

दक्षिण रेलवे Southern Railway
प्रधान मुख्य कार्मिक अधिकारी कार्यालय
Office of the Principal Chief Personnel Officer
प्रधान कार्यालय, कार्मिक विभाग, चेन्नै-600003
Headquarters, Personnel Department, Chennai-600003

सं/No: P(R) 524 / P / Fixation / Vol.IX

दिनांक/Dated:06.06.2023

All PHODs/ DRMs/ CWMs/ CEWE/ CAO/ CPM/ PDA/ Dy.CPOs/ Sr.DPOs/ Secy to GM,
Chairman/RRB/MAS,TVC, Addl.Registrar/RCT/MAS, Secretary/RRT/MAS,
Principal MDZTI/TPJ, SRCETC/TBM, ZETTC/AVD,
DPOs/SPOs/WPOs/APOs of HQ/Divisions /Workshops/Units.

**विषय/Sub: Pay protection due to joining from a post in higher level in
State Government / High Court to a post in lower level in
Central Government – clarification regarding.**

A copy of Railway Board's letter E(P&A)II/2023/PP-2 dated 16.05.2023 on the
above subject is enclosed for information, guidance and necessary action.

Railway Board's letter dated 23.06.2016 and 11.05.2023 referred therein have
been circulated as **PBC No. 85 / 2016** and **PBC No. 103 / 2023**.

ECoR's letters dated 11.11.2022 and 04/05.01.2023 referred therein are
enclosed for reference.

Encl.05 pages

उपमुकाधि/समन्वयन /Deputy Chief Personnel Officer / Co-ord
कृते प्रमुकाधि/For Principal Chief Personnel Officer

प्रतिलिपि/Copy to: The General Secretary/SRMU
The General Secretary/AISCTREA
The General Secretary/AIOBCREA
The General Secretary/NFIR

IT Section/PB/HQ - to upload in the SR website

भारत सरकार GOVERNMENT OF INDIA
रेल मंत्रालय MINISTRY OF RAILWAYS
(रेलवे बोर्ड RAILWAY BOARD)

No. E(P&A)II/2023/PP-2

New Delhi, dated 16.05.2023

The General Manager (P),
East Coast Railway,
Bhubaneswar

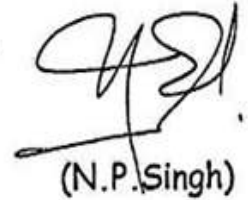
Sub: Pay protection due to joining from a post in higher level in State Government/High Court to a post in lower level in Central Government- clarification regarding.

Ref: ECoR's letter No(s):

- (1) ECoR/Pers/Bills(NG)/Pay Protection/AK/CLA, dt. 11.11.2022.
- (2) ECoR/Pers/Bills (NG)/Pay Protection/JPS/Jr.Clk, dt. 04/05.01.2022
(corrected as 04/05.01.2023).

The matter referred vide ECoR's letters under reference has been examined in Board's office in consultation with DoPT who advised that as per the guidelines on fixation of pay of State Government employees on appointment to the posts under administrative control of Ministry of Railways issued vide Board's letter No. E(P&A)II/2016/PP-1, dt. 23.06.2016 (RBE No.73/2016) and No. E(P&A)II/2023/PP-3 dt. 11.05.2023 (RBE No.69/2023) pay protection is admissible in cases where a State Government employee is appointed in Central Government in identical or higher Grade Pay/Level. However, these guidelines do not contain any provision for pay protection in cases where a State Government employee is appointed in Central Government in a lower Grade Pay/Level. This infers that pay protection is not admissible in cases where a State Government employee is appointed in Central Government in lower Grade Pay/Level.

ECoR is advised to take necessary action in light of the above.



(N.P.Singh)

Director, Estt.(P&A)

Railway Board

Tele No.47845124

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EAST COAST RAILWAY

Office of the
Principal Chief Personnel Officer
Bhubaneswar

Dated: 04.01.2023
05

No. ECoR/Pers/Bills(NG)/Pay Protection/JPS/Jr.Clk

The Director Estt(N),
Room No. 550,
Rail Bhawan,
Railway Board,
New Delhi.

Sub: Proposal for seeking clarification regarding pay protection due to joining from higher post to lower post.

Sh. Jyotiprakash Sahoo, Jr. Clerk-cum-typist in Pay Matrix Level-2 in HQ/BBS has applied for his pay protection of Rs. 37,600/- (Level-9) which was drawn at the time of his release i.e. 27.06.2017 from the past service working in the post of Music Teacher in scale of Rs. 9300-34,800 with Grade Pay Rs. 4200/- (7th PC as per Odisha Revised Scales of Pay Rules'2017).

The brief particulars of the case is furnished as under: -

Sh. Jyotiprakash Sahoo while working as Music Teacher in scale of Rs. 9300-34,800 with Grade Pay Rs. 4200/- in Pay Matrix Level-9 (7th PC as per Odisha Revised Scales of Pay Rules'2017) got selected as Jr. Clerk-cum-typist in Pay Matrix Level-2 in Railways through RRC/BBS against Cultural quota (Violin player). After accepting his resignation by the competent authority of Odisha Adarsha Vidyalaya, he relieved from his previous post and joined in HQ/ECoR/BBS w.e.f. 05.07.2019 (copy enclosed). He was drawing pay Rs. 37,600/- in Pay Matrix Level-9 at the time of his relieving in his previous place of posting under State Govt. of Odisha.

As he has resigned from higher post (Music teacher in Level-9) in State Government and joined in lower post (Jr. Clerk-cum-typist in Level-2) in Central Government duly recruited/selected through RRB/RRC, no specific rule/guideline is available towards pay protection of an employee in this regard. But whatever the available guidelines issued in this regard is furnished as under:

1. Vide OM under DoPT's F. No. 12/3/2017-Estt.(Pay-I), dated 28.07.2017 circulated under RBE No. 162/2017, dated 02.11.2017, states about the fixation of pay of candidates working in Public Sector Undertakings etc., recommended for appointment by commission by the method of recruitment by selection only.

05/01/23

2. Vide OM under DoPT's F. No. 12/2/2017-Estt.(Pay-I), dated 5th August, 2020 circulated under RBE No. 69/2020, dated 25.08.2020, states about the protection of pay to the Central Government Servant consequent to appointment to a new post in different service or cadre in Central Government, through direct recruitment where either higher duties and responsibilities are involved or not, as the case may be, under FR 22-B(1), in 7th CPC Scenario.

3. Vide OM under DoPT's F. No. 5/2/2012-Estt.(Pay-I)(Vol.II), dated 13th August, 2020 circulated under RBE No. 70/2020, dated 25.08.2020, states about the protection of pay in respect of candidates from PSUs, Universities, Autonomous bodies, etc. on their appointment to Central Government posts on Direct Recruitment basis.

4. Vide 2(a) of OM under DoPT's No. 12/2/2016-Estt.(Pay-I), dated 11th May, 2017, states about the pay fixation of state government employees on their appointment to Central government with two conditions only as given below:-

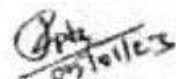
- (i) when the appointment is to a post in higher Level &
- (ii) where the appointment is to a post involving identical Level

However, the condition towards appointment to a post in lower Level in Central Government from a post in higher Level in State Government has not been mentioned in the said OM and this condition is applicable in his case.

The instant case has also been reviewed by finance Department and in consultation with associate finance the same is referred to Railway Board for issue of necessary orders/guidelines on this issue.

Keeping in view, Board is requested to go through the case and necessary orders may kindly be communicated to this office on the above matter accordingly.

Encls: As above.


(Prakhar Gupta)
Dy. Chief Personnel Officer (HQ)
CUG No. 8455885606

EAST COAST RAILWAY

Office of the
Principal Chief Personnel Officer
Bhubaneswar

No. ECoR/Pers/Bills(NG)/Pay Protection/AK/CLA Dated: 11.11.2022

The Dy. Director Estt(N),
Room No. 359-A,
Rail Bhawan,
Railway Board,
New Delhi.

Sub: Proposal for seeking clarification regarding pay protection due to joining from higher post to lower post.

Sh. Anuj Kumar working as CLA in Pay Matrix Level-7 in HQ/BBS has applied for his pay protection for counting of past service in the post of Review Officer in Pay Matrix Level-8 in Allahabad High Court.

The brief particulars of the case is furnished as under: -

Sh. Anuj Kumar while working as Review Officer in Allahabad High Court in GP Rs. 4800/-, got selected as CLA in GP Rs. 4600/- (6th CPC)/Pay Matrix Level-7 in (7th CPC) through RRB/BBS and posted in USBRL Project in Jammu with Pay Rs. 44,900/- as per the notice issued vide Dy.CPO/HQ/Northern Railway, Baroda House, New Delhi's letter dated 16.01.2017 (copy enclosed) on relieving from his previous post as Review Officer after accepting his resignation by the competent authority from Allahabad High Court and he was drawing pay Rs. 52,000/- in Pay Matrix Level-8 at the time of his relieving.

In connection regarding protection of pay of the above employee, communication was made with CAO/Con/USBRL Project, Jammu. It was clarified by the competent authority, USBRL Project, Jammu that the past service of Sh. Anuj Kumar who had served in Allahabad High Court has been counted with the approval of GM. However, because of his transfer, pay protection and carry forward of leave balance could not be processed in Northern Railway and they had requested to process the same in ECoR.

Vide item no. 40(2) of Part X of Allahabad High Court officers & staff (Conditions of service and Conduct) Rules, 1976, where it is stated that "in respect of all matters (not provided for in these rules) regarding the conditions of service of officers and servants of the Court including matters relating to their conduct, control and discipline, the rules and orders for the time being in force and applicable to Government servants holding corresponding posts in the Government of Uttar Pradesh shall apply to the officers and servants of the Court subject to such modifications, variations and exceptions, if any, as the Chief Justice may, from time to time, specify:

Provided that no order containing modifications, variations of exceptions in rules or orders relating to salaries, allowances, leave or pensions shall be made by Chief Justice except with the approval of the Governor:"

Further, it is to be noted that the employment in High Court cannot be considered as employment under any State government or Central government, because Judiciary branch is completely separate from executive branch as per separation of powers.

Vide 2.4 of OM under DoPT's No. 28020/1/2010-Estt.(C), dated 17.08.2016 circulated under RBE No. 21/2017, dated 07.03.2017, it is stated that "if the pay fixed in the new post is less than his pay in the post he holds substantively, he will draw the presumptive pay of the pay he holds substantively as defined in FR-9(24).

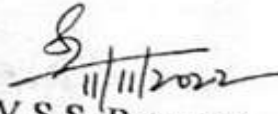
Vide 2(a) of OM under DoPT's No. 12/2/2016-Estt.(Pay-I), dated 11.05.2017, states that pay fixation of state government employees on their appointment to Central government with two conditions only as given below:-

- (i) when the appointment is to a post in higher Level &
- (ii) Where the appointment is to a post involving identical Level

However, the condition towards appointment to a post in lower Level in Central Government from a post in higher Level in State Government has not been mentioned in the said OM and this condition is applicable in his case.

Keeping in view, Board is requested to go through the case and necessary orders may kindly be communicated to this office on the above matter accordingly.

Encls: As above.


(L.V.S.S. Patrudu)
Chief Personnel Officer (Admn.)
for Principal Chief Personnel Officer