

कार्यालय प्रधान निदेशक लेखापरीक्षा
वैज्ञानिक विभाग
नई दिल्ली-110002

233
12/1

सं. प्र.नि./वै.वि./प्रशासन-॥आर.टी.आई.स्थानान्तरण/खण्ड-॥/2012-14/15-16 /555

Speed Post

दिनांक: 12/01/2016

सेवा में,

जन सूचना अधिकारी
भारतीय वन्यजीव संस्थान
चन्द्रबनी,
पोस्ट बॉक्स संख्या 18,
देहरादून 248001

विषय: सूचना का अधिकार 2005, के अंतर्गत सूचना के सम्बन्ध में।

महोदय,

कृपया आपके कार्यालय के पत्र संख्या A/2-1/2007-WII(Vol.IX:2015-16) दिनांक 06-01-2016 के सन्दर्भ में श्री बलबीर सिंह चौहान का RTI आवेदन पत्र 21-12-2015 संलग्न कर आवश्यक कार्यवाही हेतु भेजा जा रहा है।

संलग्नक: यथोपरि

भवदीय,

किशोर -
जन सूचना अधिकारी 12/1/16.

PA(RTI)
कृपया प्रतिक्रिया
अभ्यर्थित

18.1.2016

WILDLIFE INSTITUTE OF INDIA
Right to Information Act, 2005

Apl. No. 1 Utr. 4 Year 2015-16
Fee NA Inward Date 18.1.2016

Day

13/02

ADD.

F.No.11013/16/2014.Ad.IV
Government of India
Ministry of Finance
Department of Revenue
(Central Board of Excise & Customs)

370

Hudco Vishal Building, 5th Floor,
Bhikaji Cama place,
New Delhi, the /c/ February, 2015

CORRIGENDUM

Subject: Merger of Senior Technical Assistant and Technical Assistant in the Directorate of Logistics.

In the Board's letter No. F.No.A.11013/16/2014-Ad.IV dated 28.01.2015 on the subject mentioned above-

(i) In the entries at table 1 (Sl. No. 1) and table 2 (Sl. No. 1) regarding Pre-revised Pay Scale and Existing Pay Scale of Radio Technician (Diploma Holder)-

For

Pre-revised Pay Scale (Rs) 1320-2040
Existing Pay Scale (Rs) 4000-6000

Please Read

Pre-revised Pay Scale (Rs) 1400-2300
Existing Pay Scale (Rs) 4500-7000

(ii) In the entries at table 1 (Sl. No. 2) and table 2 (Sl. No. 2) regarding Pre-revised Pay Scale of Technical Assistant-

For

Pre-revised Pay Scale (Rs) 1400-2300

Please Read

Pre-revised Pay Scale (Rs) 1400-2600

(B. Ginkhan Mang)

Under Secretary to the Govt. of India

To,

All Principal Chief Commissioners
All Directors General and
Commissioners In-charge in Directorates
under Central Board of Excise & Customs

Copy to:-

1. PPS to Chairman(CBEC)/ All Members (CBEC) /JS (Admn)/EC).
2. All Joint Secretaries/Commissioners in CBEC Hqrs.
3. Directorate of Logistics, New Delhi
4. Principal Chief Controller of Accounts, CBEC.
5. Department of Expenditure, North Block, New Delhi.
6. DG Systems, Samrat Hotel, New Delhi – with the request to upload the above order on the website of CBEC.
7. IFU (B&A)/ EC

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भारतीय प्रतिरक्षा मजदूर संघ BHARATIYA PRATIRAKSHA MAZDOOR SANGH

(AN ALL INDIA FEDERATION OF DEFENCE WORKERS)

(AN INDUSTRIAL UNIT OF B.M.S.)

(RECOGNISED BY MINISTRY OF DEFENCE, GOVT. OF INDIA)

CENTRAL OFFICE: 2-A, NAVEEN MARKET, KANPUR – 208001, PH & FAX : (0512) 2332222

MOBILE: 09415733686, 09235729390, 09335621629, WEB : www.bpms.org.in

REF: BPMS / MOD / Court Case / 130 (7/5/L)

Dated: 26.10.2013

To,
The Secretary,
Department of Defence Production,
Govt of India, Min of Defence,
South Block, DHQ PO,
New Delhi – 110011

Subject: Compliance of CAT (Principal Bench) order in respect of Laboratory Technicians working in OFB.

Reference: O.A. No. 2660/2012, M.A. No. 0643/2012 & 2848/2012 and Order reserved on 02.09.2013 & pronounced on 11.10.2013

Respected Sir,

With due regards, it is submitted that this federation has raised the matter regarding removal of anomaly in the entry grade pay scale of Laboratory Technicians serving in Ord Fy Hospitals in PB – 2 with Grade Pay of Rs 4200 instead of PB-1 with Grade Pay of Rs 2800 in the 88th & 89th Departmental Council (JCM) (MOD) Meetings on the plea that the incumbents holding B.Sc. plus DMLT are directly recruited in the pay scale of Rs. (5000 – 8000) i.e. Grade Pay Rs. 4200 in the Ministry of Railways, whereas the Lab Technicians have the same qualification are directly recruited in the pay scale of Rs. (4500 – 7000) i.e. Grade Pay Rs. 2800 in the Ministry of Defence (Ord Fy Hospitals).

The issue was also raised as Item No. 05 in the 2nd meeting of the Departmental Anomalies Committee held on 20th Oct, 2010 under the Chairmanship of Addle Secretary (M), wherein it was decided that JS (E/PG) will hold a meeting with DDP officials to expedite these issues and in this regard, action has to be taken by D(Civ-I)/D(Fy-II) as communicated MOD ID No. 17 (1)/2009-D(Civ-I), dated 11.11.2010. But the issue was unresolved for long which compelled the federation to go to Central Administrative Tribunal (Principal Bench) to redress the grievance and the CAT observed as under:-

“Para 6.: The recruitment rules in respect of the cadre of the Laboratory Technician have been notified by the respondents after 07 years in the year 2005 which was expected to have been done within two months or thereabout. The VI CPC recommendations became effective from 01.01.2006.

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recruitment rules as a follow up to the decision can under no circumstances be taken in the context that by the time rules are implemented or implementing the recommendations of the Pay Commission. Thus, there is hardly any time for the implementation of that Pay Commission to be fulfilled

In the course of events what comes out is that (i) the respondents applied their mind to the demand of the respondents, (ii) the proposal of the respondent was not in line with the demand of the applicants, did not come into force till the year 2011 and (iii) this is a departure from the respondents that the issues arising out of the recommendations of the 6th CPC. Now in the counter filed by the respondents a uniform stand has been taken against most averments in the OA that since the recruitment qualification at the time of the recruitment of the existing Laboratory Technicians (LTs) in the Ordnance Factories was matriculation with diploma in DMLT, they were granted the scale of Rs.4500-7000. It may be recalled here that 5th CPC had recommended upgradation of the basic qualification of L.T. to B. Sc. alongwith DMLT and grant of higher pay scale of Rs.1600-2660 (corresponding to Rs.5000-8000). The respondents for some unknown reasons have raised the qualification of L.T. in the recruitment rules published in the year 2005 as recommended by the 5th CPC but retained the pay scale at Rs.4500-7000 (Rs.1320-2040 pre-revised) which was meant for the LTs with the basic qualification of matriculation. If the logic behind retaining lower pay scale is that all existing LTs (as on 01.01.2006) were matriculates (which is not true!) and therefore cannot be given higher pay scale, then it does not make sense to upgrade the qualification to B. Sc. level. On the other hand if the intention is to improve the quality of intake into the cadre by upgrading the qualification, then it does not make sense to give new recruits or incumbents with B Sc. plus DMLT qualification the pay scale of LTs with matric qualification. A list of 42 LTs working in Ordnance Factory Hospital filed by the applicants in their rejoinder shows that nearly half of them possess B. Sc. (or higher) plus DMLT qualification."

Finally, the CAT held as under:

"Accordingly, we direct the respondents to take a final decision with regard to the representations submitted by the applicants and communicate

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their decision within a period of 03 months. Needless to add that the issue has been hanging in fire for nearly 15 years, without any satisfactory resolution and, therefore, the respondents would consider the matter with due urgency, taking into account the recommendations of the 5th CPC and our observations in the preceding paragraphs."

Therefore, you are requested to take appropriate action so that the Lab Technicians of OFB may be granted the entry pay scale of Rs. (5000 – 8000) w.e.f. 03.08.2005, i.e. the date of notification of revised Recruitment Rules (SRO. 88) for Laboratory Technicians.

Thanking you.

Sincerely yours



(M. P. SINGH)
General Secretary

Enclosed: Photocopy of referred CAT order

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Kerala High Court

Union Of India (Uoi) vs All India Federation Of Customs ... on 17 December, 2004

Equivalent citations: 2005 (1) KLT 544

Author: K Radhakrishnan

Bench: K Radhakrishnan, M Krishnan

JUDGMENT K.S. Radhakrishnan, J.

1. Can the Ministry of the Government of India through an executive order interfere with the Central Civil Service (Revised Pay) Rules, 1997 issued by the President of India in exercise of the powers conferred by the proviso to Article 309 and Clause 5 of Article 148 of the Constitution of India is the question that has come up for consideration in these cases.

2. Fifth Pay Commission recommended for revised pay scales and for upgrading pay scales for the post of Radio Operator under the Pension Scheme. Post of Radio Operator was previously having the pay scale of Rs. 1320-2040 which was revised by the recommendation to Rs. 4500-7000. Accepting the report of the Pay Commission, President of India in exercise of the powers conferred by the proviso to Article 309 and C1.5 of Article 148 of the Constitution and after consultation with the Comptroller and Auditor General in relation to persons serving in the Indian Audit and Accounts Department, issued the Central Civil Services (Revised Pay) Rules, 1997. The categories to which the applicants belong came under the caption Telecom Wing in SI.No.XI dealing with "Ministry of Finance". Those categories fall in serial numbers 41 to 45. The revision of pay scales in respect of the categories of staff to which the applicant belong was implemented by order dated 1.1.1998. Later order dated 31.8.1998 was issued indicating the revised pay scales as recommended by the Pay Commission and that was accepted and implemented by the Government of India.

3. All India Association of Customs, Central Excise and Narcotic Electronic Maintenance Engineers and others filed O.A.No.1244 of 2001 before the Madras Bench of the Tribunal for a direction to the Ministry of Finance to place Radio Technicians, Technical Assistants and Senior Technical Assistants in the pay scale of Rs. 5000-8000,5500-9000 and 6500-10500 respectively. That application was disposed of by order dated 30.8.2002 directing the Secretary, Ministry of Finance, Department of Revenue, New Delhi to reconsider the matter in the light of the judgment of the Principal Bench of the Central Administrative Tribunal in O.A. Nos. 1003 to 1005 of 2000.

4. Ministry of Finance felt that the established parity between pay scales in the various posts of operational, maintenance and cipher stream in the department was disturbed because of the Fifth Central Pay Commission which had recommended upgradation of pay scales for the post of Radio Operator under the operational stream under the erroneous impression that the prescribed minimum qualification for appointment to the posts included Diploma in Radio Engineering and that with a view to set right the anomaly, restore the parity and not to compound the anomaly. Further it was also noticed that Fifth Pay Commission also recommended higher pay scales for Supervisor and Communication Assistant. Ministry also felt that the parity with the posts in the Cipher Stream had also been disturbed as a result of restructuring of the post of Cipher Operator in two grades and the consequential upgradation of the post of Cipher Assistant. Further it is also pointed out that the recommendations of the Fifth Pay Commission were based on a wrong facts as

the post of Radio Operator in the Operation Stream does not actually require Diploma in Radio Technology since as per the Recruitment Rules prescribed for the said post, the minimum qualification is only matriculation plus a second class certificate in Wireless proficiency. It was also noticed that the qualifications prescribed for the corresponding post of Radio Technician (non-diploma holder) in the maintenance stream are also identical. Ministry of Finance on the basis of the above mentioned facts and circumstances had reconsidered the entire matter and issued notification dated 30.4.2002 in partial modification to the Government notification GSR No. 569(F) dated 30.9.1997 where entries at Sl.Nos.41 to 45 mentioned under the heading of Telecommunication Wing of the Department of Revenue have been treated as deleted. Notification dated 30.4.2002 reads as follows:

"In partial modification of this Department's Notification GSR No. 569 (E) dated 30th September 1997 the entries at serial number 41 to 45 mentioned under the heading Telecommunication Wing of the Department of Revenue may be treated as deleted. Entries from serial number 46 onwards would stand renumbered appropriately. Consequently those posts in the Telecommunication Wing of the Department of Revenue which were earlier placed at serial No. 41 to 46 would only be given the normal replacement pay scales corresponding to the applicable pre-revised scales of pay".

Sd/-

Usha Mathur Joint Secretary to Government of India Later on the basis of the above mentioned notification, Ministry of Finance issued letter dated 9.10.2002 to all the Heads of Departments stating that the posts which were earlier placed at Sl.No.41 to 45 of the Notification dated 30.8.1997 would only be given the normal replacement pay scales corresponding to the applicable pre-revised scales of pay. Further it was ordered that the order would take effect only from 1.5.2002 and that no recoveries would be made for the excess payment from 1.1.1996 to 30.4.2002 on account of extension of these higher pay scale. Applicants are aggrieved by the above mentioned notifications. It was contended before the Central Administrative Tribunal that the notification dated 30.4.2002 and the letter dated 9.10.2002 are illegal and go contrary to the Central Civil Service Rules, 1997. The Tribunal found force in the said contention and set aside the above mentioned notification. Aggrieved by the same Union of India and others, have approached this Court.

5. When the matter came up for hearing we heard Senior Central Government Standing Counsel Sri.John Varghese. Counsel submitted that sufficient reasons existed for issuing the notification dated 30.4.2002. Further it was submitted that the Ministry was only rectifying the anomaly crept in the Pay Commission report for justifiable reasons. Counsel submitted that on the basis of the erroneous decision of the Fifth Pay Commission, higher pay scales have been granted to the applicants whereas legally they are not entitled to the grant of pay scales to the posts which resulted in disparity in pay scales which can always be corrected by the Government. Counsel also submitted that a contrary view has been taken by the Principal Bench in O.A.No.3088 of 2002 and connected matters and therefore the Tribunal was not justified in taking a different view. Counsel appearing for the respondent Sri.T.C.Govindaswamy on the other hand contended that the Government have no power to modify, whittle down or interfere with the Rules framed by the President under Article

Diploma in Radio Technology
- the minimum qualification - also

309 of the Constitution of India. Counsel also submitted that no power of relaxation has been conferred on the Government to amend the rules and therefore the Tribunal was justified in quashing the Government notification dated 30.4.2002.

6. The Central Pay Commission had recommended the upgraded pay scales for posts in the Operation Stream. The Pay Commission Report was accepted by the Government. Later in exercise of the powers conferred by the proviso to Article 309, and clause (5) of Article 148 of the Constitution and after consultation with the Comptroller and Auditor General, the President made the Central Civil Services (Revised Pay) Rules, 1997 which came into effect on 1.1.1996. Ministry has taken the view that the Fifth Pay Commission had recommended upgradation of pay scales under the erroneous impression that the prescribed minimum qualification for appointment to that post included Diploma in Radio Technology. Ministry also felt that the post of Radio Operator in the Operation Stream does not actually require Diploma in Radio Technology and as per the recruitment rules the minimum qualification is only matriculation plus a second class certificate in wireless proficiency.

7. We are of the view assuming that above is the factual situation, the question to be considered is whether Government of India in exercise of its executive power could modify or relax the rules framed by the President of India under the proviso to Article 309 of the Constitution and CI.(5) of Article 148 of the Constitution of India. Law is well settled that the power of the rule making authority under the proviso to Article 309 of the Constitution of India is legislative in character. Constitution enables the President or such person as he may direct in the case of services and posts in connection with the affairs of the Union, to make rules regulating the recruitment and the conditions of persons appointed, to such service and posts until provision in that behalf is made by or under an Act of the appropriate Legislature under Article 309 and any rules so made shall have effect subject to the provisions of any such Act. The Apex Court in *A.K.Bhatnagar v. Union of India*, (1991) 1 SCC 544, held that the rules framed in exercise of powers conferred under the proviso to Article 309 is binding on the Government and acting contrary to the rules will create problem and dislocation and must be regulated by the rules. Such a rule can be struck down only if it violates Arts. 14 and 16 of the Constitution of India. In *Ex.Capt. K.Balasubramanian and Ors. v. State of Tamil Nadu & Ann*, (1991) 2 SCC 708, the Apex Court held that statutory rules framed cannot be altered by administrative instruction. Law is well settled that such a rule can be amended only by proper legislation. However, we may point out, Central Civil Service (Revised Pay) Rules, 1997 has also authorised the President of India to relax the rules. R.I3 reads as follows:

13. Power to relax -- Where the President is satisfied that the operation of all or any of the provisions of these rules causes undue hardship in any particular case, he may, by order, dispense with or relax the requirements of that rule to such extent and subject to such conditions as he may consider necessary for dealing with the case in a just and equitable manner.

Above being the legal position, we are of the view notification issued by the Ministry on 30.4.2004 and the Circular dated 9.10.2002 issued by the Government to various Heads of Departments have no legs to stand since they are in conflict with the provisions of the Central Civil Service (Revised Pay) Rules, 1997. Consequently we find no reason to interfere with the order passed by the Tribunal.

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The same is upheld and the Writ Petitions stand dismissed.

Union Of India (Uoi) vs All India Federation Of Customs ... on 17 December, 2004



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कार्यालय प्रधान निदेशक लेखापरीक्षा
वैज्ञानिक विभाग
नई दिल्ली-110002

सं. प्र.नि./वै.वि./प्रशासन-II/आर.टी.आई.स्थानान्तरण/खण्ड-II/2012-14/15-16/481

Speed Post
दिनांक 4 DEC 2015

सेवा में,

श्री बलबीर सिंह चौहान
109-महिमा एनक्लेव, केहरी गांव,
पो. ओ.-चंदनवाड़ी, प्रेमनगर,
देहरादून

विषय: सूचना का अधिकार 2005, के अंतर्गत सूचना के सम्बन्ध में।

महोदय,

कृपया आपके : RTI पत्र संख्या निरंक दिनांक 23-10-2015 के सदर्थ में आपको सूचित किया जाता है कि सेवा नियम 199 के अनुसार सेवा पुस्तिका में सभी प्रविष्टियाँ कार्यालयाध्यक्ष/विभागाध्यक्ष द्वारा की जानी चाहिए। अंतः ऑडिट पार्टी द्वारा व्यक्तिगत सर्विस बुक में स्वयं कोई प्रविष्टि नहीं की जाती। यह कार्य संबंधित विभाग द्वारा किया जाता है।

भवदीय,

वेमाशु 14/12/15
जन सूचना अधिकारी

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श्री बलवीरसिंह चौहान
109-महिमा एनक्लेव, कहेरी गांव,
पुणे-411003, महाराष्ट्र, भारत

श्री बलवीरसिंह चौहान

दिनांक 23-10-2015 को लिए
घोस्ट से प्रभाव है।

घर नंबर 70 33F 704508
दिनांक 23-10-2015 के शुक
के रूप में सतन है।

- 4. आवेदन पर जमा करने की तिथि -
- 5. आवेदक के हस्ताक्षर या अंगूठे का निशान -
- 3. आवेदन कर्ता द्वारा जमा शुल्क करने का प्रमाण-पत्र -

2. यह कि 013020-2040 के वर्तमान को तकनीकी कर्मचारियों के लिए एवं पें कमीशन में, किस वर्तमान में प्रभा किया गया है ? इसकी प्रमाणित प्रतिलिपि उपलब्ध करवाने की महति कर्ण करें।

1. यह कि दिनांक 26-09-2013 को आवेदन कर्ता के "अविगत सर्विस बूक" में (C&AG) ऑडिट माटी द्वारा, अकिव व लिखा है की आवेदनकर्ता की वर्तमान नं 04500-7000 का दिनांक 27-11-2002 से दिया जाना न्यायहीन में है जोकि ऑडिट माटी द्वारा अविगत सर्विस बूक" में प्रथम के पक्ष में निष्पत्ति दिया गया है। क्या उस निष्पत्ति को द्वितीय ऑडिट माटी रद्द कर कर सकती है ? इसकी प्रमाणित प्रतिलिपि उपलब्ध करवाने की महति कर्ण करें। (इस संबंध में कुछ प्रश्न संलग्न हैं)। (Page No. 1 to 8).

4. इच्छित सूचना का स्पष्ट विवरण -

- 1. अर्पण कर्ता का नाम - श्री बलवीरसिंह चौहान।
- 2. पिता का नाम - श्री जयसिंह।
- 3. पता - 109-महिमा एनक्लेव, कहेरी गांव, पुणे-411003, महाराष्ट्र, भारत
- 4. इच्छित सूचना का स्पष्ट विवरण -

संदर्भ :- दिनांक 26-09-2013 को आवेदन कर्ता के सर्विस बूक में, ऑडिट माटी (C&AG) के लिखे गये नोट के संदर्भ में। (04500-700 का वर्तमान में के संबंध में)।

श्री आर श्रीनिवासन (CPIO)
प्रधान निधिक और जनसूचना अधिकारी,
कार्यालय भारत के निधिक एवं महत्वपूर्ण निधिक,
9-दीनदयाल उपाध्याय मार्ग, नई दिल्ली-110124।

संलग्न