

INDIAN RAILWAYS TECHNICAL SUPERVISORS ASSOCIATION

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

M. Shanmugam,
Central President, IRTSA
4, Sixth Street, TVS Nagar, Padi,
Chennai - 600050.
Email- cpirtsa@yahoo.com
Mob: 09443140817



Harchandan Singh,
General Secretary, IRTSA,
C.Hq. 32, Phase 6, Mohali,
Chandigarh-160055.
Email-gsirtsa@yahoo.com
(Ph:0172-2228306, 9316131598)

No:IRTSA/ Memo DOP/RB / 2013-5

Date: 21-09-2013

1. Secretary, Ministry of Personnel, Public Grievances (DOP&T), North Block, New Delhi.
2. Chairman, Railway Board, Rail Bhawan, New Delhi.

Dear Sir,

Subject: Grant of financial up-gradation under MACP Scheme on promotional hierarchy - (instead of Grade Pay hierarchy) – as per judgment of various Courts.

Reference: 1. DOP OM No.35034/3/2008-Estt. (D), dated 19th May, 2009

- Reg: Modified Assured Career Progression Scheme [MACPS]

2. RBE No: 101/2009 R.B. No PC-V/2009/ACP/2, dated 10-06-2009

- Reg: MACPS for Railway employees.

3. OA No.904/2012, dated 26.11.2012 – Sanjay Kuamr and 18 others Versus Union of India – in CAT Delhi, (Copy attached).

4. OA No.1038/CH/2010, dated 31.5.2011 - Rajpal Vs UOI of CAT Chandigarh – Cited in Para 4 & 5 of OA No.904/2012, dated 26.11.2012 of CAT Delhi

5. CWP No.19387/2011, dated 19.10.2011 - Rajpal Vs Union of India – in High Court of Punjab & Haryana upholding OA No.1038/CH/2010 - . – Cited in para 4 & 5 OA No.904/2012, dated 26.11.2012 of CAT Delhi

6. CPWD office order no. 306 of 2012 (No.24/06/2012-EC-III), dated 22.11.2012 – Reg: Grant of 3rd MACP in the grade pay of Rs.7600, PB-3, to Junior Engineers in CPWD after completion of 30 years of regular service (Copy attached).

With due regards, we submit as under for your kind consideration in regard to your Office Orders cited above for grant of Financial Upgrading under MACPS to Central Government/ Railway employees:

1. The said orders for granting the financial up-gradation under MACPS on Grade Pay hierarchy instead of promotional hierarchy are totally unjust and ultra-vires.
2. Many courts have held that Financial Upgrading under MACPS should be granted in the promotional grade pay or promotional hierarchy, as per details submitted here below:

Petition No.	Applicants & respondents	Court	Judgment
OA No.904/2012 dated 26.11.2012 (Copy attached)	Sanjay Kumar and 18 others Versus Union of India	CAT Delhi	Hon. CAT Delhi, allowed the OA, that respondents should give the next higher grade Pay & Pay band attached to the next promotional post in the hierarchy
OA No.1038/CH/2010 dated 31.5.2011	Raj Pal Versus Union of India	CAT Chandigarh	Hon. CAT Chandigarh allowed the OA No.1038/CH/2010 for grant of financial up-gradation under MACPS in the promotional hierarchy (See Para 4&5 of OA 904/2012)
CWP No.19387/2011, dated 19.10.2011	Raj Pal Versus Union of India	High Court of Punjab & Haryana	Hon. High Court of Punjab & Haryana upheld that there was no infirmity in the order passed by CAT Chandigarh OA No.1038/CH/2010. (See Para 4&5 of OA 904/2012)
SLA / TA CC 7467/2013	Union of India Versus Raj Pal	Supreme Court of India	Hon. Supreme Court Dismissed the Application

3. Junior Engineers of CPWD have already been given the benefit of MACPS as per Promotional hierarchy (instead of Grade hierarchy) – as evident from the CPWD office order no. 306 of 2012 (No.24/06/2012-EC-III), dated 22.11.2012 – Reg: Grant of 3rd MACP

in the grade pay of Rs.7600, PB-3, to Junior Engineers in CPWD after completion of 30 years of regular service (Copy attached).

4. a) It is regretted that the Junior Engineers of Indian Railways recruited in PB 2 & Grade Pay of 4200 (with same qualifications as those in CPWD i.e. Diploma in Engineering as qualification and one year's Training) are left far behind and are given the 3rd MACP to the Grade Pay of Rs.5400 only in PB-2 after the completion of 30 years of regular service, even though their counterparts in CPWD are given 3rd MACP to Grade Pay of Rs.7600 in PB-3 after 30 years of regular service as per orders cited above (copy attached).

b) It is further regretted that even the directly recruited Engineering Graduates with one year's training, and recruited as Senior Section Engineers (SSEs) in PB 2 & Grade Pay of Rs.4600 on the Railways, are given the 3rd MACP to Grade Pay of Rs.5400 PB 3 only as against Grade Pay of Rs.7600 in PB 3 given to JEs in CPWD,

5. These discriminations are occurring on account of the following reasons:

i) The Junior Engineers (JEs) in CPWD and in all other Departments (like MES & Telecommunication etc) are directly promoted as Assistant Engineers in Group B, whereas the Junior Engineers on Railways are promoted as Senior Section Engineers in Group C itself and retire on that post – without any further promotion (due to very less %age of posts in Group A & Group B on the Railways).

ii) Direct recruited Senior Section Engineers (with Degree in Engineering) on the Railways do not get even a single promotion in their entire career throughout their service due to extremely low % age of Group B officers as compared to all other Departments.

iii) Even independent of above factors following is even a bigger factor for discrimination:

CPWD and many other Departments have already adopted the policy to grant the MACP as per Promotional hierarchy instead of the Grade hierarchy - followed on the Railways (as apparent from the copy of the orders of CPWD cited above – copy attached herewith for ready reference).

6. Financial upgradation under ACP Scheme was introduced in the year 1999 and as per the ACP scheme; a Central Govt. / Railway employee with 12 years of regular service in the same grade was eligible for financial upgradation to the next promotional scale available in the cadre hierarchy. In the same way, the employee was eligible for second financial upgradation to the next promotional scale available in the cadre hierarchy after the completion of 24 years of regular service.

7. The above ACP Scheme was modified in the year 2008 and named as Modified Assured Career Progression Scheme (MACPS). MACP Scheme contains provision for grant of three financial upgradation at the intervals of 10, 20 and 30 years of regular service, and scheme envisages merely placement in the immediate next higher Grade Pay in the hierarchy of the revised pay bands and Grade Pay as per the Revised Pay Rules, 2008.

8. This change over from Promotional Hierarchy to Grade Hierarchy (after Sixth Pay Commission) – was most unjustified, illegal and ultra-vires – as has been held by various Courts vide their judgements cited heretofore.

9. The promotional hierarchy of Technical Supervisors and their subsequent promotion to the Group-B gazetted posts are as under:

S. NO	PROMOTIONAL HIERARCHY FOR JES ON RAILWAYS	PAY BAND AND GRADE PAY	REMARKS
1	Junior Engineer	PB-2, G.P, Rs.4200	Direct recruitment element
2	Senior Section Engineer	PB-2, G.P, Rs.4600	Direct recruitment element
3	AWM/AEN/AEE/ADME/ASTE	PB-2, G.P, Rs.4800	PB-2, G.P, Rs.5400 given as 3 rd MACP as Non-Functional financial upgrading
4	Senior Scale Officer	PB-3, G.P, Rs.6600	
5	Junior Administrative Grade	PB-3, G.P, Rs.7600	

10. Comparison of promotional hierarchy and Grade Pay hierarchy for Junior Engineers (JEs) on Railways.

As per Promotional hierarchy of a Junior Engineer (JE) on Railways recruited in the Grade Pay of Rs.4200 in PB-2 can get promoted to the Grade Pay of Rs.6600 in PB-3 after getting his three regular promotions (though it happens very rarely due to extremely low %age of Posts in Group B and Group A on the Railways).

As per Grade Pay hierarchy for getting three financial up-gradations under MACPS on completion of 30 years of regular service a JE can reach only the Grade Pay of Rs.5400 in PB-2 as per comparison given in the table herebelow

STAGE	PROMOTIONAL HIERARCHY FOR JES ON RAILWAYS	PAY BAND AND GRADE PAY HIERARCHY - FOR JES ON RAILWAYS	
Entry	PB-2, GP- Rs.4200	Entry	PB-2, GP- Rs.4200
1 st Promotion	PB-2, GP- Rs.4600	1 st Financial up-gradation	PB-2, GP- Rs.4600
2 nd Promotion	PB-2, GP- Rs.4800 / Rs.5400 (non-functional)	2 nd Financial up-gradation	PB-2, GP- Rs.4800
3 rd Promotion	PB-3, GP- Rs.6600	3 rd Financial up-gradation	PB-2, GP- Rs.5400 given as MACP Non-Functional financial upgrading

11. Comparison of promotional hierarchy and Grade Pay hierarchy for Senior Section Engineer on Railways:

An Engineering Graduate recruited as Senior Section Engineer in the Grade Pay of Rs.4600 in PB-2 on the Railways, can be promoted to the Grade Pay of Rs.7600 in PB-3 after getting three regular promotions (although it rarely happens due extremely low %age of Group A & Group B Posts on the Railways), whereas after getting three financial up-gradations under MACPS on completion of 30 years of regular service, he can reach only the Grade Pay of Rs.5400 in PB-3 as indicated in the table below:

STAGE	PROMOTIONAL HIERARCHY FOR SSE ON RAILWAYS	MACP ON PAY BAND AND GRADE PAY HIERARCHY	
Entry	PB-2, GP- Rs.4600	Entry	PB-2, GP- Rs.4600
1 st Promotion	PB-2, GP- Rs.4800	1 st Financial up-gradation	PB-2, GP- Rs.4800
2 nd Promotion	PB-3, GP- Rs.6600	2 nd Financial up-gradation	PB-2, GP- Rs.5400
3 rd Promotion	PB-3, GP- Rs.7600	3 rd Financial up-gradation	PB-3, GP- Rs.5400

12. It is evident from the above Tables, that the employees suffer a huge financial loss on account of the unjust policy of granting Financial up-gradation as per Grade Pay hierarchy instead of Promotional hierarchy. The existing policy defeats the very purpose for grant of MACP to compensate for the lack of promotional avenues.

13. The policy is contrary to Courts judgments cited above and is also discriminately and differently implemented in various Departments like Railways and the CPWD (as cited above).

14. a) DOP&T is requested to please revise the OM dated 19-5-2009 cited above (Para 2 of the Annexure) and grant financial up-gradation under MACP scheme on the promotional Pay Band & Grade Pay (as per Court judgments cited above) instead of immediate next higher Pay Band & Grade Pay in the hierarchy of revised pay bands and grade pay.

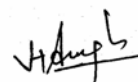
b) Junior Engineers, CMAs & DMAs on the Railways be granted the 3rd Financial up-gradation under MACPS to the Grade Pay of Rs.6600 after 30 years of regular service; And

c) Senior Section Engineers, CMS & CDMS on the Railways be granted the 3rd Financial up-gradation under MACPS to Grade Pay of Rs.7600 after 30 years of regular service.

Encls:

- i. OA No.904/2012, dated 26.11.2012 of CAT Delhi
- ii. Copy of CPWD office order no. 306 of 2012 (Granting 3rd MACP to JEs in CPWD to GP Rs.7600)

Yours faithfully,



Harchandan Singh,
General Secretary, IRTSA

Copy for information & favourable action to:

1. Member Staff, Railway Board, New Delhi
2. Secretary (Establishment), Railway Board, New Delhi.