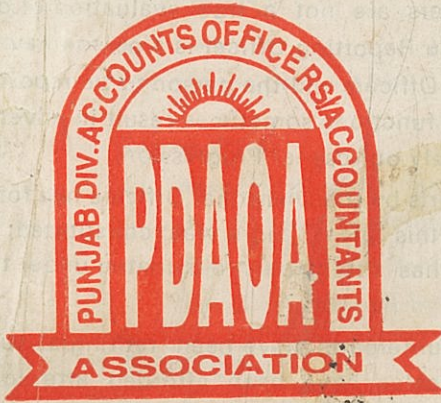


PUNJAB DIVISIONAL ACCOUNTS OFFICERS/ACCOUNTANTS ASSOCIATION QUARTERLY NEWS BULLETIN NO. 1 *Complimentary (For Members only)*



QUARTERLY NEWS
BULLETIN NO. 1
March 1998

Printed at :-
M/s. PRABHAKAR PRESS
Chowk Passian,
AMRITSAR.
Hello : 553232

*Refer to no 7
of Case Law
Section*

Stand up, be bold, be strong. Take the whole responsibility on your own shoulders, and know that you are the creator of your own destiny. All the strength and succour you want is within yourselves. Therefore make your own future.



He who knows how to obey knows how to command. Learn obedience first. We want organization. Organization is power, and the secret of that is obedience.

—VIVEKANAND

Published & Edited by K.K. Jandial, General Secretary, Punjab Divisional Accounts Officers / Accountants Association, 18, Basant Nagar.
Behind E.N.T. Hospital, Majitha Road, Amritsar. for and
on behalf of Punjab Divisional Accounts Officers /
Accountants Association.

EDITORIAL

Harvesting this opportunity to make an address through the pages of our personal journal being resumed after a long gap, we take the privilege to share our genuine grievances about the system of Writing Annual Confidential Reports. After the bifurcation of Audit & Accounts Department, the cadre controlling authority has started laying exclusive reliance on the confidential reports written by the Divisional Officers. Even in few cases, the adverse remarks recorded by the Reporting Officers in the integrity Column against instructions of the Govt. of India attached with the Proforma of A.C.R.'s and as per Punjab Govt. Instructions also were relied upon and remarks conveyed to the concerned members without ascertaining the facts from the concerned Reporting Officer. Confidential Reports of Divisional Officers are not a true evaluation of our official character & qualities due to the fact that the Reporting Officer is a person having different sets of duties than ours because Reporting Officers and the person to be reported upon have divergent field of duties. Mere clash of functions sometimes result in adverse entries in the Confidential Reports effecting adversely our carrier Progression.

This system of writing of Confidential Reports by the Divisional Officers has forfeited the very purpose & intention with which this great cadre was constituted; as independence of functioning as internal checker has totally been eliminated under the present system.

For more than a Century, our Senior Counterparts have been retiring as such when just recently some percentage of higher scales have been afforded after long strenuous struggle and now the fear of A.C.R. has made us pigmies before the Giant. What concerns us more is not only the remarks of the Reporting Officer, but his lack of interest and time to complete the magnanimous proforma introduced by the Department of Human Resources that it is even un-intentionally delayed causing delay in the issuance of Promotion Orders and finalisation of other service matters resulting in recurring financial loss to us. This situation is further aggravated after our own transfer or that of the Reporting Officer; when two or three reports get involved. When the writing of ACR is delayed by the Reporting Officer; its liability should not prevail upon the Divisional Accountants/Divl. Accounts Officers. The Administration must fix up some cut out date to bound the Executive Engineer whereafter it should be considered good for all purpose in the true spirits of instructions issued by the Govt of Punjab, Department of Personal & Administrative Reforms No. 4/6/81-2 PP/7908 dated 7-6-82; because without such a time limit; sufferer is our cadre only; as Promotions are made prospectively and not from deemed date. Present system of writing of A.C.R.'s of our cadre have, therefore, to be re-examined in depth to achieve the objective and retain its independence and to strengthen it further comprising of such persons who are committed to the functions assigned to them and not to the Executive authorities.

Steps in improvement of Confidential Reports as suggested by their Lordships of Highest Temple of Justice of Democratic India; in Amar Kant Chowdhary v/s State of Bihar-Supreme Court L&S-1984, Sec. 694-that the Govt. may consider introduction of system in which the Officer who has to make the entries in the Confidential Reports may be required to record the remarks in the presence of the Officer against whom remarks are proposed to be made after giving him an opportunity to explain any circumstances that may appear to be against him with the right to make representation against the remarks to the higher authorities.

Contd.—Last page of the title

This Quarterly News Bulletin No. 1, Contains.

S. No.	Contents	Pages
1.	Section-1 (i) Editorial (ii) Messages—2 Nos.	
2.	Section-II (i) Association Activities and List of Office Bearers and Presidents/Secretaries of Local Units. (ii) Proceedings of the meeting held with Sr. D.A.G. (Accounts) by the Association.	1—6 7—9
3.	Section-III (i) Recent Govt. Orders and some old orders. (ii) Admn. Orders.	1—28 29—30
4.	Section-IV Case Law Section.	1—18

Note :- Even though all possible efforts were made to check the correctness of proof, yet some mistakes might have still escaped the notice of the Publication Incharge which are regretted. *pkd*

—Publication Incharge



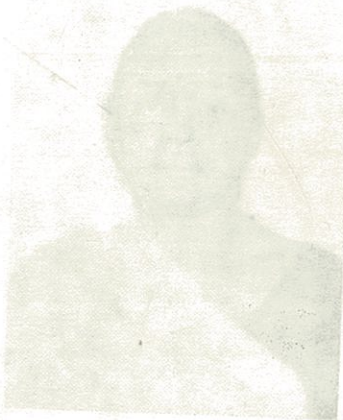
MESSAGE

I am happy to learn that the Punjab Divisional Accounts Officers / Accountants Association is publishing a Quarterly News Bulletin.

Divisional Accountants have a great responsibility in proper maintenance of Public Works Accounts. They have to guard against misuse of funds. The success of the country's development projects depends to a large extent on accurate and up-to-date accountancy. I am confident that the Divisional Accountants will continue to shoulder the responsibility without fear or favour.

I send by best wishes for the success of the News Bulletin.

(MOHUA CHATTERJEE)
I.A.&A.S.
Accountant General
(A&E) Punjab.



MESSAGE

I am happy to learn that the Punjab Divisional Accounts Officers / Accountants Association is publishing a Quarterly News Bulletin.

Divisional Accountants have a great responsibility in proper maintenance of Public Works Accounts. They have to guard against misuse of funds. The success of the country's development projects depends to a large extent on accurate and up-to-date accounts. I am confident that the Divisional Accountants will continue to shoulder the responsibility without fear or favour.

I send my best wishes for the success of the News Bulletin.

(MOHAU CHATTERJEE)
I.A.&A.S.
Accountant General
(A&E) Punjab

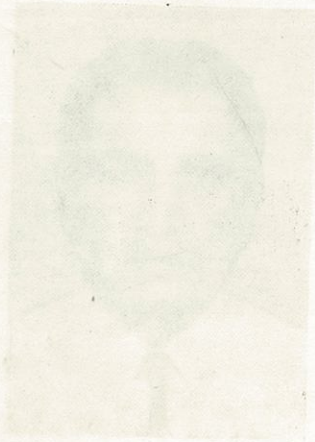


MESSAGE

I am glad to learn that The Punjab Divisional Accounts Officers / Accountants Association is going to Publish a Quarterly News Bulletin. I am sure the Publishing of this Bulletin will help Divisional Accounts Officers / Divisional Accountants to up-date their knowledge regarding their service conditions, administrative matters and technical problems being faced by them.

I wish a success for the fruitful publishing of this New Bulletin.

(DAULAT RAM)
I.A.&A.S.
Sr. Deputy Accountant General
(A / cs.)



MESSAGE

I am glad to learn that The Punjab Divisional Accounts Officers Association is going to publish a Quarterly News Bulletin. I am sure the publishing of this Bulletin will help Divisional Accounts Officers to up-date their knowledge regarding their service conditions, administrative matters and technical problems being faced by them.

I wish a success for the fruitful publishing of this New Bulletin.

(DAULAT RAM)
I.A.&S.
Sr. Deputy Accountant General
(A/c)

SECTION-II

Sr. No.	Contents	Pages
1.	ASSOCIATION ACTIVITIES & LIST OF OFFICE BEARERS & PRESIDENTS / SECRETARIES OF LOCAL UNITS	1-6
2.	PROCEEDINGS OF THE MEETING HELD WITH SENIOR D.A.G. (ACCOUNTS) BY THE ASSOCIATION	7-9

Association Activities

1. Proceedings of 15th Annual General Conference of the Association held at Chandigarh on 7-12-97

15th Annual General Conference of the Association was held at Chandigarh in the examination hall of Accountant General's Office on 7-12-97.

Shri R. L. Deol, Chairman Preparatory Committee and Shri R. K. Sharma, President, Reception Committee received the Chief Guest and other distinguished guests and delegates.

Shri Daulat Ram, Senior Deputy Accountant General (Accounts) Punjab inaugurated the above meet.

Shri Jaswant Singh, the then President of the Association read out his Presidential address highlighting the Association Activities during the past two years. President concluded his address with the profound thanks and gratitudes to the officers of the Accountant General (A&E), Punjab for helping the cadre

Shri R. N. Tripathi, the Secretary General of All India Federation of Divisional Accounts Officers/Accountants Associations graced the occasion by his presence. He also addressed the delegates and discussed the problems being faced by the cadre. He also in his address apprised the General House of positive recommendations of 5th Pay Commission and follow-up action being taken by the All India Federation of Divisional Accounts Officers/Accountants Associations.

Shri Daulat Ram, Senior Deputy Accountant General (Accounts), Punjab as Chief Guest in place of Hon'ble Madam M. Chatterjee Accountant General (A&E) Punjab who could not attend the meet due to her being on long leave, addressed the General House and assured the General House that all promotions to Divisional Accounts Officer-I/ Divisional Accounts Officer-II shall be made in the near future and by the due date. He also assured the house that personal problems of the members shall be properly taken care of.

Morning session was concluded with the vote of thanks read out by Shri R. L. Deol, Chairman, Preparatory Committee.

AFTERNOON SESSION

In the Afternoon Session, Shri Subhakaran Singh, the then General Secretary of the Association presented his report to the house.

The out going President, Shri Jaswant Singh dissolved the Executive Council and Shri R. C. Vaid, Returning Officer conducted the elections of the Association. Followings were elected as President/General Secretary by the general house :-

- | | | |
|----------------------|-----------|--|
| 1. Sh. R. K. Sharma | President | 388, Sector-15, Panch-Kula.
Phone : 577352 (Resi) |
| 2. Sh. K. K. Jandial | G. Secy. | 18, Basant Nagar, Behind
E N.T. Hospital Majitha Road,
Amritsar.
Phone : 224574 (Resi.) |

General House further authorised the newly elect President/General Secretary to nominate other Office Bearers of the Association and followings were nominated to the Executive Council.

S. No.	Name & Designation	Post	Office to which attached	Residential address
1.	Sh Shakti Kumar Arora, D.A.O.-I	Senior Vice President	Provincial Division, P.W.D. B&R Branch, Sector-17, Chandigarh, Phone : 702608	H. No. 1036 Sector-2 Panchkula. Phone : 570722
2.	Sh. Ashok Kumar Arora, D.A.O.-I	Vice-President-I	Rural Works Division, No. 1, P.W.D. B&R Branch, Ludhiana. Phone : 443507	H. No. 609/22, Sham Nagar, Ludhiana. Phone : 446707 446708
3.	Sh. Parkash Ram D.A.O.-II	Vice President-II	Provincial Division, No. 2, P.W.D. B&R Branch, Patiala. Phone : 301093	88-A, Nagar Enclave Ne Office Colony, Patiala. Phone . 309209
4.	B. P. Handa D.A.O.-I	Joint Secretary-I	Rural Works Division, P.W.D. B&R Branch, Kapurthala. Phone : 22363	800/3, Housing Board Colony, Guru Teg Bahadur Colony, Jalandhar City. Phone : 270115
5.	Sh. Chetan Parkash Sharma, D.A.O.-II	-do-II	Provincial Division, P.W.D. B&R Branch, Hoshiarpur. Phone : 22511	New Gautam Nagar, Una Road, Hoshiarpur (Near Jain Day Boarding School) Phone : 21929
6.	Sh. Harjinder Singh, D.A.O.-I	-do-III	Rural Works Division, P.W.D. B&R Branch, Ropar. Phone : 22934	House No. 182, Phase 3-B-I, Mohali. Phone : 221505
7.	Sh. Adarsh Kumar, D.A.O.-II	Organising Secretary	Rural Works Division, P.W.D. B&R Branch, Mukerian. Phone : 24074	Municipal Committee, Colony. Opp. Residence, Pt. Jhanda Ram, Ex. M.C. Mukerian, Distt. Hoshiarpur
8.	Sh. P. K. Jain D.A.O.-II	Assistant Secretary-I	Provincial Division, No. 1, P.W.D. B&R Branch, Bhatinda. Phone : 212878 30286 (R) MANSA	
9.	Sh. Darshan Lai Bajaj D.A.O.-II	-do-II	Harike Diviston, Canal Colony, Ferozepur. Phone : 46818 41793 (R)	

S. No.	Name & Designation	Post	Office to which attached	Residential address
10.	Sh. Rakesh Purohit Divl. Acctt.	-do-III		
11.	Sh. Harsa Singh Gill D.A.O.-I	-do-IV	Public Health (RWS) Division, Tarn Taran. Phone : 22688	H.M. 1077, Sector 3, Ranjit Avenue, Amritsar. Phone : 501229 P.P. 2935, Sector 37-C, Chandigarh. Phone : 694264
12.	Sh. Sunil Jindal Divisional Accountant	Cashier	Kharar Construction, Division, S.Y.L. Project, Chandigarh. Phone : 779874	
13.	Sh. Billa Ram Sehgal Divisional Accountant	Auditor	Central Works Division, No. 1, P.W.D. B&R Branch, Amritsar. Phone . 212801	H. No 65/9, Gali Peeranwali, I/s. Gate Hakima, Amritsar. Phone : 522560
14.	Sh. Gurjant Singh Divl. Accountant	Liason Officer	Water Resources Management Division, Chandigarh. Phone : 705327	H. No. 1636, Phase 3-B-2, SAS Nagar, Mohali. Phone : 676664

NOTE : 1. Shri Vijay Tikku, Divisional Accountant has been nominated as member of the Office Council of the Accountant General (A&E), Punjab, Chandigarh to represent Punjab Divisional Accounts Officers/Accountants Association.
 2. Sh. S B. Gautam, D.A.O.-1 would represent in All India Federation of Divisional Accounts Officers/Accountants Associations on the retirement of Sh. S. C. Prabhakar, D.A.O.-I.

List of Presidents/Secretaries/Executive Members of Local Units :-

S. No.	Local Unit	President	Secretary	Executive Member
1.	Amritsar.	Sh. Balwinder Singh DAO-I P.H. (RWS) Divn. No. 2. Ph. 62911	Sh. H. S. Gill DAO-I P.H. (RWS) T.T. Ph. 22688	Sh. Joginder Ram DAO-I Amritsar Drainage Divn. Ph. 66097
2.	Abohar	—	—	Sh. N. K. Dhir, DAO-II Canal Divn. Abohar
3.	Bhatinda	Sh. Gurcharan Singh DAO-I Provincial Divn. No. 2, Ph. : 211519	Sh. B. S. Bhullar DA, Panchayati Raj Divn. Ph 210737	Sh Vijay Kumar DAO-II Rural Works, Divn. Ph. : 212428
4.	Chandigarh & Mohali	Sh. R. L. Deol DAO-I Electrical Divn. Chd. (O) 741214 (R) 709188	Sh. B. S. Sodhi DAO II Central Works Divn. PWD B&R Branch, Mohali. Ph. 671070	Sh. J. S. Seikhon U.T. Housing Board. Chandigarh. (O) 741238 (R) 679933

- | | | | |
|---|---|--|---|
| 5. Faridkot | Sh. I. K Verma
DAO-II
Provincial Divn.
Ph. (O) 50178
(R) 50903 Zira. | Sh. Suresh Kumar
DAO-II
Sirhind Canal Divn.
Faridkot. | Sh. S. K Didi
DAO-I
Drainage Divn. |
| 6. Ferozepur | Sh. Y. P. Anand
DAO-I
Golewala
Drainage Divn.
Ph. 45366 | Sh. O. P. Mittal
DAO-II
P.H. Rural Water
Supply Divn. No. 2
Ph 46401 | Sh. B. L. Sharma
DA,
Provincial Divn.
Ph. 46035 |
| 7. Gurdaspur
Pathankot &
Shahpur
Kandi | Sh. M. M. Gupta
DAO-I
Drainage Divn.
Gurdaspur.
Ph. (O) 20052 (R) 28382
25161, 25162 | Sh. D. L. Tatial
DAO-I, P.H. (RWS)
Pathankot. | Sh. Sanjeev Malhotra
DA,
Provincial Divn.
Gurdaspur.
Ph. 20037
Sh. Madan Singh
Divl. Accountant
R.S D. Shahpur Kandi
Sh. R. P. Virdi
DAO-II, R&B
Divn.
(O) 22278 (R) 70412 |
| 8. Hoshiarpur &
Talwara | Sh. Charan Dass
DAO-II, P.H. (RWS)
Hoshiarpur.
Ph. (O) 22973 | Sh. Rajesh Bhargo
DA, Rural Works
Divn. Hoshiarpur.
(O) 20455 (R) 28084 | Sh. Makhan Singh
DAO-I
Provincial Divn.
Jalandhar.
Sh. Ravi Sobti
DA, Electrical
Divn.
(O) 420657 |
| 9. Jalandhar
&
Kapurthala | Sh. Jagan Nath
DAO-I
Drainage Divn.
Jalandhar. | Sh. K. L. Arora
DAO-I, P.H.C.S.
(C) Divn.
Jalandhar. | Sh. Amar Nath
Township Divn.
(O) 23040 (R) 23606 |
| 10. Ludhiana | Sh. Vijay Parkash
DAO-I, Central
Works Divn. No. 2
(O) 420195 (R) 470832 | Sh. Gurpal Singh
DAO-II, Provincial
Divn.
(O) 420082 (R) 62639 | Sh. K. K. Sharma
DA. PH (GW) Divn.
(O) 222617 (R) 225531 |
| 11. Nangal | Sh. Charan Dass
DAO-I. Nangal
Dam Divn.
Ph (O) 24363 | Sh. Parshotam Lal
DAO-II Procurement
Stores & Disposal Divn
(O) 23011 | Sh. S. K. Singla
DA,
PH (RWS) Divn. |
| 12. Patiala | Sh. Raj Kumar
Bansal, DAO-II
R&B Divn.
Ph. (O) 218387 (R) 777652 | Sh. Joginder Singh
DAO-II,
Canal Lining Divn.
(O) 219184 (R) 822212 | |
| 13. Sangrur | Sh. K. C. Jindal
DAO-I, Rural Works
Divn.
Ph. (O) 34092 (R) 36196 | Sh. S. P. Aggarwal
DA, Lining Divn.
(O) 34358 (R) 32856 | |
| 14. Sunder Nagar | Awaited | | |
| 15. Shahpur
Kandi | | | Sh. M. S. Salaria
DAO-I
Township Divn.
R. S. D.
Shahpur Kandi. |

Courtesy call on Senior Deputy Accountant General (Accounts) by President and General Secretary on 15-12-97.

Courtesy call meeting by the President & General Secretary was held with Senior Deputy Accountant General (Accounts) on 15-12-97. Association took this opportunity to bring to the notice of various problems being faced by the cadre such as filling up of vacant posts by direct recruitment or dual charge arrangement, finalisation of panel for deputation to Mandi Board & Punjab Health Systems Corporation and delay in promotion to higher grades of DAO-I and DAO-II

Introduction of all the Office Bearers to Senior Deputy Accountant General (Accounts) and other Officers of Accountant General's Office on 1-1-98

All the office bearers were introduced with Senior Deputy Accountant General (Accounts) on 1-1-1998. Association exchanged new year greeting on this day with the Senior Deputy Accountant General (Accounts) and admn. & other officers of Accountant General (A&E), Punjab, Chandigarh. Association also exchanged New Year Greeting with Accountant General (Audit) Haryana.

Courtesy Call Meeting with Accountant General (A&E), Punjab, Chandigarh on 3-2-1998

Courtesy Call Meeting with Accountant General (A&E), Punjab, Chandigarh was held on 3-2-1998. At the off set Association wished good health of Accountant General. Association availed of this opportunity to bring to the notice of Accountant General problems being faced by the cadre like filling up of vacant posts, delay in promotion to higher grades of D.A O.-I/II, delay in finalisation of panel for deputation, managing the heavy divisions by regular posting of D A O.-I/II/DA by suitable adjustment. Association also brought to the notice of Accountant General working difficulties being faced by the cadre members for taking remedial steps.

Agenda Meeting with Deputy Accountant General (A&E) on 4-3-98

Agenda meeting with Senior Deputy Accountant General (Accounts) was held by the office bearers of this Association on 4-3-98 Meeting was held in a cordial atmosphere. Proceedings of the meeting are being published in this News Bulletin.

Promotions to DAO-I and DAO-II.

Promotion orders to DAO-I/DAO-II have been issued by the administration. These promotions have been published in this issue of News Bulletin. This is for the first time that deputation posts have also been included in the promotions of DAO-I.

Refresher Course for Divisional Accounts Officers Accountants

Association had demanded in its Agenda meeting to hold a Refresher Course on legal matters, disciplinary proceedings immediately at Amritsar/Jalandhar to update the knowledge of members.

The Admn. has accepted our this demand & is going to Convene a seminar on legal matters/disciplinary proceedings at Amritsar on 6th & 7th April, 1998 in the Conference Hall of the office of Dcretor, Irrigation & Power Research Institute, Asr.

Associatlon is making all out efforts to fulfil the promises made to the members & for the welfare of the Cadre. Towards the fulfilment of our promises, the promotions of DAO-I & DAO-II of our Cadre have been got ordered from the Admn. well in time.

General Secretary

President



With best compliments from :-

M/s. Aman Construction Co.
TARLOCK CHAND BUILDING,
Dalhousie Road, PATHANKOT.



With best compliments from :-

CHANDOK ASSOCIATES

Specialists in :-
BUILDING WORKS
 282, Green Avenue,
 Amritsar.

Rahul Chandok
 Sole Proprietor



Subject :- Minutes of the Meeting of the representatives of Divisional Accounts Officers/ Divisional Accountants Association held on 4-3-98 under the Chairpersonship of Sh. Daulat Ram, Sr. DAG (A/cs), Office of the A.G. (A&E) Punjab, Chd.

The followings were present in the meeting :-

STAFF SIDE		OFFICIAL SIDE	
S/Sh.		S/Sh.	
1.	K. K. Jandial, DAO-I General Secretary	1.	R. K. Sabharwal, Sr. A.O.
2.	R. K. Sharma, DAO-I President	2.	Harmed Singh, A.A.O.
3.	S. K. Arora, DAO-I, Sr. Vice President		
4.	A. K. Arora, DAO-I, Vice President-I		
5.	S. B. Gautam, DAO-I Member of All India Federation		
6.	Harjinder Singh, DAO-I Joint Secretary		
7.	R. L. Deol, DAO-I (Local Vice President)		
8.	Parkash Ram, DAO-II Vice President		
9.	Billa Ram Sehgal, DA (Auditor).		
10.	Sunil Jindal, DA (Cashier)		

Initiating the discussion, the Sr. Deputy Accountant General, welcomed the members of the Association. The following Agenda items were discussed :-

1. Delay in Promotions :-

The Association members thanked the Administration for effecting promotion from D.A. to D.A.O.-II and D.A.O.-II to D.A.O.-I. They were apprised that this was the first time in 10 years span that promotions have been effected so early. The Association members have demanded that a copy of each promotion order may be made available to them so that the news of promotion may be printed in the News Bulletin. The Chairman agreed to this demand of the Association.

2. Identification of Posts of DAO-I & DAO-II :-

The Association demanded that identification of posts/Divisions of DAO-I & DAO-II may be made and a copy thereof be supplied to them. The chairman said that identification of posts/Divisions is a secret matter and purely administrative. As such this information can't be supplied. However, it was agreed upon to supply them a copy of Divisions with expenditure and that too with the approval of A.G.

(B) (a) Facilities to the Association :-

The Association has demanded that a copy of Audit Bulletin should be supplied to them. They were told that the Audit Bulletin was not being sent by C.A.G.'s office presently.

b) The Association members have asked for providing room in A G 's office. The chairperson told the members that due to shortage of space in the office building it was not possible to provide room to them.

3. Filling up the vacant posts :-

The Association stated that there were so many divisions lying vacant where even dual charge has not been provided. They demanded to fill vacant posts arisen out of retirement or otherwise immediately either by providing dual charge or on regular basis. The chairman told that some D.A.'s (on Probation) have joined/are joining and will be ready for work in the divisions after training. Some Sr. Accountants on deputation as D.A.'s are also being posted in vacant divisions very shortly. It was agreed upon to fill vacant Divisions particularly heavy divisions immediately, subject to availability of D.A.'s at the same station/same complex

4. Delay in finalisation of panel for deputation :-

The Association has thanked the A.G. for sending their D.A.'s/D.A.O.'s to Chandigarh Housing Board & Punjab Public Health Systems Corporation. The Association was apprised that this is the first time that such a large no. of D.A.'s were sent in short span inspite of shortage in the cadre. The association has observed that there is delay in the finalisation of deputation case of Punjab Mandi Board. The chairman stated that the case is being dealt vigorously. Last reminder to Mandi Board asking them to intimate specific requirement of D.A.'s was issued on 23-2-98. A copy of reminder was also made available to the association,

5. Specifying extent of check as internal checker by Divisional Accountants/Divisional Accounts Officers :-

The association asserted that a tendency has developed among the field officers in P.W. Department to hold D.A.'s/D.A.O.'s responsible for all the ills and arrears of the P.W. Department, although most of the arrears do not fall within the codified functions of D.A.'s. This is due to the reason that extent of check to be exercised as internal checker, has not been specified. It is, therefore, necessary that remedial steps are taken and extent of check to be exercised by the D.A./D.A.O. is specified for all items in general and particularly for items viz attestation of entries in the Service Book, checking of salary bills and other claims of the Staff, pension cases, G.P.F. cases, Insurance cases, contractors bills etc. The chairman observed that amendment of rules is beyond the purview of this office. However, the matter will further be discussed in the next meeting.

6. Dual signatures on cheques :-

The association demanded that to have better control over expenditure and also to prevent fraud and embezzlement cases in P.W. Deptt. the desirability of adopting the system of dual signatures on cheques drawn by Division/including Sub-Division by D.A.'s/D.A.O.'s alongwith Executive Engineer/S.D.E. may be considered. The chairman asked the association to send the detailed case for examination.

7. Non-writing of ACR by Executive Engineer in time :-

The Association demanded that where period of delay in writing A.C.R.'s of D.A.'s/D.A.O.'s by Executive Engineers is more than 3 months, nothing adverse remarks may be recorded in the personal record of concerned D.A.O./D.A. as per instructions of Government of Punjab. The chairman observed that Central Rules are applicable to D.A.O.'s/D.A.'s so far as writing of A.C.R.'s is concerned. Hence A.C.R. has to be written by the Reporting Officer without any time limit. The Sr. D.A.G. has stated that the reminders were sent to Secretary to Government. In reply, the Association members have stated that those letters have been received by them from Secretary to Chief Engineer, Chief Engineer, to Superintending Engineer, Superintending Engineer, to Executive Engineer, & from Executive Engineer to Divisional Accountant. The Executive Engineers have stated that since the matter pertains to D.A.'s therefore they are to keep these letters. However it was agreed upon to pursue the matter of pending A.C.R.'s with the State Government till finality.

6. Miscellaneous items :-

(a) The association demanded that Executive Engineers/Financial Adviser and Chief Accounts officer's be asked, as has been done last year, to deduct Rs. 120/- as subscription towards Association from the pay of members of Association. The chairman directed the Works Admn. Section to look into the matter and do the needful.

(b) The association demanded that a Refresher Course on Legal matters, disciplinary proceedings be held at Amritsar/Jalandhar immediately to keep the knowledge of D.A.O.'s/D.A.'s up dated. The chairperson has asked the Sr. Accounts Officer (W. Admn.) to put up the case in this regard.

The meeting ended with vote of thanks.

R. K. SABHARWAL

Sr. Accounts Officer (W. Admn.)



With best compliments from :-

NAGOKE CO-OP. L/C SOCIETY LTD.

AMRITSAR.

CONSTRUCTION ENGINEERS AND SUPPLIERS

IN

PUBLIC WORKS/IRRIGATION/DRAINAGE



With best compliments from :

S. T. No. 15939892

OM TRADERS

Govt. Contractors

& General Order Suppliers

Dealers in :-

Earthmoving Machinery, Electric
Goods, Hardware, Ferrodo,
Brakelining & Roller Bearing
Ram Tirath Road, AMRITSAR.

With best compliments from :-

 : No. 01852-46419

NAVTEJ SINGH PANNU

Govt. Contractor

Specialist in :-

Public Health, Building Works,
Electric, Sewerage &
O.H.S.R. Etc.

V. & P. O. Shahbazpur, Tehsil Tarn Taran.
Distt. Amritsar.

With best compliments from :

 : Office 0161-843580
Resi. 0161-606128

For Metalled Roads &
Bituminous Macadam and
Premix Carpet, Works Contact

M/s. C. C. & COMPANY
SAHNEWAL ROAD,
KOHARA.

With best compliments from :-

Prabh Jeet Singh Cont.
Sarab Jeet Singh & Co.
Kamal Jeet Singh Cont.

431, KRISHAN NAGAR,
JALANDHAR.

Phone No. : 253729

With best compliments from :-

KISCON CONSTRUCTIONS

VILL. KANG SABU,

NAKODAR ROAD,

JALANDHAR.

With best compliments from :-

BALDEV SINGH PANNU

GOVT. CONTRACTOR

227, Green Field Avenue,
Majitha Road, AMRITSAR.

Specialist in :-

ALL TYPES OF CONSTRUCTION WORKS IN PUBLIC HEALTH,

O.H.S.R's & SUPPLIERS OF P.V.C. CAST IRON

G.I. PUMPING MACHINERY GOODS,

ELECTRICALS & OTHER MATERIALS & REPAIRS

SECTION - IV

Sr. No.	Brief Particulars	Pages
1.	The Dependents of work-charged Employee cannot claim appointment on Compassionate grounds.	1—2
2.	Executive Instructions must yield place to rules when made.	2—3
3.	Daily-rated workers cannot be equated with regular workmen for the purpose of wages since their method of selection-age criterion, qualifications, conditions of service and liabilities are different.	3—4
4.	Inordinate delay in issuing a charge-memo renders the charge-memo liable to be quashed.	4—5
5.	Role of Internal Audit is only advisory in character and the authorities vested with powers cannot straightaway act, but should provide pre-decisional hearing.	5—6
6.	Penal market rate of interest on delayed payment of retiral benefits commences on the expiry of 2 months from the date of retirement.	6—7
7.	Transfer of an official, if on punishment without any show cause and enquiry. unsustainable.	7—8
8.	The authorities are duty bound to supply only relevant document and not each and every document asked for by the delinquent.	8—9
9.	When the Charge Sheet was dropped unconditionally, the issue of second charge-sheet on identical charges, not sustainable.	9—10
10.	Where there is no satisfactory explanation for the inordinate delay in the issue of the charge memo, it will be unfair to permit departmental enquiry to be proceeded with.	10—11
11.	CAT likely to be replaced shortly.	—12
12.	Punjab & Haryana High Court Judgement dated 1-9-97 regarding non-Counting of service of Zila Parishad towards Pensionary benefits.	13—15
13.	Interpretation and scope of Arbitration Clause-Clause providing for decision of Superintending Engineer as final cannot be referred to Arbitration-Exclusion by arbitration clause or other clauses.	16-17
-2-CASE LAW		
14.	Where the pay of an official is fixed with effect from a particular date, any conditions imposed by the Government to the order fixing the pay, which disentitles the official from drawing the arrears of pay from that date, illegal.	17—16

Case-Law Section

The dependants of work-charged employee cannot claim appointment on compassionate grounds

FACTS : There are two cases and the facts are detailed below. Thingujam Brojen Mettei, the respondent in Civil Appeal arising out of S.L.P. (Civil) No. 20376 of 1995 is the son of late Amujao Singh, who was employed as a work-charged Truck Driver with Government of Manipur. Amujao Singh was appointed on 21-2-1978 and he expired on 31-1-1992. After his death, by order dated 15-7-92, he was confirmed on the post of work-charged Truck Driver with effect from 1-10-1990. After the death of Amujao Singh, the respondent sought appointment under the scheme. Since he was not given an appointment, he filed a writ petition (Civil) Rule No. 171 of 1993 in the Gauhati High Court seeking an appropriate direction for his appointment on compassionate grounds. The said writ petition of the respondent had been allowed by the High Court by judgment, dated 29-6-1995 whereby the appellants have been directed to consider the case of the respondent for appointment to a suitable post commensurate with his educational qualifications under the scheme. Against the judgment of the High Court, this appeal has arisen by special leave

In Civil Appeal arising out of S.L.P. (Civil) No. 19612 of 1995, Smt. L. Ongbi Sanyaima Devi, the respondent is the wife of late L. Kumar Singh, who was employed as work-charged Handyman with the Government of Manipur. L. Kumar Singh was appointed as work-charged Handyman with effect from 21-2-1978 and he continued in such employment till he died on 4-8-1991. He was confirmed on the post of work-charged Handyman with effect from 1-3-1987. After the death of her husband, the respondent sought appointment under the scheme. She was not given appointment and she moved Gauhati High Court by filing a writ petition (Civil) Rule No. 936 of 1993 which has been allowed by the High Court by judgment dated 29-6-1995. This appeal has arisen against the judgment of the High Court. In both the above cases, the High Court had placed reliance on its earlier judgment in N. Arun Kumar Singh v. State of Manipur and others (C. R. No. 2978/91/235/91, decided on 23-3-1982).

HELD : In the scheme, as initially framed by O.M., dated 2-5-1984, there was a provision in para. (3) for appointment of dependants of work-charged employees who died in harness. But by corrigendum, dated 8-5-1984, the O.M., dated 2-5-1984 was amended and para. (3) was substituted and in the amended provision it was provided that the Scheme shall be applicable to regular Government employee in the vacancy available in the department in which the deceased employee worked. The matter was further clarified beyond doubt in the revised scheme issued by O.M., dated 31-8-1992 wherein it is expressly stated that the scheme will not be applicable to ad hoc officiating/work-charged/casual/muster roll appointees. We are unable to agree with the view of the High Court in N. Arun Kumar Singh (supra) that a charge comes about in the character of a work-charged employee after confirmation and the Scheme is applicable to him.

It is no doubt true that S.L.P. (Civil) No. 285 of 1993 filed by the State of Manipur against the decision of the High Court in N. Arun Kumar Singh (supra) was dismissed by this court by order, dated 15-2-1993. The said S.L.P. was, however, dismissed in limine without expressing any opinion on the merits of the impugned judgment. The dismissal of a S.L.P. by a non-speaking order which does not contain the reasons for dismissal does not amount to acceptance of the correctness of the decision sought to be appealed against. The effect of such a non-speaking order of dismissal without anything more only means that this court has decided only that it is not a fit case where the S.L.P. should be granted. Such an order does not constitute law laid down by this Court for the purpose of Article 141 of the Constitution. The High Court was, therefore, in error in holding that by dismissing the S.L.P. against the judgment in N. Arun Kumar Singh (supra). This Court has affirmed the said decision of the High Court and the said view of this Court is binding under Article 141 of the Constitution.

For the reasons aforementioned, the judgments of the High Court under challenge in both the appeals whereby it has been held that the respondents are entitled to be considered for appointment on the basis of the scheme cannot be sustained and have to be set aside. The appeals are, therefore, allowed, the impugned judgments of the High Court, dated 29-6-1995 in Civil Rule No. 171 of 1993 and Civil Rule No. 936 of 1993 are set aside and the said writ petition filed by the respondents are dismissed.

(State of Manipur v. Thingujam Brojen Mettei, 11/97, (SC), date of judgement 10-5-1996

Civil Appeal Nos. 8226 & 8228 of 1996

2. Executive instructions must yield place to rules when made

FACTS : While the appellants were working as Head Clerks and respondent Nos. 3 and 4 were working as Accountants, the scale of pay of Head Clerks was 160-400 while that of the Accountants, was 160-450. Later by executive order, dated 11-11-1976, the Government had created 10 temporary posts of Assistants and upgraded them to the scale of Rs. 225-500 and some senior candidates came to be appointed to those posts. Subsequently, statutory rules under proviso to Article 309 of the Constitution came to be made, increasing the number of posts and scale of pay of all the Head Clerks, Assistants, Stenographers, etc., to Rs. 225-500. By proceedings of the Government dated 2-11-1979 with effect from 1-1-1978, promotions of Accountants and Head Clerks were fused together. For the promotion of the Accountants and Head Clerks statutory rules came to be made under proviso to Article 309 of the Constitution which came into force from 13-6-1978 enabling the Accountants and Head Clerks to be eligible for promotion as Superintendents. The Government have created promotional avenues to the posts of Gazetted Grade II in the scale of Rs 500-900. The Accountants were not included therein. The respondent Nos. 3 and 4 filed representations claiming promotion to those posts but their claims were rejected. The CAT, by the impugned order, dated 25-5-1993 directed the Government to consider their claim with effect from 1977 and also their entitlement for promotion as Gazetted Class II. Calling those directions in question, this appeal has come to be filed.

HELD : The case of the appellants is founded on a sounder footing than that of the respondents. It is true that the respondents were drawing higher pay scale than that of the appellants at the initial stage. But, later, when the statutory rules came to be made, there was a jump in the scale of pay of the appellants from Rs. 160-400 to Rs. 225-500 while the scale of pay of the respondents remained stagnant at Rs. 160-400. Even in the subsequent revision in the ministerial cadre, the appellants' scale of pay was higher than that of the respondents. They were treated as two separate entities. When the statutory rules came to be made increasing their scale of pay and making them eligible for promotion directly to the post of Gazetted Cadre Class II from Assistants, Head Accountants, Stenographers, etc., to a pay scale of Rs. 500-900, it would be obvious that the executive instruction issued earlier had to yield place to the statutory rules made under proviso to Article 309. It is equally true that in the subsequent rules made on 13-6-1978 under proviso to Article 309 of the Constitution fusing Accountants and Head Clerks as eligible for promotion to the post of Superintendent, it would be obvious that in view of the fact that higher scale of pay was given to the Assistants, Head Clerks in the scale of pay Rs. 620-1,200 which that of the respondents remained to be Rs. 570-1,080 by necessary implication they cannot be treated to be of the same class for the purpose of enabling them to seek promotion to the post of Gazetted Class II. Moreover, the statutory rules do not include Accountants as a feeder post for promotion as Gazetted Class II. Considered from these perspectives we are of the view that the Tribunal was in clear error in directing the Government to consider respondent Nos. 3 and 4 as senior to the appellants and in giving promotion over the appellants,

The appeal is accordingly allowed.

(Shish Ram and others v. State of Himachal Pradesh and others, 11/97 (SC), date of judgment 19-7-1996).

Civil Appeal No. 9853 of 1996

3. Daily-rated workers cannot be equated with regular workmen for the purpose of wages since their method of selection-age criterion, qualifications, conditions of service and liabilities are different.

FACTS : The respondents are employed as Mali-cum-Chowkidars/Pump Operators on daily wages by the State of Haryana from different dates. They prayed that on the basis of 'equal pay for equal work' they should be paid the same salary as is being paid to regularly employed persons holding similar posts in the services of the State of Haryana. This prayer was granted by the High Court and the State has filed the present appeals.

HELD : It is clear that the quality of work performed by different sets of persons holding different jobs will have to be evaluated. There may be differences in educational or technical qualifications which may have a bearing on the skills which the holders bring to their job although the designation of the job may be the same. There may also be other considerations which have relevance to efficiency in service which may justify

differences in pay-scales on the basis of criteria such as experience and seniority, or a need to prevent stagnation in the cadre, so that good performance can be elicited from persons who have reached the top of the pay scale. There may be various other similar considerations which may have a bearing on efficient performance in a job. This Court has repeatedly observed that evaluation of such jobs for the purposes of pay-scale must be left to expert bodies and, unless there are any mala fides, its evaluation should be accepted.

The respondents, therefore, in the present appeals who are employed on daily wages cannot be treated as on a par with persons in regular service of the State of Haryana holding similar posts. Daily-rated workers are not required to possess the qualifications prescribed for regular workers, nor do they have to fulfil the requirement relating to age at the time of recruitment. They are not selected in the manner in which regular employees are selected. In other words, the requirements for selection are not as rigorous. There are also other provisions relating to regular service such as the liability of a member of the service to be transferred, and his being subject to the disciplinary jurisdiction of the authorities as prescribed, which the daily-rated workmen are not subjected to. They cannot, therefore, be equated with regular workmen for their wages. Nor can they claim the minimum of the regular pay-scale of the regularly employed.

The High Court was, therefore, not right in directing that the respondents should be paid the same salary and allowances as are being paid to regular employees holding similar posts with effect from the dates when the respondents were employed. If a minimum wage is prescribed for such workers, the respondents would be entitled to it if it is more than what they are being paid.

(State of Haryana and others v. Jasmer Singh and others, 9/97 (SC), date of judgment 7-11-1996).

C.A. No. 14223 of 1996, etc.

4. Inordinate delay in issuing a charge-memo renders the charge-memo liable to be quashed

HELD : The contention of the applicant that the charge-sheet deserves to be quashed on the ground of inordinate delay is well founded. Applicant who is now working as a Superintending Engineer (Selection Grade) in the Office of the Chief Engineer (Navy) Kochi submits that he was working as Garrison Engineer at Panagarh from 7-5-1982 to 11-6-1985.

Applicant had been involved in work which is the subject matter of the charge-sheet in June, 1985. Defects in the construction were noticed in 1988-89 and applicant had ceased to be associated with the work even when 25% of the work had been completed and a major part of the work was completed after he had ceased to be associated with the work. Long after the defects were noticed, the Technical Board goes into the question in 1990. Thereafter a Departmental Court of Inquiry submitted its findings

Nearly six years later, a charge-sheet is sought to be issued on an alleged lapse committed by the applicant 12 years earlier. It is difficult to comprehend how the applicant can put up a comprehensive defence after such a long period on charges which are not clear and specific.

Applicant cited *The State of Madhya Pradesh v. Bani Singh and another* (AIR 1990 SC 1308) to support his contention that inordinate delay in issuing a charge-memo renders the charge-memo liable to be quashed. The Supreme Court stated:

"It is not the case of the department that they were not aware of the said irregularities, if any, and came to know of it only in 1987. According to them even in April, 1977, there was doubt about the involvement of the officer in the said irregularities and the investigations were going on since then. If that is so, it is unreasonable to think that they would have taken more than 12 years to initiate the disciplinary proceedings as stated by the Tribunal. There is no satisfactory explanation to the inordinate delay in issuing the charge-memo and we are also of the view that it will be unfair to permit the departmental enquiry to be proceeded with at this stage".

Learned Counsel for the respondents submit that the Supreme Court had held in *Secretary to Government, Prohibition and Excise Department v. L. Srinivasan* (1996) 33 ATC 745) that the Administrative Tribunal should not act as an appellate forum and that quashing of charges at the threshold is not permitted. That was a case in which the merits of the case were not gone into but the long delay was attributed to the long time taken for detection of embezzlement and fabrication of false records. That decision does not apply to the facts of the present case. The facts here, are squarely on par with the facts in *Bani Singh* (supra). This is a case where clearly the facts were before the respondents as early as in 1988-89 and it is only a procedural delay from 1988 to 1996. The long delay has prejudiced the applicant in making a proper defence against the charges which, in any case, are vague. Following the decision in *Bani Singh* (supra) we have no hesitation in quashing the charge memo on the ground that it has been inordinately delayed causing substantial prejudice to the applicant.

(*P. K. Alapatt v. Union of India and others*, 1/98 (Ernakulam), date of judgment 21-1-1997).

O.A. No. 1229 of 1996

5. Role of the Internal Audit is only advisory in character and the authorities vested with powers cannot straightaway act, but should provide pre-decisional hearing.

FACTS : While the applicant and certain others were working as Assistant Engineers, the pay was sought to be reduced. Upon that, they approached this Tribunal by O.A. No. 1018 of 1994 and by A-6 order a Division Branch of the Tribunal held:

"higher placement already granted to the employees cannot be cancelled in the prejudice of them and that too without giving an opportunity to respond".

Notwithstanding this, A-3 order was passed by first respondent reducing the pay of the applicant from Rs. 2,900 to Rs. 2,825 stating that this was done "as pointed out by Internal Audit". Learned Counsel for applicant submitted that the 'Internal Audit' is not clothed with any statutory power, that it cannot cause adverse civil consequences to applicant without notice. Counsel referred to the decision of the Apex Court in *Fernandez v. State of Mysore and others* (AIR 1967 SC 1753). He also referred *J. R. Raghupathy's* case (AIR 1988 SC 1681).

HELD : The following questions come before us on reference:

- (i) Whether on the basis of an observation by Internal Audit, the salary of applicant can be reduced with retrospective effect ?
- (ii) What is the legal effect of an observation made by the Internal Audit and whether it has a binding or conclusive force as far as the department or employee is concerned ?
- (iii) Under what authority does Internal Audit or like agencies derive power in the nature of the power exercised in the present case ?

Ordinarily we would have returned the application to the Division Bench after answering the reference. Since nothing more survives for consideration, we are finally deciding the application. Admittedly, R-1 did not exercise his mind and he acted on the dictation of the Internal Audit. The pleadings make this clear and standing Counsel also candidly admitted this position.

After referring to the decisions and the provisions of the Manual placed before us, we are of opinion that the role of an auditor is advisory in character. He has to tender advice with professional expertise and that is what is expected of him. He is to record his observations, his professional view; he is not to act as a decision maker. His role does not go beyond that. Such professional advice must be considered in all earnestness by the decision-making authority, and the decision-making authority has to make his decision guided by the Counsel of the internal auditor, and not by his command. That is the position in law. We answer the reference accordingly.

Again there is a clear infraction of the principles of natural justice. Pre-decisional hearing is an attribute of every adjudicatory process. It is too late in the day for any authority to contend that pre-decisional hearing can be dispensed with. There is thus a violation of the principles of natural justice and for that reason also the impugned order A-3 is liable to be struck down.

We allow the Original Application. We are unhappy that the first respondent has proceeded to act in the manner in which he did, even after the clear directions in Annexure A-6 order.

(*M. S. Sadanandan v. Executive Engineer, Trichur Central Division and another* 10/97, (Ernakulam FB), date of judgment 26-11-1996).

6. Penal market rate of interest on delayed payment of retiral benefits commences at the expiry of 2 months from the date of retirement.

HELD : An employee who retires after long years of service is entitled to his retiral benefits at the earliest. A retired employee is to settle down with his family and has to meet all his pending liabilities within the limited means available to him, after retirement. The delay in payment of retiral benefits cause great harassment and inconvenience not to the employee only, but to the family members also who are dependent on the employee. The date of retirement is known to the employee and also to the department. Therefore, it is for the department to settle all the accounts few months before the date of retirement or to inform the retiring employee about the difference, if any, so that the same may be planned and cleared by the employee before the date of retirement. The department should thereafter within the shortest period ensure the payment of retiral benefits to the retiring employee. In the present case, it is found that applicant retired in June, 1992 and his pay fixation was not correctly done and his representation given in October, 1992 was decided after more than two year's time and that too after the applicant filed this OA. Thus delay in the fixation of pay and consequent less payment of other retiral benefits on its basis was due to laxity on the part of the department. The main fault, therefore, lies with the department, for the applicant cannot be made to suffer. In the case of *State of Kerala and others v. M. Padmanabhan Nair* (1985) 1 SCC 449, the Hon'ble Supreme Court has observed as below:

"The necessity for prompt payment of the retirement dues to a Government servant immediately after his retirement thus cannot be overemphasized and it would not be unreasonable to direct that the liability to pay penal market rate should commence at the expiry of two months from the date of retirement".

In the facts and circumstances of the case, the respondents are, therefore, directed to pay arrears of difference after correct fixation of the pay of the applicant and in case arrears of difference has been paid, interest be paid thereon at the rate of 12% per annum with effect from two months from the date of retirement till the date of actual payment. The respondents are further directed to make payment of DCRG to the applicant with interest thereon at the rate of 12% per annum with effect from two months after the date of retirement till the date of actual payment.

(*Riaz Ahmad Khan v. Union of India another*, 10/97 (Lucknow), date of judgment 9-5-1956).

O.A. No. 365 of 1994

7. Transfer of an official, if on punishment without any show cause and enquiry, unsustainable.

FACTS : The applicant has put in more than 16 years of service. He was posted on his own request and costs as sub Postmaster, Tikunia, Kheri. by order, dt. 18-8-1994. However, by the impugned order, dated 8-5-1995, he has been shifted from there to the post of Signaller, Patialla, vice Harish Chand Yadav. Signaller, Patialla who has been posted as Sub-Postmaster, Tikunia on his own request. The ground for challenge is that, the order has been passed due to malice.

HELD : It is clear from the record that the applicant was transferred to Tikunia on his own request, and he remained posted there for a period of about 8 months only. Now the applicant is being replaced by a leave reserve clerk, H C. Yadav, on his own request. This itself is indicative of a fact that the transfer of the applicant has not been made as a routine in the interest of service, but it smacks something else.

Where the powers have been exercised with motive other than the purpose for which it is conferred, it constitutes colourable exercise of powers amounting to malice of law. This is patent and obvious case of exercise of powers of transfer against the administrative interest of the Postal administration, because only about 8 months back, the applicant was transferred to Tikunia and he has been again transferred to accommodate another official.

The respondents state that there has been a lot of complaints against the applicant for harassing public in postal business. The applicant has, therefore, been in the interest of service transferred from Tikunia. From recital in the counter-affidavit, it is very clear that the applicant has been transferred from Tikunia on the alleged complaints made against him. Thus, the transfer is on punishment without making any inquiry on the complaints and without issuing any show cause to the applicant. The order of transfer is, therefore, not valid on this ground also.

In view of the above, the OA is allowed, on payment of Rs. 500 as costs and transfer order, dated 8-5-1995 is quashed. The applicant shall be re-posted by the respondents to Tikunia.

(Bhagwan Bux Singh v. Union of India and others, 10/97 (Lucknow), date of judgment 16-5-1996).

O.A. No. 245 of 1995

8. The authorities are duty bound to supply only relevant document and not each and every document asked for by the delinquent.

HELD : The applicant is challenging the order of punishment passed by the disciplinary authority on 8-8-1990 about his removal from service which order was confirmed in appeal. There are two versions of the story. According to the applicant, there was no occurrence of theft and his throwing brass pieces across the wall. It is further contended that when the applicant was caught hold and was brought to the Security Office, he divulged the information of having thrown 3 pieces of rod outside the premises. Thereupon, the search of that place was made and 3 pieces of rods were recovered. In the presence of the Security Officer, statements were recorded of the two Darbans as well as the applicant who made a confessional statement.

The point which has been hammered on behalf of the applicant, is that, the copy of the day-to-day proceeding was not given to the applicant. The respondents have filed the copy of the letter of the Works Manager which was written to the Enquiry Officer if the copy of the day-to-day proceedings was given to the delinquent employee

or his Defence Assistant and the reply of Enquiry Officer was in the affirmative. Thus, there remains no ground to say that the copies were not given. In this case, the learned Counsel for the applicant also argued that the copy of the written brief presented by the Presenting Officer was not given. The written brief of the Presenting Officer is nothing but a written argument. The contention of the respondents is that, because the copy of the written brief of the Presenting Officer was not demanded by the applicant, it was not given. Thus, it is clear that the copy was not made available to the applicant. The question, however, arises whether non-supply of the copy of the brief of Presenting Officer does cause any prejudice. In our opinion, it does not. Their Lordships of the Supreme Court in the case of State of Tamil Nadu v. K. V. Perumal and others (1996 SCC (L & S) 1208) held that the duty of authorities was only to supply relevant document and not each and every document asked for by him. It was for the delinquent to show the relevance of the document asked for by him and the manner in which the non-supply thereof was prejudicial to his case. In the present case, the Counsel for the applicant, no doubt, argued that prejudice was caused but the manner in which it was caused is not disclosed. We do not find anything to conclude that either the report of the Enquiry Officer or the order of punishment of the disciplinary authority was or were passed entirely on the written brief of the Presenting Officer. The written argument which is called here as the written brief is the assumption of the Presenting Officer. The applicant has also given his own written arguments. Thus the non supply of the written brief is in no way prejudicial to the interest of the applicant.

(Lal Babu v. Union of India and others, 2/98 (Allahabad) date of judgment 20-3-1997)

A.O. No. 457 of 1991

9. When the Charge Sheet was dropped unconditionally, the issued of second charge-sheet on identical charges, not sustainable.

FACTS : In this OA, the applicant who was working as Mate under Central Railway has challenged the penalty of removal from service imposed by order, dated 27-6-1991 which on appeal was reduced to one of compulsory retirement vide order, dt. 27-1-1992. The charge against the applicant was that, the applicant removed the rail for changing without proper protection for which he was not authorized and thus violated the departmental instruction and the action of the applicant resulted in the derailment of Diesel Engine of the Goods Train. The original charge-sheet was issued on 11-1-1991, but the charge was denied and the enquiry was completed up to the stage of applicant filing defence note. However, the enquiry was cancelled, vide order, dated 6-4-1991 and a fresh charge-sheet was issued on 10-4-1991. The applicant has challenged these proceedings on the ground that the respondents after having cancelled the first enquiry could not have started a fresh enquiry and then punished him because such fresh enquiry on identical charges is not permissible.

The Counsel for the respondents has contended that the charge-sheet, dated 11-1-1991 was cancelled by the disciplinary authority which is within his power. The

disciplinary authority had issued a fresh charge-sheet, dated 10-4-1991 for which he is fully authorized and competent and there is nothing unlawful in that.

HELD : We asked the Counsel to show us the relevant case-law on the basis of which Railway administration has issued the circular. They were not able to help us. The relevant case appears to be O A. No. 695 of 1992, K. Ramankutty v. Union of India decided by the Bombay Bench on 16-7-1993. That was a case of a Railway employee and the facts of the case were that, charge-sheet was given to the employee in February, 1990. It was withdrawn on 30-5-1991. Applicant was due to retire on 1-6-1991. A second charge-sheet was given to him on 30-5-1991. The Tribunal observed that:

“the charge-sheet was withdrawn unconditionally and no reasons were given in the order for withdrawal of the charge-sheet and the effect of withdrawal of the charge-sheet would be to put an end to the enquiry which was in progress and would result in discharging the applicant of the charges mentioned in the charge-sheet. Our attention was not drawn to any of the rules or administrative instructions which clothe the disciplinary authority with the power to give another charge-sheet after the first charge-sheet was withdrawn on identical facts”.

It appears to us that the judgment of the CAT referred to in the Railway Board's circular, dated 1-12-1993 is the Raman Kutty's case. The administrative instruction to the effect that after the withdrawal of the first charge-sheet, second charge-sheet may be issued, provided that withdrawal of the charge-sheet should be accompanied by the clause regarding the action of dropping being without prejudice to further action.

We are, therefore, of the view that even without resort to Railway Board instructions, dated 1-12-1993, we are bound by the law laid down in Raman Kutty's case. The first charge-sheet, having been dropped unconditionally, the issue of the second charge-sheet would not be sustainable. The contention of the respondent that there is nothing in the Rules to preclude issue of a fresh charge-sheet cannot be accepted. We are, therefore, inclined to allow the OA on the short ground that the first charge-sheet having been dropped, it is not open to the Railway administration to initiate a fresh enquiry on identical charges specially when precautionary clause was not incorporated and the action taken first of removal from service which was later converted into compulsory retirement was without any authority of law.

(Uttam Sonaji v. Union of India and others, 2/98 (Mumbai), date of judgment 21-4-1997)

O A No. 894 of 1993

10. Where there is no satisfactory explanation for the inordinate delay in the issue of the charge-memo, it will be unfair to permit departmental enquiry to be proceeded with.

FACTS : The applicant who is working as Assistant Director-General (Stores) at Medical Stores Depot, Karnal has filed this OA against the Memorandum of charge-sheet, dated 22-2-1995. The allegation against the applicant is founded on some anonymous complaint, dated 18-10-1982 with regard to some irregularities committed by him for the

purchase of solid phenyl from Messrs. Bijoy Stores and Training Corporation, Gauhati during the period from January to July, 1982. The applicant submitted an explanation on 9-11-1992. During the continuation of these proceedings with regard to the complaint, the applicant was promoted on different occasions. Ultimately in February, 1995, the applicant was served with charge-sheet with regard to the allegations covered by the anonymous complaint in 1982. The grouse of the applicant is that, after about 13 years, the department has initiated the disciplinary proceedings in respect of an irregularity allegedly committed by the applicant in 1982 covered by an anonymous complaint to stall his further promotion to the rank of Deputy Director-General and in that garb the respondents have promoted his juniors to deny him the rightful claim of time-bound promotion.

HELD : At the very outset, we do not hesitate to observe that even if the plea of the respondents is accepted as a gospel truth, that does not in any way explain the abnormal delay on their part in taking up the enquiry/investigation to any logical conclusion till date. There is nothing on the record, much less by way of whisper, that the delay, if any, in the conclusion of these departmental proceedings was on the part of the applicant or he was in any way trying to create hurdles in its completion.

Even the allegation on the basis of which the charge-sheet is stated to have been issued against the applicant, on the face of it, shows that nothing serious which could have prompted the department concerned to proceed against the applicant, and that too after a lapse of about 13 years. It is certainly a lapse unpardonable. This view is supported by various judgments of the Apex Court. Reliance is made to 1992 SLR SC (2) 798 where the Apex Court in a similar situation quashed the charge-sheet against the delinquent official on account of delay and the relevant observations of their Lordships are contained in Para. 4 which reads as under :

“4. The appeal against the order, dated 16-2-1987 has been filed on the ground that the Tribunal should not have quashed the proceedings merely on the ground of delay and laches and should not have allowed the enquiry to go on to decide the matter on merits. We are unable to agree with this contention of the learned Counsel. The irregularities which were the subject matter of the enquiry is said to have taken place between the years 1975-1977. It is not the case of the department that they were not aware of the said irregularities, if any, and came to know it only in 1987. According to them, even the investigations into the irregularities were going on since then. If that is so, it is unreasonable to think that they should have taken more than 12 years to initiate the disciplinary proceedings as stated by the Tribunal. There is no satisfactory explanation for the inordinate delay in issuing the charge memo and we are also of the view that it will be unfair to permit the departmental enquiry to be proceeded with at this stage. In any case, there are not grounds to interfere with the Tribunal's orders and accordingly we dismiss the appeal”.

As a result, we accept the OA and quash the charge-sheet, dated 22-2-1995 issued against the applicant.

(M.D. Meena v. Union of India, 2/98 (Chandigarh), date of judgment 22-1-1997).

O.A. No. 888/HR of 1996

CAT likely to be replaced shortly

The Central Administrative Tribunal (CAT) may be abolished and replaced by "ombudsmen" for expeditiously redressing the grievances of Central Government employees.

The CAT, set up more than a decade ago under the Administrative Tribunals Act of 1985, is on its way out apparently because it has failed to provide speedy and inexpensive justice and the process is expected to become more elongated following a Supreme Court judgment that the tribunal's orders are eligible for appeal before High Courts. The aggrieved party can also approach the Appex Court through Special Leave Petition (SLP).

The winding up of the CAT and its replacement with ombudsmen is understood to have found favour with the Committee of Secretaries (CoS), when it was considered at length at its meeting headed by Cabinet Secretary T.S.R. Subramanian.

A final decision to wind up the CAT by repealing the relevant provisions of the Administrative Tribunals Act, 1985, and replacing it with an "ombudsman scheme" will, however, have to await the Union Cabinet's approval.

Official sources said the general perception in Government circles was that, the time taken in the final disposal of the grievance of a Government employee may increase considerably following the Supreme Court judgment and in some cases a Government servant may even not be able to get justice during the span of his or her service career.

The proposal is also understood to enjoy the support of the Ministry of Personnel, Public Grievances and Pensions which happens to be the nodal ministry for service-related matters of Government employees.

Retired senior and experienced civil servants would be appointed ombudsmen to deal with service-related matters of Central Government employees as part of the alternative mechanism to be put in place simultaneously with the winding up of CAT.

According to the details of the new scheme, ombudsmen may be appointed for one ministry or department or for a group of ministries, depending on the likely workload. Some ombudsmen could also be located at places other than the national capital in accordance with the anticipated workload.

The instruction of ombudsman is meant to provide for arbitration and would be an administrative arrangement free from inherent delays and intricacies of judicial procedures.

Appointment of retired officers as ombudsmen had apparently found favour because they would be free from the susceptibilities of various types of influences and would be in a position to work on a whole-time basis.

On an average, 28,000 cases are instituted in the CAT every year. Assuming that number of cases would remain same and if the average rate of disposal is taken as 800 cases per ombudsman per year, 35 ombudsmen would need to be appointed.

—Courtesy ; The 'Indian Express', Chennai
dated December 29, 1997,

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.
C.W.P. No 1430 of 1995

Avtar Singh S/o Chanan Singh
Retired Extra Assistant Engineer C. I.,
R & B Division, Amritsar, now resident of H. No. 2276, Ranjit Avenue, Amritsar
P. P. O. No. Pb /83357

Petitioner

Versus

1. State of Punjab through Secretary, Govt. of Punjab, Department of Public Works Department, Chandigarh.
2. Accountant General, Punjab, Chandigarh.
3. Chairman, Zila Parishad, Amritsar.

Respondents

Civil Writ Petition under Article 226/227 of the Constitution of India praying that this Hon'ble Court may be pleased to

- i) issue a writ of mandamus directing the Respondents to count the service of the petitioner of 19 years rendered by him with the Respondents from 24-7-1957 to 17-11-1976 towards the Pension and other related dues and release his Pension and gratuity, leave encashment etc. by counting his entire service of 36 years rendered by him with the Respondents
- ii) to direct the Respondents first to refix his pay by counting his entire service of 36 years and refix his pension as per revised scales
- iii) to direct the respondent to pay, release all the consequential benefits to the petitioner after refixing his pay and pension with interest at the rate of 18 percent per annum.
- iv) Complete record of the case be summoned.
- v) This Hon'ble court may grant any other writ, order or direction which it may deem just and proper.
- vi) To dispense with the filing of the certified copies of annexures and issuance of advance notice on the respondents
- vii) Cost of the petition be awarded in favour of the petitioner as he has been unnecessarily compelled by the respondents to approach this Hon'ble Court without any fault on his part.

CIVIL MISC. NO. 38965 OF 1996.

Application under Section 144 read with Section 151 of the C.P.C. praying that this application may kindly be allowed and the petitioner may kindly be ordered to refund and restore the amount of Rs. 75,516/- to the State of Punjab applicant. It is further prayed that the applicant may kindly be granted any other relief or reliefs in addition to or in the alternative as this Hon'ble Court may deem fit and proper.

CIVIL MISC. NO. OF 1996

Application under Section 151 C.P.C. praying that exemption may be granted from filing certified copies of annexures p/7 to p/10.

CIVIL MISC. NO. 20334 OF 1996

Application under Section 151 C.P.C. praying that permission may be given to place on record the reply to Application filed by the Respondent State.

CIVIL MISC. NO. 25300 of 1996

Civil Misc. Application under Section 151 C. P. C. praying that permission may be granted to place on record the replication to written statement filed by the Respondent.

O R D E R

Civil writ Petition No. 1430 of 1995 (O&M)

Avtar Singh v/s State of Punjab

Subject :- Mr. Ranjit Sharma, Advocate, for the petitioner

Mr. Hemant Gupta, Addl. A. G., Punjab.

Petitioner was appointed as Road Inspector in Zila Parishad, Amritsar on 24-8-1957. According to him he became a government employee on provincialization of engineering staff by the Government w. e. f. 1-11-1976. So service rendered by him in Zila Parishad from 24-7-1957 to 18-11-1976 according to the petitioner, should also be taken into consideration in computing pensionary benefits on his retirement from Government Service on 31-3-1993.

The short question that arises for consideration is whether the service rendered by him from 24-7-1957 to 18-11-1976 is to be reckoned in computing pensionary benefits.

The respondents have filed a detailed written statement. The contention taken therein is that the petitioner was taken in government service by Annexure R 1 order dated 28-10-1976. He joined the government service permanent thereto on 18-12-1976. The service rendered prior to that cannot be counted for pensionary benefits. As per rule 3.17 of the Punjab Civil Services Rules Vol. II Part I, pensionary benefits due to the petitioner reckoning the service rendered by him for the period from 18-11-1976 to 31-3-1993 alone is to be given to the petitioner.

Learned counsel representing the petitioner was trying to make out a case on the basis of Annexure P-8, Communication sent by the Deputy Secretary Development Govt. Punjab to Superintending Engineer, Panchayati Raj. That relates to the pensionary benefits to provincialized engineering staff of Panchayati Raj. This letter dated 19-4-72 states that the provincialised engineering staff of Panchayati Raj, who were aged more than 30 years on the date of provincialization are entitled to pensionary benefits. For getting benefit of this order, the petitioner should have to be provincialised prior to 19-4-1972. No document nor the averments made by the petitioner could go to show that petitioner's service was provincialized prior to 19-4-1972 and thereafter he became a provincialised employee. In such a situation we are clear in our mind that Annexure P-8 cannot be of any assistance to the petitioner.

Rule 3.17 of the Punjab Civil Service Rules Vol II, Part I gives guidelines for computing the pension. The said rule specifically excluded the period of temporary or officiating service in non-pensionable establishments from computation of pension. Petitioner's service prior to 1976 has not been shown as pensionable. Consequently, as per rule 3.17 service rendered by the petitioner prior to his joining Government as per Annexure R-I order cannot be reckoned in computing pensionary benefits. The entire service rendered by him from 18-11-1976 to 31-3-1993 was taken into consideration in calculating retiral benefits due to the petitioner. That amount has already been paid to him, conceded before us. So no further benefit is due to the petitioner.

In view of what has been stated above, we find no substance in this writ petition and it is accordingly dismissed.

Sd/- K. SREE DHARAN
Chief JusticeSd/- SWATANTAR KUMAR
Judge

Dated 1-9-1997



With best compliments from :-

Daulat Ram & Sons

ENGINEERS & CONTRACTORS

Specialists in : Cummins G.M., Skoda Catterpillar, Kirloskar,

Paxman Engines, J.C.B., P&H Hind Marrion, Ruston, Linkbelt & Auto Electrical Parts

Dealing in : Heavy Earth Moving Machinery, Road Rollers,

Agricultural Equipments, Auto Mobile Diesel Engine

Parts, Construction Machinery Parts, Industrial

Engine Parts & Concrete Mixer Spare Parts etc,

Hall Bazar, AMRITSAR-143 006.

☎ : Office 558865, Resi 501775, 501521



With best compliments from :-

JASWINDER SINGH

GOVT. CONTRACTOR

V.&P.O. Bhabhiana, Tehsil Phagwara.

Distt. Kapurthala.

349. Interpretation and scope of Arbitration Clause-Clause providing for decision of Superintending Engineer as final cannot be referred to Arbitration-Exclusion by arbitration clause or other clauses.

In the case of Vishwanath Sood v. Union of India, A.I.R. 1989 S.C. 952 = (1989) 1 S.C.C. 657 = (1989) 1 Arb. L.R. 357, firstly: the reference in the clause to the requirement that the work shall throughout the stipulated period of the contract be proceeded with due diligence and the reference in the latter part of the clause that the compensation has to be paid 'in the event of the contractor failing to comply with' the prescribed time schedule make it clear that the levy of compensation is conditioned on some default or negligence on the part of the contractor. Secondly, while the clause fixes the rate of compensation at one percent for every day a default it takes care to prescribe maximum compensation of ten percent on this ground and it also provides for a discretion to the Superintending Engineer to reduce the rate of penalty from one percent. Though the clause does not specifically say so, it is clear that any moderation that may be done by the Superintending Engineer would depend upon the circumstances, the nature and period of default and the degree of negligence or default that could be attributed to the contractor. This means that the Superintending Engineer, in determining the rate of compensation chargeable, will have to go into all aspects and determine whether there is any negligence on the part of the contractor or not. Where there has been no negligence on the part of the contractor or where on account of various extraneous circumstances such as vis major or default on the part of the Government or some other unexpected circumstance which does not justify penalising the contractor, the Superintending Engineer will be entitled and bound to reduce or even waive the compensation. It is true that the clause does not in terms provide for any notice to the contractor by the Superintending Engineer. But it will be appreciated that in practice the amount of compensation will be initially levied by the Engineer-in-charge and the Superintending Engineer comes into the picture only on some sort of revisional or appellate authority to whom the contractor appeals for redress. As it appears, clause 2 of the contract contains a complete machinery for determination of the compensation which can be claimed by the Government on the ground of delay on the part of the contractor in completing the contract as per the time schedule agreed to between the parties. The decision of the Superintending Engineer; it appeared to the Court, is in the nature of a considered decision which he has to arrive at after considering the various mitigating circumstances that may be placed by the contractor or his plea that he is not liable to pay compensation at all under this clause. In the opinion of the court the question regarding the amount of compensation deviable under clause (2) has to be decided only by the Superintending Engineer and no one else.

The words 'the Superintending Engineer's decision shall be final' in clause 2 refer only to a finality qua the department; in other words, that it only constitutes a declaration that no officer in the department can determine the qualification and that the quantum of compensation levied by the Superintending Engineer shall not be changed

without the approval of the Government. The Supreme Court did not accept the view that the finality cannot be construed as excluding the jurisdiction of the arbitrator under clause 25, which is the arbitration clause and starts with an opening phrase excluding certain matters and disputes from arbitration and there are matters or disputes in respect of which provision has been made elsewhere or otherwise in the contract. These words in the opinion of the Supreme Court can have reference only to provisions such as the one in parenthesis in clause 2 by which certain types of determination are left to the administrative authorities concerned. If that be not so, the words 'except where otherwise provided in the contract' would become meaningless. Hence held that the question of awarding compensation under clause 2 of the contract is outside the purview of the arbitrator and that the compensation, determined under clause 2 either by Engineer in Charge or on further reference by the Superintending Engineer will not be capable of being called in question before the arbitrator. Reading clause 2 and 25 of the contract, together the conclusion is irresistible that the amount of compensation chargeable under Clause 2 is a matter which has to be adjudicated in accordance with that and which cannot be referred to arbitration under clause 25.

Where the pay of an official is fixed with effect from a particular date, any conditions imposed by the Government in the order fixing the pay, which disentitles the official from drawing the arrears of pay from that date, illegal.

FACTS : The applicant has been serving as Stationmaster at Hariapura station in Dharwad District. The provisional seniority list of Assistant Stationmasters as on 1-4-1992 come to be published as at Annexure A-1. In that list, the applicant was at serial No. 98. But certain persons like Simbichan and others though juniors were listed at serial No. 67 onwards. Though he gave representations, dated 8-11-1993 & 23-2-1994 seeking correction of seniority list and to give him proper placement, the respondents promoted some of the juniors vide order, dated 11-3-1994 to the posts of Stationmaster, Grade III in the scale of Rs. 1,400-2,300. Thereafter, acting on the representations made by the applicant, the seniority list came to be corrected by the letter of the respondents, dated 17-8-1995. He was given pro forma promotion to the post of Stationmaster, Grade III with effect from 13-3-1994 by the order dated 23-8-1995. The order also stated that the actual benefits of promotion would be admissible to him only from the date he took up independent duties in the grade of Rs. 1,400-2,300.

HELD : It is apparently clear that the respondents are now taking shelter under Para. 228 of the IREM which is seriously challenged by the applicant in the instant case. As the facts leading to the issue of the order, dated 29-5-1996 are not in controversy, the case is brought under a narrow compass and validity of Para. 228 (1) of IREM in question. This paragraph essentially speaks of administrative errors when proper seniority is not assigned and promotions could not be ordered on account of such errors. The applicant's Counsel has seriously contended that the prohibition against the payment of arrears on this account as contained in this paragraph is wholly unreasonable and against all canons of service jurisprudence. It was also contended that this paragraph

very arbitrarily makes an employee suffer for the whimsical and untenable course adopted by the concerned officers in preparing the seniority list and thus unjustly depriving the promotion to an employee when it actually becomes due.

The applicant has relied on a decision of the Ernakulam Bench in the case of P. Thyagarajan and others v. Union of India and another [(1992) 19 ATC 839]. That was a case of Travelling Ticket Examiner promoted to that post in the scale of Rs. 425-640 during January/April 1981. The Southern Railway decided to give pro forma promotions to all cases of TTEs entitling them upward revision of pay. The grievance of the applicants was that, on the basis of that decision whereas the pay of the applicants were refixed in the grades of Rs. 425-640 and Rs. 550-750 by giving them notional promotion to these grades with effect from 29-6-1976 and 26-11-1976 respectively, similar notional promotion and refixation of their pay in the grade of CTTI in the scale of Rs. 700-900 was not effected. Their further grievance was that, they were not given arrears of pay in the grades of first two promotions from the dates of their notional promotion. The respondents relied on the provisions of the Railway Board's circular, dated 15/17-9-1964. At Para. 8 of the judgment, the provisions of the said circular viz., "no arrears on this account shall be payable as he did not actually shoulder the duties and responsibilities of the higher posts" were set aside by the Tribunal. In the treatise on service law "Services under the State" by Justice M. Rama Jois of the Karnataka High Court, at Page 548 of the 1987 Edition under the Caption 'Denial of Arrears' referring to a decided case, the following principle has been restated :

'Where according to the service rules the pay of an official is fixed with effect from a particular date, any condition imposed by the Government in the order fixing the pay which disentitles the official from drawing the arrears of pay from that date is illegal'.

Referring to these decisions and observations, it is canvassed before us that the provision in paragraph 228 (I) being arbitrary, relief should be granted to the applicant.

In C.S. Subba Rao v. The Divisional Personnel Officer, Mysore Division and others (Original) Application No. 1125 of 1994 decided on 9-2-1995 by the Bangalore Bench of this Tribunal, the Tribunal has referred to the order of the Karnataka High Court in the case of Shaikh Mehaboob v. Railway Board and others [1982 (1) Service Law Reporter 455] and allowed the Original Application by directing the Railway Administration to compute and pay all arrears of emoluments consequential & benefits to the applicant therein with effect from the date he was notionally promoted i.e., 25-7-1979. The Special Leave Petition filed by the Railway Administration against the order of the Tribunal was dismissed by the Supreme Court on 20-10-1995. The circular referred to in the High Court's order is the same circular of the Railway Board, dated 15/17-9-1964, wherefrom the provision mentioned supra has been set aside by the Ernakulam Bench of the Tribunals in the case of P. Thyagarajan and others (supra). It is the contents of this circular which have been incorporated as paragraph 228 (I) of IREM. The last sentence of Para. 228 (I) of IREM is the same as the last sentence of the circular referred to above which stands quashed by the Ernakulam Bench. It is not in dispute that IREM is only a compilation of instructions issued by the Railway Board from time to time. As the last sentence of the circular, dated 15/17-9-1964 stands set aside by the Ernakulam Bench of this Tribunal, it cannot also remain as part of Para. 228 (I) IREM.

(D L. Deshpande v. Divisional Railway Manager, Hubli and another, (Bangalore), date of judgment 18-3-1997.)
O.A. No. 864 of 1996

Section-III

Sr. No.	Brief Particulars	Pages
1.	Recommendations of the Fifth Central Pay Commission- Decisions relating to Enhancement of the ceiling on accumulation and encashment of Earned Leave in respect of Central Government Employees.	1—2
2.	Recommendations of the Fifth Central Pay Commission relating to Enhancement of quantum of maternity leave and to allow Paternity Leave in respect of Central Government Employees.	2—3
3.	Revised pay scales of posts of JTO's & SDE's in DoT.	—3
4.	Revised Pay Scales for ASPO/ASRM in Department of Post.	—4
5.	Revised Pay Scales for Accounts Officers in DoT	—4
6.	Posting of husband and wife at the same station reiterated.	—5
7.	Regulation of Personal Pay granted for passing Hindi Examination and for promoting small family norms for encashment of earned leave on superannuation under Rule 39 of CCS (Leave) Rules.	—5
8.	Instructions to be followed to safeguard against fraudulent payments.	—6
9.	Revised rules regarding Pension, DCRG and Family Pension and Commutation of Pension from 1-1-1996	6—10
10.	Acceptance of recommendations relating to LTC and Amendment to Rules 4 and 12 of CCS (LTC) Rules.	10—12
11.	Grant of conveyance and other advances-Fifth Pay Commission's recommendations-Amendments to Rules 186, 193, 199, 211, 212, 218, 221-D, 236, 241 249 & of General Financial Rules, 1963.	13—16
12.	House Building Advance Scheme for Central Government Employees-Implementation of the recommendations of the Fifth Central Pay Commission.	—16
13.	General Secretary and one other Executive Member of the recognised associations are exempted from field duty.	—17
14.	Facilities for recognised Unions/Associations of Central Government Employees.	—18
15.	Calling of Divisional Accountants by bell ringing by the Executive Engineers.	18—19
16.	Counting of training period while on probation of directly recruited Section Officers/Divisional Accountants for the purpose of drawal of increments.	—19
17.	Proper defence of writ petitions, suits and other proceeding in the Supreme Court, High Court & other Courts & Tribunals in the State.	19—20

Sr No.	Brief Particulars	Pages
18	—do— from the Legal Remembrance and Secretary to Govt. Punjab, Department of Legislative Affairs, Chandigarh to All Admn. Secretaries.	20—22
19	Courts Attendance by Divisional Accountants.	—22
20.	Supply of Brief Cases to the Divisional Accountants.	22—23
21.	Empowering of the Executive Engineers by A.G. Punjab, Chandigarh to exercise the power of Controlling Officers in respect of T.A. claims of Divisional Accountants within the State of Punjab, & Chandigarh.	—23
22.	Fixed Medical allownnce to Central Government Pensioners/ Family Pensioners.	24—25
23.	Clarification regarding regulating pension/commutation of pension as per revised rules	—25
24.	Notification dated 15-7-97 of Punjab Government regarding deduction of Sales Tax from the Contractors at source.	26—28
25.	Promotion Orders of DAO-II	—29
26.	—do— DAO-I	29—30

Recent Government Orders

(1) Copy of G.I., Dept. of Per & Trg., O.M. No. 14028/7 97-Estt. (L), dated 7-10-1997

Recommendations of the Fifth Central Pay Commission – Decisions relating to Enhancement Of the ceiling on accumulation and encashment of Earned Leave in respect of Central Government employees

The undersigned is directed to say that consequent upon the decisions taken by the Government on the recommendations of the Fifth Central Pay Commission relating to leave, the President is pleased to decide that the existing provisions of the Central Civil Services (Leave) Rules, 1972, may be modified as follows in respect of Civilian employees of the Central Government :-

- (a) The existing ceiling of 240 days on accumulation of earned leave provided in Rules 26 & 28 ibid shall be enhanced to 300 days.
- (b) The existing ceiling of 240 days for availing of the benefit of encashment of unutilized earned leave shall be increased to 300 days in respect of the following categories.
 - (i) retirement on attaining the age of superannuation (Rule 39 (2)).
 - (ii) cases where the services of a Government servant has been extended, in the interest of public service, beyond the date of retirement on superannuation (Rule 39 (4)).
 - (iii) voluntary/premature retirement (Rule 39 (5)).
 - (iv) where the services of a Government servant are terminated by notice or by payment of pay and allowances in lieu of notice, or otherwise in accordance with the terms and conditions of his appointment (Rule 39 (6) (a) (i)).
 - (v) in the case of termination of re-employment after retirement (Rule 39 (6) (a) (iii)).
 - (vi) in the of the death of a Government servant, while in service, to the family of the deceased (Rule 39 (4)).
 - (vii) in the case of leave preparatory to retirement (sub-rule (1) of Rule 38].
 - (viii) in the case transfer of a Government servant to an industrial establishment (Rule 6): and
 - (ix) on absorption of a Government servant in the Central Public Sector Undertaking/autonomous body wholly or substantially owned or controlled by the Central/State Government (Rule 39-D);
- (c) A Government servant who resigns or quits service shall be entitled to cash equivalent in respect of earned leave at credit on the date of cessation of service, to the extent of half of such leave at his credit subject to a maximum of 150 days (Rule 39 (6) (a) (ii))

2. The above orders shall take effect from 1st July, 1997.

3 The Fifth Pay Commission has also recommended that all employees may be permitted to encash 10 days earned leave at time of availing of Leave Travel Concession, subject to the conditions that :-

- (a) the total leave so encashed during the entire career dose not exceed 60 days in the aggregate.
- (b) earned leave of atleast an equivalent duration is also availed of simultaneously by the employee;
- (c) a balance of at least 30 days of earned leave is still available to the credit of the employee after taking into account the period of encashment as well as leave. and
- (d) the period of leave encashed shall be deducted from the quantum of leave that can be normally encashed by him at the time of superannuation.

This recommendation has also been accepted by the Government and, accordingly, encashment of earned leave may be allowed by the Ministries/Departments subject to the prescribed conditions. The total encashment of Earned Leave allowed to a Government servant along with LTC while in service and as per the provisions of the Central Civil Services (Leave) Rules, 1972 should not exceed the maximum limit/ceiling of 300 days or 150 days as the case may be.

4. The orders in paragraph 3 above shall take effect from the date of issue.
5. The orders as per paragraphs 1 to 4 above shall also apply to Government servants serving in Vacation Departments.
6. Formal amendments to the Central Civil Services (Leave) Rules, 1972, are being issued separately,
7. In so far as persons serving in the Indian Audit and Accounts Department are concerned, these orders issue in consultation with the Comptroller and Auditor-General of India.

(2) Copy of G.I., Dept. of Per & Trg., O.M. No. 13018/197-Estt. (L),
dated 7-10-1997

**Recommendations of the Fifth Central Pay
Commission relating to Enhancement of quantum of
maternity leave and to allow Paternity Leave in respect
of Central Government employees**

The undersigned is directed to say that consequent upon the decisions taken by the Government on the recommendations of the Fifth Central Pay Commission relating to Maternity Leave and Paternity Leave, the President is pleased to decide that the existing provisions of the Central Civil Services (Leave) Rules, 1972 may be treated as modified as follows in respect of civilian employees of the Central Government :—

- (a) The existing ceiling of 90 days maternity leave provided in Rule 43 (1) ibid shall be enhanced to 135 days.

(b) A male Government servant (including an apprentice) with less than two surviving children may be granted Paternity Leave for a period of 15 days during the confinement of his wife. During the period of such leave, he shall be paid leave salary equal to the pay drawn immediately before proceeding on leave. Paternity Leave shall not be debited against the leave account and may be combined with any other kind of leave (as in the case of Maternity Leave). It may not normally be refused under any circumstances.

2. These orders take effect from the date of issue.

3. In the light of paragraph 2 above, a female Government servant in whose case the period of 90 days of Maternity Leave has not expired on the said date shall also be entitled to the Maternity Leave of 135 days. Similarly, Paternity Leave to a male Government employee may also be allowed in case his wife had given birth to the child on a date not prior to 135 days from the date of issue of this order,

4. Formal amendments to the Central Civil Services (Leave) Rules, 1972 are being issued separately.

(5) In so far as persons serving in the Indian Audit and Accounts Department are concerned, these orders issue in consultation with the Comptroller and Auditor-General of India.

(3) Copy of G.I., Dept. of Telecom, Lr. No. 1/197-PAT,
dated 8-10-1997

Revised pay scales of posts of JTOs and SDEs in DOT

The undersigned is directed to forward herewith a copy of Ministry of Finance Notification No. G.S.R. 582 (F), dated 6-10-1997 regarding Revised pay scales of posts of Junior Telecom. Officers (JTOs) and Sub-Divisional Engineers (SDEs) in the Ministry of Communications, Department of Telecom. for necessary action.

This issues with the concurrence of Telecom. Finance vide U.O. No. 2575/97-FA. 1, dated 10-10-1997.

ENCLOSURE

G.S.R. 582 (E) —The recommendations of the Fifth Central Pay Commission in regard to the pay scales of posts of Junior Telecom Officers and SDEs in Ministry of Communications had been referred to a Committee of Secretaries for examination through the Fast Track Mechanism. Based on the recommendations of this Committee and the decisions of Government thereon and in exercise of the powers conferred by the proviso to Article 309 and Clause (5) of Article 148 of the Constitution, the following additions are made in Part-C of this Ministry's Notification, dated 30-9-1997, published in the Gazette of India (Extraordinary) vide G.S.R. 569 (E) :—

PART-C

**MINISTRY OF COMMUNICATIONS
DEPARTMENT OF TELECOMMUNICATION**

Sl. No.	Posts	Present Scale (Rs)	Revised Scale (Rs.)	Para No. of Report
10 (a)	Jr. Telecom Officer	1,640-60-2,600-EB- 75-2,900	6,500-200- 10,500	62.37
10 (b)	SDEs	2,000-60-2,300-EB- 75-3,200-100-3,500	7,500-250- 12,000	62.37

(4) *Copy of G.I., Dept. of Post, O.M. No. 23-8/97-PEI (PCC),
dated 17-10-1997*

Revised pay scales for ASPO/ASRM in Department of Post

In continuation to this Office Memorandum No. 23-8/97-PE.I (PCC), dated 9-10-1997, the entry at Sl. No. 1 in Part 'C' of the Notification issued by Min. of Finance vide GSR 569 (E), dated 30-9-1997 which had been shown as "Excluded" vide this Office earlier O.M. No. dated 9-10-1997, cited above may please be read as under :—

Posts	Present Scale	Revised Scale	Paragraph No. of Report
ASPO/ ASRM	1,640-60-2, 600-75-2,900	6,500-200-10,500	62.9

Upgraded Pay scale taken effect from 1-1-1996.

5. *Copy of Dept. Telecom, Letter No. 1-1/97-PAT, dated 22-10-1997*

Revised Pay Scales for Accounts Officers in DoT

Pay Commission has recommended vide Para. 102.19 that the revised pay scales for posts relating to Audit and Accounts functions in the Audit Offices as well as the Accounts and Entitlement Offices may be placed in the replacement scales indicated for various posts mentioned therein. Accordingly, the replacement scale for Accounts Officers under Indian Audit and Accounts Service has been notified as Rs. 7,500-250-12,000 in Part-C of the Gazette Notification GSR 569 (E), dated 30-9-1997. This scale for the Accounts Officers in other departments is under issue by the Ministry of Finance.

In view of the above, approval of this office is hereby conveyed for grant of the upgraded pay scale of Rs. 7,500-250-12,000 to the Accounts Officers with effect from 1-1-1996. The pay fixation, etc., of Accounts Officers may be done accordingly.

This issues with the concurrence of Telecom. Finance vide their U.O. No. 2655/97-FA-I, dated 22-10-1997.

6. *Copy of G.I., Dept. of Per & Trg., O.M. No. 28034/2/97-Estt. (A),
dated 12-6-1997*

Posting of husband and wife at the same station reiterated

The undersigned is directed to say that on the subject mentioned above, Government had issued detailed guidelines vide O.M. No. 28034/7/86 Estt. (A), dated 3-4-1986 (Refer Bulletin Special-III, August, 1989 of A.I.F. of D.A's Associations).

The Fifth Central Pay Commission has now recommended that not only the existing instructions regarding the need to post husband and wife at the same station need to be reiterated, it has also recommended that the scope of these instructions should be widened to include the provision that where posts at the appropriate level exist in the organization at the same station, the husband and wife may invariably be posted together in order to enable them to lead a normal family life and look after the welfare of the children, especially till the children are 10 years of age.

2. The Government, after considering the matter, has decided to accept this recommendation of the Fifth Central Pay Commission. Accordingly, it is reiterated that all Ministries/Departments should strictly adhere to the guidelines laid down in O.M. No. 28034/7/86-Estt. (A), dated 3-4-1986 while deciding on the requests for positing of husband and wife at the same station and should ensure that such posting is invariably done, especially till their children are 10 years of age, if posts at the appropriate level exist in the organization at the same station and if no administrative problems are expected to result as a consequence.

3. It is further clarified that even in cases where only the wife is a Government servant, the concession elaborated in Para. 2 of this O.M. would be admissible to the Government servant.

4. These instructions would be applicable only to posts within the same department and would not apply on appointment under the Central Staffing Scheme.

(7) *Copy of C & A.G's Lr. No. 191-Audit (Rules)/34-94 (29),
dated 3-7-1997*

Regulation of Personal Pay granted for passing Hindi Examination and for promoting small family norms for encashment of earned leave on superannuation under Rule 39 of CCS (Leave) Rules

The undersigned is directed to state that references were being received in this office seeking clarification as to whether the personal pay granted to Central Government servants for passing Hindi examination and for promoting small family norms could be taken into account for computing encashment of leave. Government of India, Department of Personnel & Training to whom the matter was referred to have clarified that, as per the existing Rules, encashment of leave was based on "Pay" (admissible on the date of retirement) as defined under FR 9 (21)(a) and accordingly personal/special pay was taken into account for leave encashment. However, as an exception, personal pay granted to

a Government servant for passing Hindi examination and for promoting small family norms which was in the form of incentives, was not taken into account for computing encashment of leave.

8. Copy of G.I., M.F., (CGA), O.M. No. 1 (3) |95|TA|Pt. File|456-515, dated 24-6-1997

Instructions to be followed to safeguard against fraudulent payments

Reference is invited to Annexure 'C' in Chapter I of Civil Accounts Manual, wherein safeguards regarding issue, accountal, safe custody and storage of cheque books have been provided. Similar provision also exist in Paras 38 to 48 of Central Government Account (Receipts and Payments) Rules, 1983. Chapters 1, 2 and 3 of Civil Accounts Manual provide for various checks and counter checks to be applied to prevent possibility of any fraudulent payments.

In spite of all these instructions, few cases of fraudulent payments have been noticed. On the recommendations of a study team constituted by Reserve Bank of India for prevention of frauds, the following suggestions have been made :

- (i) To issue instructions to all the Departments of the Government that cheques of high value (say above Rs 1 lakh) may be signed by two officials.
- (ii) A transparent sticker may be affixed on the amount field (in figures) to prevent alteration in the amount.
- (iii) For writing the amount in figures, appropriate number of cages should be printed on the instruments. The digit relating to paise will be written outside the last cage after placing a dot.

After careful examination of the suggestions of Reserve Bank of India, it has been decided that, pending amendment to Civil Accounts Manual, following instructions shall be followed :

1. All high value cheques of Categories 'A' and 'B' involving payments of Rs. 10 Crore and above should bear the signatures of two officers.
2. On all cheques in excess of Rs. 1 lakh, a transparent sticker may be affixed on the amount in figures to prevent its alternation.
3. Whenever new cheque books are printed by Government of India Security Press, Nasik, steps may be taken to provide for appropriate cages for writing the amount in figures.

9. Copy of G.I., Dept. of Pen. & P.W., O.M., F 45 86/97-P. & P.W. (A)-Part-I, dated 27-10-1997

Revised rules regarding Pension, DCRG and Family Pension and Commutation of Pension from 1-1-1996

The undersigned is directed to state that in pursuance of Government's decisions on the recommendations of the Fifth Central Pay Commission, the President is pleased

to introduce the following modifications in the rules regulating pension, DCRG and Family Pension under the CCS (Pension) Rules, 1972 (hereafter referred to as Pension Rules) and Commutation of Pension under CCS (Commutation of Pension) Rules, 1981

2. These orders apply to Central Government Employees governed by the CCS (Pension) Rules, 1972. Separate orders will be issued by the Ministry of Defence, Ministry of Railways and the AIS Division of the DoP&T in respect of Armed Forces personnel, Railway employees and the officers of All India Services respectively on the basis of these orders.

Date of Effect

3.1. The revised provisions as per these orders shall apply to Government servants who retire/die in harness on or after 1-1-1996. Separate orders will be issued in respect of employees who retired/died before 1-1-1996.

3.2. Where pension/family pension/DCRG/commutation of pension has already been sanctioned in cases occurring on or after 1-1-1996, the same shall be revised in terms of these orders. In cases where pension has been finally sanctioned on the pre-revised orders and if it happens to be more beneficial than the pension becoming due under these orders, the pension already sanctioned shall not be revised to the disadvantage of the pensioners in view of the Rule 70 of the CCS (Pension) Rules, 1972.

Emoluments

4.1. The term Emoluments for purposes of calculating various pensionary benefits other than Retirement/Death Gratuity shall mean basic pay as defined in FR 9 (21) (a) (i) which the Government servant was receiving immediately before his retirement or on the date of his death.

4.2. The term 'Pay' in these orders means the pay in the revised scales promulgated under the CCS (Revised Pay) Rules, 1997.

4.3. In the case of Retirement/Death Gratuity, DA admissible on the date of retirement/death shall also be treated as emoluments along with the emoluments as defined in Paragraph 4.1 above. Accordingly, Rule 50 (5) of Pension Rules, shall stand modified to the effect that the emoluments for the purpose of gratuity admissible under the Rule shall be reckoned in accordance with Rule 33 and in addition DA admissible on the date of retirement/death of the Government employee shall also be treated as emoluments.

Pension

5. Pension shall continue to be calculated as 50% of average emoluments in all cases and shall be subject to a minimum of Rs. 1,275 and maximum up to 50% of highest pay in the Government. (The highest pay in the Government is Rs. 30,000 since, 1-1-1996). Accordingly, the provisions of Clauses (a) and (b) or sub-rule (2) of Rule 49 of the Pension Rules shall stand modified. The other provisions contained in Rule 49 shall continue to apply.

Retirement Gratuity/Death Gratuity

6. The maximum limit of Retirement/Death Gratuity shall be Rs. 3.5 lakhs. Accordingly, first proviso under Rule 50 (1) (b) of Pension Rules shall stand modified to the effect that the amount of retirement gratuity or death gratuity payable under this Rule shall in no case exceed Rs. 3.5 lakhs.

Family Pension, 1964

7.1. Family pension shall be calculated at a uniform rate of 30% of basic pay in all cases instead of slab system and shall be subject to a minimum of Rs. 1,275 per month and a maximum of 30% of the highest pay in the Government (The highest pay in the Government is Rs. 30,000 since 1-1-1996). Rule 54 (2) relating to Family Pension, 1964 under Pension Rules shall stand modified to this extent and the existing table thereunder will be no longer operative.

7.2. For the purpose of grant of Family Pension, the definition of Family shall also include :

- (a) Parents who were wholly dependent on the Government servant when he/she was alive provided the deceased employee had left behind neither a widow nor a child (Clarificatory orders in regard to determining dependency criteria in case of parents shall be issued separately).
- (b) Son/daughter including widowed/divorced daughter till he/she attains the age of 25 years or up to the date of his/her marriage/remarriage, whichever is earlier (subject to income criterion to be notified separately).

Commutation of Pension

8. A Government servant shall be entitled to commute for a lumpsum payment up to 40% of his pension. Accordingly, provisions of sub-rules 5 (1) and 5 (2) of CCS (Commutation of Pension) Rules, 1981 shall stand modified. The other provisions of these Rules shall continue to apply.

9. In the case of Government servants who have opted for the revised scales of pay and retire within 10 months from the date of coming over to the revised scale, basic pay for 10 months' period, preceding retirement shall be calculated by taking into account pay as follows :—

- (i) For the period during which pay is drawn in pre-revised scale—basic pay plus actual D.A. and Interim Relief I and II appropriate to the basic pay at the rates in force on 1-1-1996 drawn during the relevant period and
- (ii) For the period during which pay is drawn in revised scale—basic pay in the revised scale.

Special provision for those retiring between 1-1-1996 and 31-12-1997

10. Those, who have retired or will be retiring between 1-1-1996 and 31-12-1997 will have an option to retain the pre-revised scales of pay and have their

pension and death-cum-retirement gratuity calculated under the rules in a Government tely before coming into effect of these orders. The pension and death-cum-1 the small gratuity in such cases will be regulated as follows :

- (i) The terms 'Emoluments' will mean 'Pay' as defined in FR 9 (2) (a) (i) and will include DA up to AICPI 1436 and Interim Relief I and Interim Relief II.
- (ii) Pension will be calculated at 50% of average emoluments. To the pension so calculated, dearness relief up to AICPI 1510 at the prescribed rates, shall be added. The amount so arrived at will be regarded as pension.
- (iii) Death-cum-retirement gratuity shall be admissible with reference to emoluments at (i) above under the orders in force immediately before coming into effect of these orders. The maximum amount of gratuity shall not exceed Rs. 2,50,000 in terms of Department of Pension and Pensioners' Welfare Office Memorandum No. 7/1/95- P. & P.W. (F), dated 14-7-1995.
- (iv) Commutation of pension shall be admissible in accordance with the orders in force immediately before coming into effect of these orders.
- (v) Family pension shall be allowed in accordance with the orders applicable prior to the issue of these orders and shall be calculated with reference to basic pay in the pre-revised scale. To the family pension so calculated, dearness relief up to average AICPI 1510 at the rate contained in this Department's Office Memorandum No. 42/8/96- P. & P. W. (G), dated 20-3-1996 shall be added. The amount so arrived at will be regarded as the family pension for regulating payment of dearness relief beyond average AICPI 1510.

11. In the case of persons who retain pre-revised scale and retire or die in harness subsequent to 31-12-1997, Pension, Retirement Gratuity, Death Gratuity and Family Pension, as may be relevant, shall be calculated in terms of Paragraphs 5 to 8 of these orders. The 'emoluments' for calculation of pensionary benefits in their case will be the basic pay in the pre-revised scale, plus dearness allowance admissible upto CPI 1510 in terms of Ministry or Finance. Office Memorandum No. 1 (5)/96-E. II (B), dated 20-3-1996 appropriate to the basic pay plus two instalments of interim relief at the rates in force on 31-12-1995, appropriate to the said basic pay.

12. Formal amendments to CCS (Pension) Rules, 1972 and CCS (Commutation of Pension) Rules, 1981 in terms of the decisions contained in this order will issue in due course. Provisions of the CCS (Pension) Rules, 1972, and CCS (Commutation of Pension) Rules 1981 which are not specially modified by these orders, will remain unaffected.

13. The pension/family pension in terms of these orders will qualify for dearness relief beyond average AICPI 1510 under the revised pattern being introduced on the recommendations of the Fifth Central Pay Commission.

14. These orders issue with the approval of the Ministry of Finance, Department of Expenditure vide their U.O. No. 879/EV/97, dated 7-10-1997.

tation with the Comptroller and Auditor-General of India in regard to persons serving the Indian Audit and Accounts Department, the President hereby makes the following rules, namely :—

(1) These rules may be called the Central Civil Services (Leave Travel Concession) First Amendment Rules 1997.

(2) They shall come into force from 1st October, 1997.

(3) In Rule 4 at (d), the following shall be substituted as the definition of "Family" :—

(d) "family" means a Government servant's wife or husband, as the case may be, residing with the Government servant and two surviving children or step children residing with and wholly dependent upon the Government servant, whose income from all sources does not exceed Rs. 1,500 p.m. It includes in addition, parents, stepmother, unmarried sisters, brothers and married daughters who have been divorced, abandoned or separated from their husbands, if residing with and wholly dependent upon the Government servant. Widowed sisters are also included, if residing with and wholly dependent upon the Government servant (provided their father is either not alive or is himself dependent on the Government servant).

NOTE.—1. The restriction of two surviving children as indicated above shall not apply in respect of existing children of a Government servant and a child born within one year of the restrictions coming into force and also in case of multiple births after one child.

NOTE.—2. Not more than one wife is included in the term 'family' for the purpose of these rules".

4. In Rule 12 for existing sub-rule 1, the following shall be substituted :—

"(a) For travel under the Scheme of Leave Travel Concession, the entitlement shall be as under :—

Officers in the pay scales the Minimum of which is as under	Entitlement
Rs. 18,400 and above	Air Economy (Y) Class by National Carrier or AC-ICWS by train at their option
Rs. 12,000 and above but less than Rs. 18,400	AC-I Class by train
Rs. 6,500 and above but less than Rs. 12,000	AC-II Tier Sleeper
Rs. 3,030 and above but less than Rs. 6,500	First Class/AC-III Tier
Below Rs. 3,050	Sleeper Class".

11. Copy of G.I., M.F., O.M.F. No. 16(1) | E.II (A) | 97, dated 11-12-1997

Grant of conveyance and other advances—Fifth Pay Commission's recommendations—Amendments to Rules 186, 193, 199, 211, 212, 218, 221-D, 236, 241 and 249 of General Financial Rules, 1963

The undersigned is directed to say that in pursuance of the decision taken by the Government on the Fifth Pay Commission's recommendations relating to advances, the President is pleased to amend the existing provisions of Rules 186, 193, 199, 211, 212, 218, 221-D, 236, 241 and 249 of the General Financial Rules, 1963 relating to advances for purchase of motor car, motor cycle, scooter, personal computer, bicycle, warm clothing, table fan and advance for festival and natural calamity, as in the amendments attached.

2. These orders will take effect from the date of issue. The cases where the advances have been sanctioned under the provisions of earlier rules on the subject need not be reopened.

3. The recommendation of the Fifth Pay Commission relating to substitution of Festival Advance by General Purpose Advance equal to half a month's pay plus DA payable once a year has not been accepted and the existing provision of Festival Advance will continue.

4. The recommendation of the Commission for annual review of advances to be done with reference to prevailing market prices has also not been accepted and the existing practice of review as and when necessary will continue. The recommendation relating to waiver of recovery of outstanding advances in case of death of an employee in harness has also not been accepted.

5. In so far as persons in Indian Audit and Accounts Department are concerned, these orders issue in consultation with the Comptroller and Auditor-General of India.

6. All the Ministries, Departments are requested to bring the amendments to the notice of all its attached and subordinate officers for their information.

**Amendments to General Financial Rules, 1963
Chapter 14—Advances to Government Servants**

RULE 186

Meaning of the word 'Pay' : Substitute the existing Note 1 below Rule 186 by the following :—

"NOTE 1.—In the case of a Government servant, who has not opted for the revised scale of pay in terms of the Central Civil Services (Revised Pay) Rules, 1997, pay for the purpose of these rules shall mean basic pay as drawn in the existing scale and shall include dearness allowance up to AICPI 1510, Interim Reliefs I and II as were admissible as on 31-12-1995".

Motor Car & Motor Cycle Advances

In Rule 193—

RULE 193

- (a) In clause (ii) relating to conditions of eligibility for Motor Car Advance, for the words and figure "basic pay is Rs. 3,500 per month or more" the words and figure "basic pay is Rs. 10,500 (Rupees ten thousand five hundred) per month or more" shall be substituted.
- (b) In clause (iii) relating to conditions of eligibility for Motor Cycle/Scooter/Moped Advance, for the words and figure "basic pay is Rs. 1,500 per month or more", the words and figure "basic pay is Rs. 4,600 (Rupees four thousand six hundred) per month or more" shall be substituted.

In Rule 199—

RULE 199 (1) & (2)

- (a) In sub-rule (1) relating to amount of advance admissible for purchase of Motor Car for the first occasion, for the words and figures, "shall not exceed Rs. 80,000 (Rupees eighty thousand) or sixteen months' basic pay of the Government servant or the anticipated price of the motor car to be purchased by the Government servant, whichever is the least", the words and figures "shall not exceed Rs. 1,80,000 (Rupees one lakh eighty thousand) or eleven months' basic pay of the Government servant or the anticipated price of the motor car to be purchased by the Government servant, whichever is the least", shall be substituted.
- (b) In sub-rule (2) relating to quantum of advance admissible on the second or subsequent occasions for purchase of motor car, for the words and figures "shall not exceed Rs. 75,000 (Rupees seventy five thousand) or sixteen months' basic pay of the Government servant or the anticipated price of motor car to be purchased, whichever is the least", the words and figures "shall not exceed Rs. 1,60,000 (Rupees one lakh sixty thousand) or eleven months' basic pay of the Government servant or the anticipated price of the motor car to be purchased, whichever is the least", shall be substituted.

Motor Cycle/Scooter Advance

RULE 211

In Rule 211 relating to conditions and quantum of advance admissible for purchase of Motor Cycle/Scooter/Moped :—

- (a) In first proviso relating to amount of advance admissible for the first occasion, for the words and figures "shall not exceed Rupees thirteen thousand or eight month' basic pay or the anticipated price of the motor cycle/scooter/moped, whichever is the least" the words and figures "shall not exceed Rs. 30,000 (Rupees thirty thousand) or six months' basic pay or the anticipated price of motor cycle/scooter/moped, whichever is the least" shall be substituted.
- (b) In the provision relating to quantum of advance that may be granted on second or subsequent occasion for purchase of motor cycle/scooter/moped,

for the words and figures "shall be restricted to Rs. 10,000 (Rupees ten thousand) or eight months' basic pay or the anticipated price of the motor cycle/scooter/moped, whichever is the least." the words and figures " shall be restricted to Rs. 24,000 (Rupees twenty-four thousand) or five months' basic pay or the anticipated price of motor cycle/scooter/moped, whichever is the least" shall be substituted.

Computer Advance

In Rule 199 (5)

RULE 199 (5)

- (a) In opening sentence relating to amount of Computer Advance admissible, for the words and figures "not exceeding Rs. 45,000 or the anticipated price excluding customs duty, if any, whichever is less", the words and figures "not exceeding Rs. 80,000 (Rupees eighty thousand) on first occasion and Rs. 75,000 (Rupees seventy-five thousand) on second or subsequent occasions or the anticipated price (excluding customs duty, if any) whichever is less" shall be substituted.
- (b) In condition of sanction below Rule 199 (5) in condition (1) relating to eligibility period for drawal of second or subsequent advance after computer advance already drawn for the words and figures "and a period of 8 years has not elapsed from the date of drawal of earlier advance, "the words and figures" and a period of 3 (three) years has not elapsed from the date of drawal of earlier advance" shall be substituted.

Bicycle Advance

In Rule 212

RULE 212

- (a) in the opening clause indicating eligibility, for the words and figures "who is in receipt of basic pay not exceeding Rs' 1,750 per mensem", the words and figures "who is in receipt of basic pay not exceeding Rs' 5000 (Rupees five thousand) per month" shall be substituted.
- (b) in proviso (1) relating to amount of advance admissible, for the words, "shall not exceed six hundred rupees", the words and figures "shall not exceed Rs. 1500 (Rupees one thousand five hundred)" shall be substituted.

Warm Clothing Advance

Rule 218

In Rule 218 relating to amount of warm clothing advance admissible, for the words, "shall not exceed six hundred rupees" the words and figures "shall not exceed Rs, 1500 (Rupees one thousand five hundred)" shall be substituted.

Table Fan Advance

RULE 221-D

In rule 221-D relating to amount of Table Fan advance admissible for the words "shall not exceed rupees four hundred" the words and figures "shall not exceed Rs, 1000 (Rupees one thousand)" shall be substituted

Festival Advance

RULE 236

In Rule 236, in clause relating to eligibility for Festival Advance, for the words and figures "who is in receipt of basic pay not exceeding Rs. 2,850 p.m.", the words and figures "who is in receipt of basic pay not exceeding Rs. 8,300 (Rupees eight thousand three hundred) per month" shall be substituted.

In Rule 241 relating to amount of Festival Advance admissible, for the words "shall not exceed six hundred rupees", the words and figures "shall not exceed Rs. 1,500 (Rupees one thousand five hundred)" shall be substituted.

Natural Calamity Advance

RULE 249

In Rule 249 relating to amount of Natural Calamity Advance admissible, for the words "shall not exceed one thousand rupees" the words and figures "shall not exceed Rs. 2,500 (Rupees two thousand five hundred)" shall be substituted.

12. Copy of G.I., Min of Urban Affairs & Employment (Housing-III Section) O.M. No. 1/17015/597/H-III, dated 16-12-1997

Subject,—House Building Advance Scheme for Central Government Employees—
Implementation of the recommendations of the Fifth Central Pay Commission.

The undersigned is directed to say that after considering the recommendations of the Fifth Central Pay Commission and other relevant factors, the President is pleased to liberalize further the existing scheme of Housing Building Advance, as per revised scales of pay, as under :—

I. Cost-Ceiling Limit

The existing cost-ceiling limits are prescribed in this Ministry's O.M. No. 1/17015/17/97-H. III, dated 1-1-1996 viz; 200 times the basic pay subject to a minimum of Rs. 3 lakhs and a maximum of Rs. 8 lakhs is revised to 200 times basic pay subject to a minimum of 7.5 lakhs and a maximum of Rs. 18 lakhs.

Where the administrative Ministry is satisfied on the merits of the case, they may relax the cost-ceiling up to a maximum of 25% of the cost-ceiling mentioned above in individual cases.

II. Quantum of House Building Advance (HBA)

- The existing maximum limit of House Building Advance viz; 50 months' basic pay subject to a maximum of Rs. 2.5 lakhs is revised to 50 months' basic pay subject to a maximum of Rs. 7.5 lakhs or cost of the house or repaying capacity, whichever is the least for new construction/purchase of new house/flat.
- The existing limit of 50 months' basic pay subject to a maximum of Rs. 60,000 is revised to 50 months' basic pay or Rs. 1.80 lakhs, whichever is

less for enlargement of existing house, or cost of the enlargement or repaying capacity, whichever is the least.

- For the rural areas, the existing conditions of the House Building Advance being further restricted to 80% of the cost of construction/enlargement will remain unchanged.

III. Rate of Interest

Existing rates of interest of House building Advance as notified vide this Ministry's O.M. No. 1/17015/11/90/H. III, dated 25-7-1990 is modified as under :—

Amount of Advance	Rate of interest
(a) Sanctioned advance up to Rs. 50,000	7.5%
(b) Sanctioned advance up to Rs. 1.5 lakhs	9%
(c) Sanctioned advance up to Rs. 5.00 lakhs	11%
(d) Sanctioned advance up to Rs. 7.5 lakhs	12%

2. All other provisions like eligibility, repaying capacity, recovery, etc., will remain unchanged.

3. These orders will be effective from the date of this OM.

13. Copy of C & A.G. of India, New Delhi, Circular No. NGE/129/82- No. 668-N. 4/89-81, dated the 30th October, 1982

General Secretary and one other Executive Member of the recognised association are exempted from field duty.

The question Regarding exemption from field duty in respect of office bearers of recognised services associations has been repeatedly raised in different quarters in the recent past. The matter has accordingly been examined.

2. At present, no precise guidelines have been prescribed either by the Govt. or by Headquarters. In 1967, the Comptroller and Auditor-General had agreed in principle that the office bearers should not be disturbed during their terms subject to the condition that it should not be incompatible with public requirements. The understanding in question was really in respect of transfer of office bearers to an out-station on a regular basis during their term of office and not in respect of postings on field duty. Ministry of Home Affairs, O.M. No. 27/3/69 Estt. (B), dated 8/4/1969 also contemplates merely the extension of the facility of bringing back to Headquarters the Chief Executive of the association or where the Chief Executive is not defined its General Secretary. In the circumstances, the Government O.M. of 8/4/1969 had no direct application, in the matter of posting of office bearers on field duty. However, keeping in view both the administrative needs and the interests of the service associations, it has been decided that only the General Secretary and one other executive member of each of the recognised associations may be exempted from field duty.

3. These instructions shall not apply to members of the executive committees of other bodies like Recreation Clubs, Co-operative Societies.

14. Copy of O.M. No. 934/87-JCA dated 8-3-1988 from Ministry of Personnel, Public Grievances and Pensions
(Department of Personnel & Training)

Subject :- Facilities for recognised Unions / Associations of Central Government Employees.

Orders were issued vide this Department's O.M. No. 27/3/69-Estt. (B) dated 8th April, 1969, spelling out certain facilities granted to office bearers of recognised Unions/Associations of Central Government employees. Recently, it has been brought to the notice of this Department that these instructions need clarification on certain issues.

The matter has been looked into with reference to the relevant records. A Committee of the National Council (JCM) was constituted to consider, inter-alia, the following Staff Side demands :

- (1) Special casual leave of 20 days in a year for union work be extended to all Departments.
- (2) Special casual leave granted for purposes of work connected with JCM Councils should not be debited to the annual special casual leave entitlement.
- (3) Chief Executive of the union and two other office bearers be granted the facility of seeking transfer to the headquarters of the appropriate head of the administration.
- (4) Removal of time-limit on the period of foreign service deputation of elected office bearers of Union.

The above demands of the Staff Side were accepted partially. However, while issuing the orders of April, 1969 the individual demands were reproduced in the sub-headings and below that, the Governments' decision was incorporated. Therefore, the sub-headings do not reflect the Governments' decision. The sub-headings of April, 1969 O.M. may accordingly be substituted as follows :

- (1) Entitlement of special casual leave for union work.
- (2) Special casual leave for union work.
- (3) The facility of transfer to headquarters of the appropriate head of the administration.
- (4) Time limit of the period of foreign service deputation of elected office bearers of unions.

The Ministry of Finance etc. may bring this to the notice of all concerned.

15. Copy of A.G. (A&E) Punjab Chandigarh Memo No. W-Admn|DA| Association|91-92|3206-08 dt. 21/2/92 to the address of

1. The Chief Engineer, Irrigation Department Punjab, Chandigarh.
2. The Chief Engineer, P.W.D. B&R Punjab, Patiala.
3. The Chief Engineer, Public Health, Punjab, Patiala.

Sub. : Calling of Divisional Accountants by bell ringing by the Executive Engineers.

Sir,

I am to state that the Punjab Divisional Accountants Association have brought to the notice of this office that in some of the Divisions, there is a practice of calling the D.A's through bell-ringing by the Executive Engineers. As this practice is evidently not in good taste, I have been directed to request you to kindly issue suitable instructions to all the Divisional Officers for stopping this practice, where it exists, under intimation to this office.

16. Copy of Circular No. 12-NGE (ENTT) 1997-No. 293-NGE (ENTT) 43-46 dated 20-3-97 from the Comptroller & Auditor General of India
New Delhi.

To,

1. All Heads of Department of India Audit and Accounts Department.
2. Director (P) (Local)
3. A. C. (C) (Local)

Sub :- Counting of training period while on probation of directly recruited Section Officers/Divisional Accountants for the purpose of drawal of increment.

Sir,

The question of counting of training period while on probation, of directly recruited Section Officers/Divisional Accountants for the purpose of drawal of increments during training period has been under consideration of this office for some time past. It has now been decided that in modification of condition No. 5 of standard terms and conditions of directly recruited SOs and circular No. 623 NGE-I/118-73 VI dt 4-3-75 in respect of probationary Divisional Accountants, the training period in these cases may be treated as duty for the purpose of drawal of increments. The first increment will be released on completion of one year's service, the second increment will be released on completion of two years of service and the third increment will be released on completion of third year and subject to satisfactory completion of the specified period of probation i.e., on passing SOGE part I & II both/DA Grade exam. as the case may be.

The benefit of counting the period of training for pay will be admissible on notional basis from 1-1-86 and actual basic from the date of issue these orders.

17. Copy of A.G. (A&E), Punjab Chandigarh Memo No. W. Admn |DA| Association|92-93|1645-49, dt. 18/9/92 addressed

To,

- (1) The Chief Engineer, Irrigation Works Punjab, Chandigarh.
- (2) The Chief Engineer, P.W.D. B&R Punjab, Patiala.
- (3) The Chief Engineer, Public Health Punjab, Patiala.

Sub. :- Proper defence of writ petitions, suits and other proceeding in the Supreme Court, High Court and other Courts and Tribunals in the State.

Sir,

I am to invite a reference to letter from the Legal Remembrancer and Secretary to Government Punjab, Department of Legislative Affairs letter No. 30785-30874/CO 62/76 dated 30-11-78 (Copy enclosed), where the Government have stressed that at least an officer of the rank of Under Secretary at State level and some responsible Gazetted officer in the field should take charge of the case in the courts who should keep himself in the constant contact with Advocate General/District Attorney to ensure proper assistance to the Law Officer concerned at all stages of the case and should make it a point to see that all the relevant material is made available to the Law Officer concerned and no important information is kept back from him which may be necessary for the proper conduct of the case and to state that it has been brought to the notice of this office by the Punjab Divisional Accountants Association that the DAs'/DA.Os' in the various Divisions of Irrigation, Public Health and B&R are deputed to attend the Court in r/o suits filed by the various parties against the Divisions/Govt.

This practice is not only contrary to the instructions issued by the Punjab Govt. but has also led to the accumulation of Accounts Arrear in the Divisional Offices. Keeping in view, the position explained above, it is requested that suitable instructions to the Divisional Officers may please be issued not to force the DAs'/DAOs' to attend the court case, Unless essentially needed to assist the Divisional Officer/Sub-Divisional Officer while attending the court by these officers. A copy of the instructions issued by your office may please be endorsed to this office.

Copy to the Legal Remembrance and Secretary to Govt. of Punjab, Department of Legislative Affairs, Chandigarh for information w.r.t. his letter No. 30785-30874/C.O. 62/76 dated 30-11-78.

Copy to the General Secretary, Punjab Divisional Accountants Association, H.No. 18, Basant Nagar, Near Municipal Park, Backside E.N.T. Hospital, Majitha Road, Amritsar w.r.t. his letter No. 60 dated 9-8-92.

OFFICE OF THE CHIEF ENGINEER PUNJAB, P.W.D. B&R BRANCH, PATIALA.

Endst. No. 60/LC/81 : 1272-1391/LC Dated 3/12-11-92

(1) A copy of the above alongwith the copy of its enclosures is forwarded to all the Superintending Engineers/Executive Engineers of Punjab P.W.D. B&R for information and necessary action.

(2) All the Branch Officers of the Branches of Head Quarter Office for information.

18. Copy of letter No. 30785-3074 CO. 62/76 dt. 30-11-1978 from the Legal Remembrancer and Secretary to Govt. Punjab, Department of Legislative Affairs, Chandigarh to All Admn. Secretaries.

Sub. :- Proper defence of Civil Writ Petitions, suits and other proceeding in the Supreme Court, High Court and other Courts and Tribunals in the State.

It has been noticed that generally references from the various Authorities (Administrative Secretaries and Heads of Departments) for arranging defence of writ petitions, suits and other proceedings or for filing writ petitions or suits etc. on behalf Punjab State are mostly incomplete in many respect and are received just at the nick of time. It naturally causes many difficulties. Some minimum time is required for proper examination of the case in this Department before instructions are issued for the conduct of the case to the Law Officer concerned and the Govt. Advocate also requires some time to prepare the case before he is also to make effective appearance in the Court. It is found that the references are not accompanied by the requisite documents and the departmental statement of the case, with the obvious result that neither this Department is in a position to examine the case nor the Law Officer to whom the case is entrusted, can prepare himself for proper appearance and conduct of the case. It would be appreciated that this naturally causes State interest to suffer. It is, therefore requested that all Court cases should be dealt with at all levels on top priority basis and prompt action in accordance with the provisions of the Law Department Manual should be taken, on a reference from the competent authority, this Deptt. has to take action as provided in para 137 of the Law Department Manual which reads as under :—

..The Legal Remembrancer is required to supervise the entire conduct of every civil case for which he is responsible. He will furnish to the Legal Practitioner or other person appointed to conduct or defend a civil suit on behalf of the State, his instructions, which will include :—

1. The Departmental statement of the case;
2. The opinion of the Legal Remembrancer;
3. The order of the appropriate authority, to use or defend.

It is apparent from the above that in issuing instructions this Department has to forward with the instructions to the Law Officer concerned, the above mentioned material. This is not being provided by the Administrative Department with the result that the defence of cases on behalf of State is hampered. It may kindly be ensured that the references for issue of instructions are complete in future. Without compliance of the provisions of the Law Department Manual this Department may have to return the references back to the authority concerned. This may result in ex-parte proceedings against the State resulting in heavy loss to the State for which the responsibility shall squarely be of the concerned Administrative Department.

The State interest further required that at least an Officer of the rank of Under Secretary at State Level and some responsible Gazetted Officer in the field should take charge of the case in the Courts who should keep himself in constant contact with Advocate General/District Attorney, to ensure proper assistance to the Law Officer concerned to all stages of the case and should make it a point to see that all the relevant material is made available to the Law Officer concerned and no important information is kept back from him which may be necessary for the proper conduct of the case. The Officer should discuss the case with the Law Officer concerned at least at the time of drafting of the reply to be filed in the Court so that full facts are stated with clarity

and all important pleas are raised and again for setting the evidence to be adduced on behalf of Punjab State. In any case in which there are allegations of malafides against high ups in the administration, the same should be brought to the notice of the concerned authority before filing the reply in court to ensure proper reply.

The receipt of this letter be kindly acknowledged.

OFFICE OF THE CHIEF ENGINEER PUNJAB P.W.D. B&R BRANCH, PATIALA.
Endst. No. 467-538/LC Dated 29-3-79

A copy of the above is forwarded to all the Superintending Engineers/Executive Engineers of the Punjab, P.W.D. B&R Branch for strict compliance. They are advised in the interest of State to make all the references to this office for arranging defence or the suits and writ complete in all respects as laid down in para 13.7 of the Law Department Manual at the 1st instance so that the legal cases are dealt with in the right perspective.

9 Copy of Letter No. WMI/DA/Association/79 80/4353-54, dt. 25-3-80 from A.G. Haryana, Chandigarh to the Chief Engineer, Irrigation P.H. Branch Haryana, Chandigarh.

10 :- Court attendance by Divisional Accountants.

In this connection I am to inform you that the Association of Haryana Divisional Accountants has brought to the notice of this office that the Divisional Accountants in various Divisions of Irrigation/Public Health are deputed to attend the court in respect of suits filed by the various parties against the Department/Office instead of the concerned S.D.E.'s under whose jurisdiction the work to which the suit relates lies. This practice, has led to the accumulation of accounts arrear in the Divisional Offices. Keeping in view the position explained above, this office is inclined to request you to issue suitable general instructions to the Divisional Officers on the pattern of instructions already issued by the Chief Engineer, P.W.D. B&R Branch, Haryana, Chandigarh vide Letter No. EII, dated 20-2-69 (Copy enclosed). Copy of instructions so issued may also be sent to this office.

Copy forwarded to the Secretary, Haryana Divisional Accountants Association Mech. P.W.D. B&R Division Gurgaon w.r.t. his Letter No. HAR/DAA/20-21 dated 1980 81-601 / dated 24-10-81.

Copy of above is forwarded to the following.

Superintending Engineers, for information and necessary action please.

OFFICE OF THE ACCOUNTANT GENERAL, PUNJAB, CHANDIGARH-160017.
(WORKS WING)

AD-V/DA/Asson/82-83/2504 Dated 19-1-1983.

Chief Engineer, Public Health Branch, B&R Branch, Irrigation Works, Punjab.

Sub :- Supply of brief cases to the Divisional Accountants.
Sir,

The undersigned as appointing authority and cadre controlling authority of the Divisional Accountants has arrived at a conclusion that possession of a brief case by the Divisional Accountants is essential for the efficient discharge of official duties. Consequently, it has been decided, as a matter of general practice, that brief cases should be supplied to all the Divisional Accountants for official use.

Field officer may kindly be intimated of this decision.

Yours faithfully,
Sd/-

(Raghubir Singh)
Senior Deputy Accountant
General (Works)

21. OFFICE OF THE A. G. PUNJAB, CHANDIGARH-160017.

OFFICE ORDER

The Executive Engineers, having been empowered to exercise the power of controlling officers in respect of T.A. claims of Divisional Accountants working in the P.W.D. Divisions, as per Govt. of India, Ministry of Finance U.O. No. M.O.F./1845-E, IV (B)/70 dated 8th April, 1970, they may sanction journeys performed by the Divisional Accountants working in their Divisions, for official purposes, outside the Division, but within the State of Punjab and Chandigarh in terms of para 3 of Part-II (b) of the Admn. instructions contained in appendix 3-F.R. and S. Rs. Vol. II.

Sd/-

Sr. Dy. Acctt. General, Pb.

No. WAD-V/Misc/1083 dated 11-6-72 from the same officer.

Copy forwarded for information and necessary action to All Executive Engineers/ All Branches of Punjab P.W.D /All T.O's. in Punjab etc. etc.

With best compliments from :-

AMAN BIR SINGH

A-Class Contractor

Pb. P.W.D. Public Health Deptt.

Specialist in :- BUILDING & CIVIL WORKS

Resi. : Goindwal Sahib Road, TARN TARAN.

☎ : No. 22871

22. *G.I., Dept. of Pen. & Pen. Welfare, O.M. No 45/57 97-P & PW (C), dated 19-12-1997*

Fixed medical allowance of Rs. 100 p m. from 1-12-1997 to Central Government pensioners/family pensioners not covered under CGHS

The undersigned is directed to state that in pursuance of Government's decision on the recommendations of the 5th Central Pay Commission announced in this Department's resolution No. 45/86/97-P. & P.W. (A), dt. 30-9-1997, sanction of the President is hereby accorded to the grant of fixed medical allowance @ Rs. 100 p m. to Central Government pensioners residing in areas not covered by Central Government Health Scheme administered by the Ministry of Health and Family Welfare and corresponding Health Schemes administered by other Ministries/Departments for their retired employees for meeting expenditure on day-to-day medical expenses that do not require hospitalization.

2. These orders shall apply to Central Government pensioners/family pensioners, who at the time of retirement/death were governed by CCS (Pension) Rules, 1972 or other corresponding rules in operation prior to commencement of these rules and are eligible for medical facilities after retirement. Separate orders will be issued by the respective administrative authorities in respect of members of Armed Forces, All India Services and Railway pensioners/family pensioners.

3. Existing pensioners as well as the future retirees shall have to exercise one-time option to avail of medical facilities under CGHS or other similar Health Scheme of their respective Ministry/Department or to claim fixed medical allowance of Rs. 100 p.m. In the case of future retirees, the option shall be obtained by the Head of Office along with other pension papers and in case the retiring employee opts for medical allowance, specific entry to this effect shall be made in both the halves of PPO. The CGHS or other medical authorities, while issuing card to the pensioner shall check the position in this regard from PPO and restrict the facilities to be made available accordingly, i.e., card is valid only for indoor/outdoor patient treatment, as the case may be.

4. In the case of existing pensioners, if they opt for medical allowance, an undertaking shall be required to be submitted by claimants to the effect they are entitled to medical facilities under CGHS or other similar scheme administered by the Central Government but are residing in areas where no such outdoor facilities are available. On the basis of this undertaking, pension disbursing authorities shall make an entry in regard to grant of medical allowance in the both halves of PPO of the individual concerned and authorize payment of medical allowance. Such an undertaking can be obtained by Bank, Departmental PAO and Treasury once every year along with other certificates, the pensioner is required to furnish. As and when grant of medical allowance to a pensioner/family pensioner is authorized by the pension disbursing authority, intimation to this effect shall be sent to the CPAO/Concerned Pay & Accounts Office in the prescribed pro forma.

With best compliments from :-

DALJIT SINGH & SONS

GOVT. CONTRACTORS

& TRANSPORTERS



**26, SANJAY GANDHI MARKET,
GOAL BAGH,
AMRITSAR.**

5. Ministry of Health & Family Welfare/other concerned Ministries shall issue necessary instructions to all dispensaries providing medical facilities to pensioner/family pensioners to check the PPO of the pensioners and endorse the CGHS or other Card accordingly.

6. The payment shall be made to the pensioner by the Pension Disbursing Authority along with pension/family pension on monthly basis.

7. The payment of medical allowance shall be counted for as a part of Sub-Head under 'Pension and other Retirement Benefits' and no separate Head shall be opened for the purpose.

8. These orders will take effect from 1-12-1997.

G.I., Dept of Pen. & P.W. O.M No. 45 86/97-P. & P.W.(A) Part-I, dated 30-12-1997

Clarification regarding regulating pension/commutation of pension as per revised rules

The undersigned is directed to refer to this Department's Office Memorandum even number, dated the 27th October, 1997 on the subject noted above and to say that references have been received in regard to quantum of Dearness Relief to be added to the pension calculated at 50% of average emoluments in terms of Paragraph 2(ii) under the Head 'Special Provision for those retiring between 1-1-1996 and 1-12-1997'. It is hereby clarified that since in terms of Paragraph 10 (i) of the aforesaid Office Memorandum, D.A. upto AICPI 1436 is to be treated as emoluments for the purpose of calculation of pension and once pension is calculated at 50% of average emoluments (including DA upto AICPI 1436) Dearness Relief beyond AICPI 1436 and upto AICPI 1510, i.e., the difference of Dearness Relief between AICPI 1436 and AICPI 1510 allowed at the prescribed rate shall be added to it. The amount so arrived at will be regarded as pension.

2. Ministry of Agriculture, etc., are requested to bring the above clarification to the notice of all concerned.



With best compliments from :

M/s. Sunil Kumar Mohan Lal BUILDERS - CONTRACTORS
388, Aggar Nagar,
LUDHIANA. (Punjab)



PUNJAB GOVT. GAZ. (EXTRA), JULY 15, 1997

(ASAR. 24, 1919 SAKA

PART I

DEPARTMENT OF LEGAL AND LEGISLATIVE AFFAIRS PUNJAB.
NOTIFICATION

(The 15th July, 1997)

No. 7-Leg/97.—The following Act. of the Legislature of the State of Punjab received the assent of the Governor of Punjab on the 14th July, and is hereby published for general information :-

THE PUNJAB GENERAL SALES TAX (AMENDMENT)

ACT, 1997.

(Pun-jab Act. No. 7 of 1997)

AN

ACT

Further to amend the Punjab General Sales Tax Act, 1948

Be it enacted by the Legislature of the State of Punjab in the Forty-eighth Year of the Republic of India as follows :—

Short title and commencement.

1. (1) This Act may be called the Punjab General Sales Tax (Amendment) Act, 1997.

(2) It shall come into force at once.

Insertion of section 10-C of Punjab Act 46 of 1948.

2. In the Punjab General Sales Tax Act, 1948 (hereinafter referred to as the principal Act), after section 10-B, the following section shall be inserted namely :—

10-C (1) Notwithstanding anything contained in any of the provisions of this Act, every

Tax deduction from the amount payable to works contractor.

person responsible for making payment to any dealer (hereinafter in this section referred to as the contractor) for discharge of any liability on account of valuable consideration payable for the transfer of property in goods (whether as goods or in any other

form) in pursuance of a works contract shall, at the time of making such payment to the contractor either in cash or in any other manner, deduct an amount equal to two per centum of such sum towards part or, as the case may be, full satisfaction of the tax payable under this Act on account of such works contract.

(2) Any contractor responsible for making any payment or discharge of any liability to any sub-contractor, in pursuance of a contract with the sub-contractor, for the transfer of property in goods (whether as goods or in some other form) involved in the execution whether wholly or in part of the work undertaken by the contractors, shall at the time of such payment or discharge, in cash or by cheque or draft or by any other mode, deduct an amount equal to

two per centum of such payment or discharge, purporting to be a part or full amount of the tax payable under this Act on such transfer from the bills or invoices raised by the sub-contractor as payable by the contractor.

- (3) The amount deducted under sub-section (1) or sub-section (2), shall be deposited into the Government Treasury by the person making such deduction in the manner prescribed.
- (4) Any deduction made in accordance with the provisions of this section and credited into the Government Treasury, shall be treated as payment of tax on behalf of the person from whose bills and invoices the deduction has been made and credit shall be given to him for the amount so deducted on the production of certificate prescribed in this regard, in the assessment for the relevant assessment year.
- (5) If any such person as is referred to in sub-section (1) or sub-section (2), fails to make the deduction, or after deducting such amount fails to deposit the amount so deducted, the assessing authority may, after giving to such person an opportunity of being heard, by order, in writing, direct that such person shall pay, by way of penalty, a sum not exceeding twice the amount deductible under this section but not so deducted and if deducted not so deposited into the Government Treasury.
- (6) Without prejudice to the provisions of sub-section (5), if any such person fails to make the deduction or, after deducting fails to deposit the amount so deducted, he shall be liable to pay simple interest at the rate of eighteen per centum per annum on the amount deductible under this section but not so deducted, and, if deducted, not so deposited from the date on which such amount was deductible to the date on which such amount is actually deposited.
- (7) Where the amount has not been deposited after deduction, such amount together with interest referred to in sub section (6) shall be a charge upon all the assets of the person concerned.
- (8) Payment by way of deduction in accordance with sub section (1) or sub section (2) shall be without prejudice to any other mode or recovery of tax due under this Act from the contractor or sub contractor, as the case may be.

Explanation :- For the purpose of this section assessing authority shall be construed such authority having jurisdiction over the place where the business or residence of the person making deduction of tax is located "

AMENDMENT OF SECTION 14-B OF PUNJAB ACT 46 OF 1948

3. In the principal Act, in section 14-B, in sub section (6), for the words "shall the same to be transported only on the owner of the goods or his representative driver or other person incharge of the goods vehicle or vessel on behalf of the owner of the goods furnishing to his satisfaction security or security in the form of cash or bank guarantee or crossed bank draft for securing the amount of tax in the prescribed form and manner, for an amount which shall be not less than fifteen per centum

and not more than thirty per centum of the value of goods", the words, "shall allow the same to be transported only on the owner of the goods, if registered under this Act, furnishing a security or executing a bond with sureties in the prescribed form and manner to the satisfaction of the officer detaining the goods and in the case of the other owner of the goods on furnishing a security in the form of cash or bank guarantee or crossed bank draft which shall be not less than fifteen per centum and not more than thirty per centum of the value of goods", shall be substituted.

AMENDMENT OF SECTION 27 OF PUNJAB ACT 46 OF 1948

4. In the principal Act, in section 27, after clause (h), the following clause shall be inserted, namely :-

"(hh) the manner of deposit under sub section (3) and the certificate referred to in sub section (4) of section 10-C".

BAKSHISH KAUR

Secretary to Government of Punjab
Department of Legal and Legislative Affairs



With best compliments from :-

P.S.T./C.S.T. No. 20245917

* JAI MAATESHWARI *

Tele : 221962, 220912

Dated 5-2-70

Pager : 9622133565

Diesel Parts Services

[Govt. & Army Approved Contractors]

Spares for :

Tata P & H, Hind Marion, Komatsu, J.C.B ,

Cummins & Intac-Caterpillar Diesel Generators

Authorised Distributors of:

KIRLOSKAR FILTERS for Amritsar Distt.

& Gurdaspur Distt.

21 - Garden Colony,

R. B. Duni Chand Road,

AMRITSAR - 143 001.



Administration Orders

OFFICE OF THE ACCOUNTANT GENERAL (A&E) PUNJAB, CHANDIGARH-160017.
Admn /DAO-II/97-98/48 Dated : 5-2-1998

OFFICE ORDER

The Competent Authority has been pleased to promote the following Divisional Accountants as Divisional Accounts Officers-II in the time scale of Rs. 5500-175-9000. The promotion shall be effective from the date of their taking over charge as Divisional Accounts Officer-II. The officials so promoted are required to submit their joining report to the office through their concerned Executive Engineers. These promotions have been made without prejudice to the right of any official who may be entitled to the promotion before him. If the officials do not avail of the promotion within 15 days from the receipt of this order on account of any personal consideration, they will lose their seniority which will in that case be reckoned from the date they take over charge of the Divisional Accounts Officer-II.

Name of the D/A S/Sh.	Date of birth
Adarsh Kumar Sharma	16-5-60
Yogesh Chander Malhotra	13-12-58

The officials promoted to the higher scale of Rs. 5500-175-9000 will be on probation for a period of two years from the date of promotion.

The officials have to exercise option for fixation of pay as Divisional Accounts Officer-II within one month from the date of issue of this order in terms of Government Order, O.M. No. F. 7/1/80-Estt/P-I dated 26-9-81 (G.O.I. Decision under FR 22 (1) (a))

Sd/-
Sr. Deputy Accountant General (A/cs.)

Under the order No. W-Admn/DAO-II/97-98/53 dated 4-3-98, the following Divisional Accountants have been promoted as Divisional Accounts Officer Grade-II in the time scale of Rs. 5500-175-9000 on the same terms & conditions mentioned above.

Name of the DA/ S/Sh.	Date of birth
Suresh Kumar Singla	24-12-57
Sewa Singh	8-4-54
Darshan Lal Bajaj	8-2-47

OFFICE OF THE ACCOUNTANT GENERAL (A&E) PUNJAB, CHANDIGARH-160017.
Admn./97-98/52 Dated : 4/3/98

OFFICE ORDER

The Accountant General (A&E) Punjab Chandigarh, has been pleased to promote the following Divisional Accounts Officer-II to officiate as Divisional Accounts Officer-I

from the date of taking over charge in the higher functional grade of Rs. 6500-200-10500, in terms of C.A.G.'s D.O. No. 1107-N. 2/140-88 dated 1-12-88 and circular No. NGE/108/1988, circulated vide No. 1154-N-2/140-88 dated 15-12-1988. This promotion has been ordered without prejudice to the right of any official who may be entitled to the promotion before him. If the official does not avail of the promotion within 15 days from the date of issue of this order on account of any personal consideration, he will lose his seniority which will in that case be reckoned from the date of taking over charge of the post of Divisional Accounts Officer-I.

S. No.	Name of the official S/Sh.	Date of birth
1.	Harsa Singh Gill	1-2-50
2.	Ram Lal Deol	5-3-47
3.	Satish Kumar Wadhwa	15-5-51

The officials promoted to the functional grade of Rs. 6500-10500/- will be on probation for a period of two years from the date of promotion.

The official has the option regarding pay fixation which should be exercised within one month from the date of taking over charge as Divisional Accounts Officer-I in terms of Government of India, O.M. No. 7/1/88/P-I dated 26-9-81 (G.O.I. Decision No. 15 under FR 22 (1) (a) (i) wherever it is applicable.

Sd/-
Sr. Deputy Accountant General (A/cs.)



With best compliments from :-

ROSHAN LAL

GOVT. CONTRACTOR

Specialists in : All Kinds of Sanitary Works, Overhead Reservoir, Sewerage and Building Construction
Suppliers of : ALL TYPES OF MATERIALS
NAUSHERA KHURD, Majitha Road, AMRITSAR.



With best compliments from :-

PRASHANT ASSOCIATES

BUILDERS

&

ENGINEERS

'PRASHANT'

46, HUKAM SINGH ROAD,

LANE NO. 3,

AMRITSAR-143 001

Phone : 275568

Er. Ashok Kumar Sharma

B.E. (CIVIL) U.K.

Another suggestion that may be considered is to ask the Officer who records Confidential remarks to serve the copy of the said remarks to the Officer concerned before the Confidential report is submitted to the higher authorities; so that his representation against the remarks may also reach the higher authorities simultaneously with the Confidential Reports.

Above views deserve to be given kind consideration to enable us to display the courage and confidence of being Primary Checker and Financial Adviser for which this great Cadre was created.

Chief Editor

Editor

With best compliments from :-

 : 221872

Contact For :-

VISA, PASSPORT

& CHEAP AIR TICKETS

ORIENTAL

TRAVELS

TRAVELLING CONSULTANTS & TOUR OPERATORS

Opp. Custom House.
Maqbool Road,
AMRITSAR.

With best compliments from :-

Satish Aggarwal

Director

Satish Aggarwal & Co.
Satish Aggarwal
Road Cons. (P) Ltd.

G. T. Road, Mukerian

(Hoshiarpur) ²⁴⁴⁴⁸⁸ ²⁴⁴⁵⁴⁶

Tele : 01883-~~24488~~, ~~24546~~

Resi. ~~24254~~, ~~24588~~

221, Lajpat Nagar, Jalandhar. ²⁴⁴²⁵⁴ ²⁴⁴⁵⁸⁸

☎ 2226239, 221537

Fax. 0181-238675

Plant Site :-

G. T. Road, Mukerian.

Ph. 01883-~~24154~~ ²⁴⁴¹⁵⁴

G. T. Road, V. Chiheru Near Jal. Ph. 01824-65136

Ram Tirath Road, Amritsar. Ph. 0183-212422