Engineer-II). But later Railways upgraded the scale of Master Craftsman (Senior Technicians) without correspondingly upgrading the scale of Chargeman (Junior Engineer) contrary to the principle of natural justice thereby disturbing the vertical relativity recommended by Fifth Central Pay Commission.

21. 6th CPC in para 2.2.2 said that "The Fifth CPC had compressed many scales. The number of pay scales was reduced from 51 pay scales as on 31.12.1995 to 34 pay scales by the Fifth CPC. In many cases, this led to the promotion and feeder cadres being placed in an identical pay scale. Although Department of Expenditure issued orders that existence of the feeder and promotion posts in the same pay scale will not constitute an anomaly, however, these orders have consistently been rejected by the various courts of this country".

22. As per trite law and definition of promotion in Union of India &Ors. Vs. Pushpa Rani, 2008 (9) SCC 242, promotion would entail discharge of higher duties and also upgradation in the pay scale. For in the case of Rajasthan High Court v. BabuLalArora,(2004) 9 SCC 71, the Apex Court has held as under: One of the important indicia to find out whether an employee holds a higher post on promotion is whether such post carries higher emoluments.Hence, rejection of demand of Technical Supervisors on the plea of inviting similar demands from other such cases is unjust.

23. Ministry of Finance orders dated 24.11.2000 and 7.1.2013 cannot be applied in this case as these orders were not about justifying placement of feeder and promotional posts in the same grade even when the two posts were those of the Supervisor and the Supervised.

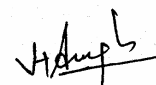
24. Posts of Junior Engineers and Senior Section Engineers not only carry higher responsibilities than the Staff working under them but also involve a different level of functions and multiple responsibilities involving Supervision, management besides overall responsibility for quality control, productivity and safety.

25. **It is, therefore, requested that:**

i) Junior Engineers in Railways may please be placed in Grade Pay of Rs.4600 / Pay level-7, above the Senior Technicians whom they Supervise; and

ii) Senior Section Engineers (SSE) be placed in the Grade Pay of Rs.4800 / Pay level-8, above Junior Engineers, Chief Office Superintendent and others whom they supervise.

Yours' faithfully



**Harchandan Singh,
General Secretary/IRTSA**

Copy for information & necessary action to Secretary (Establishment) Railway Board, New Delhi.