

IMMEDIATE

No. 18/2/2007-CS.I
 Government of India
 Ministry of Personnel, Public Grievances & Pensions
 (Department of Personnel & Training)

Lok Nayak Bhavan, 2nd Floor, Khan Market,
 New Delhi-110 003, the 20th May, 2014

OFFICE MEMORANDUM

Subject: Stepping up of pay of Senior Assistants of the Central Secretariat Service (CSS) drawing less pay on promotion in the Section Officers Grade than their juniors.

The undersigned is directed to say that instructions were issued by this Department for stepping up of pay of senior Assistants of CSS drawing less pay on promotion to the Section Officers' Grade than their juniors vide OM No. 5/16/80-CS.I dated 13.4.1988, OM No. 5/21/92-CS.I dated 23.2.1994 and OM No. 5/1/96-CS.I dated 8.10.1996. Subsequently, on references from certain Ministries/Departments clarifications in this regard had been issued during 2007-08. These clarifications were withdrawn vide OM No. 18/2/2007-CS.I(S) dated 29.5.2009 and the Ministries/Departments were asked vide OM No. 18/2/2007-CS.I(S) dated 21st May, 2010 to maintain status-quo in the matter till the same is finally settled.

2. The question of stepping up of pay of senior Assistants of CSS drawing less pay on promotion to the Section Officers' Grade than their juniors has been reviewed. For clarity, the circumstances leading to issuance of the instructions are explained below:

OM No. 5/16/80-CS.I dated 13.4.88:

2.1 Ad-hoc promotions against short-term vacancies in the grade of Section Officer were being made according to the seniority list of the cadre unit concerned whereas regular promotions to the grade were made on a centralized basis by the DOP&T on the basis of Common Seniority List of Assistants. This led to a situation that Assistants lower in rank in the merit list or recruited through a later examination in a particular cadre unit got ad-hoc promotions earlier according to the seniority list of the cadre unit concerned, whereas an Assistant higher in rank in the merit list or recruited from an earlier examination, and therefore senior, did not get such an opportunity to officiate as Section Officer on ad-hoc basis for want of adequate number of short-term vacancies in the Grade of Section Officer in his cadre unit. This resulted in junior Assistants drawing higher emoluments than the seniors in the Section Officer grade. In 1984, the staff side of the Departmental Council of DOP&T (JCM) raised the demand that the pay of Assistants of CSS who were senior by

virtue of having been recruited through earlier examinations but were drawing less pay in SO's grade, on promotion than their juniors recruited through later examinations be raised to same level which their juniors were drawing and the same was referred to the Board of Arbitration. The Board of Arbitration accepted the demand of the staff side to the extent that the pay of an Assistant of the CSS, who is senior by virtue of having been recruited through an earlier examination but is drawing less pay on promotion to the SO's grade than his junior recruited through a later examination shall not be less than the pay his junior is drawing in the same cadre. The award was considered in this Department in consultation with Deptt. of Expenditure and was accepted in toto and OM No. 5/16/80-CS.I was issued on 13.4.88.

OM No. 5/21/92-CS.I dated 23.2.1994:

2.2 The benefit of OM No. 5/16/80-CS.I dated 13.04.1988 was restricted to the case of senior Assistants of CSS recruited through earlier Assistants Grade Examination but drawing less pay than their juniors recruited through later Assistants Grade Examination promoted as Section Officer on seniority basis only and was not allowed to Assistants promoted as Section Officers based on Limited Departmental Competitive Examination.

2.2 Subsequently, on demand of CSS Section Officers' Association, the benefit of stepping up of pay allowed vide OM No. 5/16/80-CS.I dated 13.04.1988 was granted/extended to senior Assistants of CSS recruited through earlier Assistants Grade Examination but drawing less pay than their juniors recruited through later Assistants Grade Examination at the time of promotion through Limited Departmental Competitive Examination also, subject to fulfillment of the same conditions as prescribed in the OM No. 5/16/80-CS.I dated 13.04.1988.

OM No. 5/1/96-CS.I dated 08.10.1996

2.3 The OM dated 13.4.88 came under judicial scrutiny in two cases as explained below:

2.3.1 OA No. 365/90 in the case of Shri K.C. Sehgal Vs. UOI & Ors

Shri K.C. Sehgal, a promotee Assistant was senior to Smt. Sunita, a direct recruit Assistant in the Department of Steel and was drawing more pay than her both in the grades of Assistant and Section Officer. The Department of Steel stepped up the pay of Smt. Sunita in the Grade of Section Officer in pursuance of OM dated 13.4.1988 with reference to a junior direct recruit Assistant, who got opportunity to officiate as Section Officer on ad hoc basis in another cadre unit, earlier than Smt. Sunita, . This resulted in Shri Sehgal, though senior and drawing more pay than Smt. Sunita in the lower and higher grades, drawing less pay than Smt. Sunita. Stepping up of his pay with reference to Smt. Sunita, his junior, was turned down on the

ground that he was a promotee Assistant and the junior was a direct recruit Assistant and OM dated 13.4.88 allowed benefit only in the cases where both senior and junior are direct recruit Assistants.

Not satisfied with the above decision, Shri Sehgal filed an OA No. 365/90 in the Central Administrative Tribunal (CAT) and the CAT allowed the OA and issued orders in his favour. The SLP filed by the Government against the order of the CAT was dismissed by the Hon'ble Supreme Court and as a result, the direction of the CAT was implemented.

2.3.2 OA No. 869/91- Shri L.K. Chawla Vs. UOI:

Both Shri L.K. Chawla (senior) and Shri Virender Kumar (junior) were direct recruit Assistants of Ministry of Labour, who were recruited through the Assistant Grade Examination, 1972. Shri Chawla (senior) was promoted on ad-hoc basis to the grade of Section Officer on 1.6.79 and Shri Virender Kumar (junior) on 30.6.79. When the regular incumbent joined, Shri Chawla (senior) was reverted while Shri Virender Kumar (junior) was allowed to continue in the Grade of Section Officer by the Ministry of Labour, thereby the junior got continued opportunity to officiate as SO and difference of pay occurred.

Though in January 1980, Shri Chawla was given ad-hoc promotion, the difference of pay was there and as per the general principles, stepping up of pay is not allowed in the cases of ad-hoc promotion. Consequently Shri Chawla (senior) was included in the Section Officer Select List 1983 and his pay was fixed at Rs.880/- with date of increment in the month of November. Shri Virender Kumar (junior) was included in the Section Officer Select List 1984 and got his pay fixed at Rs.880/- with date of increment in the month of August. As Shri Virender Kumar was junior to him in the Assistant Grade and also in the SO Grade, Shri Chawla represented for antedating the date of drawal of annual increment from November to August i.e. at par with his junior Shri Virender Kumar. As they both belonged to the Assistant Grade Examination of the same year, the request of Shri Chawla was not allowed by the Ministry of Labour and as such he filed OA No. 869/91 in the CAT and the same was allowed.

2.3.3 Accordingly, in consultation with Estt(Pay)/Department of Expenditure the OM dated 8.10.96 was issued extending the provisions of OM dated 13.4.88, to all the similarly placed promotee Assistants as Shri K.C. Sehgal and also to the similarly placed direct recruit Assistants as in the case of Shri L K Chawla, where junior and senior have been recruited on the basis of same Select List/Assistant Grade Examination, i.e. stepping up of pay was allowed to the similarly placed senior promotee Assistants of CSS as Shri K.C Sehgal, who were drawing more or equal pay in the lower grade but drawing less pay than their junior DR Assistants and also in the cases where both senior and junior Assistants had been recruited through the same Select

List/Assistant Grade Examination and are similarly placed as in the case of Shri L.K. Chawla, at the time of promotion to the Grade of Section Officer.

3. It was clarified vide OM dated 29.5.2009 that the OM No.5/1/96-CS.I dated 08.10.1996 was issued in consultation with Department of Expenditure and Establishment(Pay), DoP&T on the basis of the judgments of the Hon'ble Apex Court in the matter of UOI & another Vs. K.C. Sehgal and in the matter of L.K. Chawla Vs UOI. As such, the conditions prescribed in the said OM in this regard stand good and shall be strictly enforced.

4. In spite of issue of this clarification, some Ministries/Departments have been seeking clarifications as to whether stepping up of pay of senior Assistants drawing less pay on promotion to Section Officer's Grade than their juniors is admissible or not even if the junior was drawing more pay than their seniors in the lower grade i.e. Assistant's grade.

5. It has now been decided in consultation with Department of Expenditure that stepping up of pay of senior Assistants at par with their junior assistants at the time of promotion to the post of Section Officer may be regulated as under:

- (i) In terms of DOP&T's OM No. 5/16/80-CS.I dated 13.04.1988, the pay of **senior Assistants of CSS recruited through earlier Assistants Grade Examination but drawing less pay than their juniors recruited through later Assistants Grade Examination** may be stepped up at the time of promotion to Section Officer Grade subject to the conditions prescribed in the said OM.
- (ii) The benefit of stepping up of pay allowed vide OM No. 5/16/80-CS.I dated 13.04.1988 was granted/extended to the Section Officers promoted on the basis of Limited Departmental Examination provided that as **DR Assistants of CSS those were recruited through earlier Assistants Grade Examination but were drawing less pay than their junior DRs recruited through later Assistants Grade Examination, at the time of their promotion through Limited Departmental Competitive Examination** subject to fulfillment of the same conditions as prescribed in the OM No. 5/16/80-CS.I dated 13.04.1988, read with DOP&T's OM No. 5/21/92-CS.I dated 23.2.1994.
- (iii) DOP&T's OM No. 5/1/96-CS.I dated 08.10.1996 which extended the provision regarding stepping up of pay in DOP&T's OM No. 5/16/80-CS.I dated 13.04.1988 to the Section Officers, who were earlier promoted as Assistants from the quota prescribed for promotees, and were **drawing less pay than their junior DR Assistants of same Select List and also in the cases where**

both senior and junior Assistants had been recruited through same Select List/Assistant Grade Examination on their promotion as Section Officers.

6. The Ministries/Departments may, therefore, allow stepping up of pay in only the cases, covered in **para 5 (i) to (iii) above**, at the time of promotion to Section Officer Grade. In all other cases of stepping up of pay other than those mentioned at para 5 (i) to (iii) above, the provisions of DOP&T's OM No. 4/7/92-Estt(Pay-1) dated 04.11.1993 will be applicable.

7. Stepping up of pay already allowed in the cases where the individuals are not covered by the OM No. 5/16/80-CS.I dated 13.4.1988, OM No. 5/21/92-CS.I dated 23.2.1994, OM No. 5/1/96-CS.I dated 8.10.1996 and where the conditions laid down in the OM No. 4/7/92-Estt(Pay-1) dated 04.11.1993 are also not fulfilled may be reviewed, and pay may be re-fixed accordingly. The excess payments made to the employees in the cases of wrong stepping up of pay be recovered in terms of DOP&T OM No. 18/26/2011-Estt(Pay-I) dated 6.2.2014. A compliance report in this regard may be furnished to this Department by 31st August, 2014 positively.

8. This issues with the concurrence of Estt (pay-1), DoP&T vide UO/ID No. 6017/2013-Pay-1 dated 19.07.2013 & 29.08.2013 and Department of Expenditure vide ID No.1(5)/96-E-III(A) dated 19.08.2013.


(R. Venkatesan)

Under Secretary to the Government of India
Telefax: 24624046

To

All the Cadre Units of CSS,
Ministry/Department of
(Deputy Secretary/Director (Admn/Estt.)
New Delhi.

Copy to :

1. Department of Expenditure w.r.t. to their ID No.1(5)/96-E-III(A) dated 19.08.2013
2. Estt (pay-1), DoP&T w.r.t. to their UO/ID No. 6017/2013-Pay-1 dated 19.07.2013 & 29.08.2013