



ग्रुप 'बी' सी.पी.डब्ल्यू.डी. ऑफिस स्टॉफ एसोसिएशन (ऑल इंडिया)
(भारत सरकार द्वारा मान्यता प्राप्त)

GROUP 'B' CPWD OFFICE STAFF ASSOCIATION (ALL INDIA)
(RECOGNISED BY GOVT. OF INDIA)

Central Office : 'A' Wing, Ground Floor, I.P. Bhawan, (Y-Shape Building), Ring Road Facing, New Delhi-110002

Website: www.gbcpwdosaai.in E-mail: groupbcpwd@gmail.com

No. GBCPWDOSAAI/ 43

Dated 4-5-2020

Through mail

Ajay Kumar N.P.
President

Mob.: 09891904580

Ravi Kumar Bhatnagar
Gen. Secretary

Mob. : 09313171008
09999083637

Tara Singh Banga
Vice President

Mob. : 09968070488

Yashveer Singh
Vice President

Mob. : 09811724008

Florence Edward Fernandes
Vice President

Mob. : 09811625045

Deepak Jain
Joint Secretary

Mob.: 09818561467

Devender Ahuja
Joint Secretary

Mob.: 09891175364

Satish Kumar Sharma
Joint Secretary

Mob.: 98105 41243

Dinesh Kumar
Treasurer

Mob. : 09582897001

Rajeev Sharma
Auditor

Mob. : 09868717143

Harjeet Vashisth

Ladies representative

Mob. : 09911982511

To

Sh. Puneet Kumar Vats.
Director General,
CPWD, Nirman Bhawan,
New Delhi - 110 011

Sub: - Re-Fixation of pay of employees in the merged scale of Rs.5000-150-8000, Rs.5500-175-9000 & Rs.6500-200-10500 (5 CPC) in 6th CPC scales.

Ref: - 1) Judgment dated 3rd April, 2018 in OA No.180/00569/2014 of the CAT, Ernakulam Bench, Kerala.
2) Judgment dated 5th April, 2018 in OA No.180/00819/2014 of the CAT, Ernakulam Bench, Kerala.

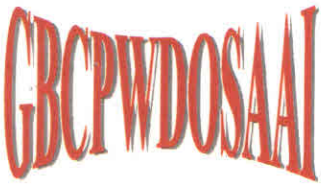
Respected Sir,

We would like to invite your kind attention towards the above quoted two judgments of the Hon'ble CAT, Ernakulam Bench, Kerala, the copies of the judgment were already submitted to the Directorate vide this Association letter No. **GBCPWDOSAAI/ 85 dated 08-05-2018** for your kind consideration and necessary orders please :-

The Hon'ble CAT had observed that the definitions of 'existing basic pay' and 'existing scale' are really essential for interpreting Rule 7 and for fixation of initial pay of the officials in the revised pay structure as per CDS (RP) Rules, 2008. A conjoint reading of the afore-quoted definitions in CDS (RP) Rules, 2008 will reveal that the existing basic pay as on 1.1.2006 is the pay drawn in the prescribed 'existing scale of pay'. It can be interpreted only as the pay applicable to the post payable to Government servant as on 1-1-2006, because the pay in the old scale has ceased to exist on 1-1-2006 and a new pay scheme systemically different from the old scale of pay, has come into existence from that day.

It had further held that "It has to be borne in mind that CDS (RP) Rules, 2008 is a rule notified under the proviso to Article 309 of the Constitution of India made by the President and hence it has a statutory status in the eye of law. Therefore any interpretation of the provisions in the said rules has to be in terms of the rules itself. Any O.M issued by way of clarification, explanation or prescribing the modalities for fixation of initial pay of the Government employees as per the revised pay structure can be only in terms of what is stated in the rules". As observed above, going by the definitions of the terms 'existing basic pay' and 'existing scale' in the CCS (RP) Rules, 2008, Rule 7 fixation can be only in accordance with the afore-mentioned definitions of 'existing basic pay' and 'existing scale' only and not by way of administrative O.Ms and instructions contained in Annexure A-1 or Annexure A-2 communications.

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Accordingly the Hon'ble CAT, Ernakulam Bench quashed and set aside Annexure A-1 and Annexure A-2 communications and held that the applicants are entitled to the declaration as prayed for and that the respondents were directed to fix the initial pay of the applicants including all the members of Applicant No.1 Association in the revised pay structure by fixing their salary in the revised pay scale of Rs.6500-10500 treating Rs 6500/- as the existing basic pay as on 1.1.2006 with all consequential benefits.

In CPWD, there were two posts viz. Head Clerk and Office Superintendent Gd.II in the 5 CPC scales of Rs.5000-150-8000 & Rs.5500-175-9000 respectively. A large number of UDCs were also drawing pay in the above (merged) scales granted to them as financial up gradation under ACP Scheme. Due to rationalisation of the pay scales, the pay scales of Rs.5000-150-8000 & Rs.5500-175-9000 have been merged with the pay scale of Rs.6500-200-10500 and the existing scale of Rs.6500-200-10500 upgraded to the scale of pay of Rs.7450-220-11500. The replacement scales for the merged scales were Rs.9300-34800 + 4200(GP) & that of Rs.7450-11500 was Rs.9300-34800 +4600(GP) respectively.

However, while re fixing the pay of those employees who were drawing a pay less than Rs.6500 in the merged pay scales of Rs.5000-150-8000 & Rs.5500-175-9000 in 5 CPC scales, the actual basic pay drawn as on 31-12-2005 was taken into consideration and the same was multiplied by a multiplication factor of 1.86 to arrive at the new basic pay in 6 CPC scales. This had put them in a position of disadvantage resulting in huge financial loss in the long run.

But, in accordance with the judgment of the Hon'ble CAT, Ernakulam Bench, the basic pay of all those employees who were drawing a pay less than Rs.6500 in the merged pay scales of Rs.5000-150-8000 & Rs.5500-175-9000 is to be fixed treating Rs 6500/- as the existing basic pay as on 1.1.2006 with all consequential benefits. This position had further reiterated in a matter Shri M.I. Shibu, Junior Engineer (Civil), CCD, CPWD, Calicut v/s UOI in OA No.180/00819/2014 by the same Bench vide their Order dated 5th April, 2018.

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In this regard the Directorate, CPWD sent a letter addressed to Chief Staff Officer(P&A) Headquarter, southern Naval Command, Naval Base, Kochi vide Letter No. 4/7/2018-EC-IV(SC)/387 dated 15-04-2019 regarding status of implementation of orders of Hon'ble CAT Ernakulam Bench but thereafter either no action taken in the matter or communicated to this Association so far.

In view of the above judgments, it is requested that necessary instructions may be issued to all concerned to re-fix the pay of all similarly placed employees of Ministerial Cadre who were drawing a pay less than Rs.6500 in the merged pay scales of Rs.5000-150-8000 & Rs.5500-175-9000 treating Rs 6500/- as their existing basic pay as on 1.1.2006 and in the same manner for the employees who were drawing a pay less than Rs.7450/- in the existing scale of Rs.6500-200-10500 upgraded to the scale of pay of Rs.7450-220-11500 treating Rs.7450/- as their existing basic pay as on 1.1.2006 with all consequential benefits to both cases without any delay.

Thanking you and with regards.

Yours faithfully,


Ravi Kumar Bhatnagar
General Secretary

Copy for information and necessary action pleas:

1. The Additional Director General(HR), CPWD, Nirman Bhavan, New Delhi.
2. The Deputy Director General(HR), CPWD, Nirman Bhavan, New Delhi.


General Secretary