

F.No.18/2/2014-CS-I(S)
Government of India
Ministry of Personnel, PG & Pensions
Department of Personnel & Training

2nd Floor, A Wing, Lok Nayak Bhawan, Khan Market
New Delhi, the 6th November, 2017

OFFICE MEMORANDUM

Subject: Stepping up of pay of senior Assistants of CSS drawing less pay on promotion in the Section Officers' Grade than their juniors –regarding.

Ref: OM No.18/2/2007-CS-I dated 20.05.2014 & 08.07.2014 and OM No.18/2/2014-CS.I(S) dated 27.12.20216.

Representations have been received from some CSS officers in whose case re-fixation and recovery orders have been issued by concerned Ministries/Departments in pursuance to DOPT OM dated 20.05.2014, requesting withdrawal of the OMs referred above.

2. It is once again clarified that **OM No.5/16/80-CS.I dated 13.4.1988** was issued on acceptance of award by Board of Arbitration in CA Reference No.7 of 1984 which allowed stepping up of pay of an Assistant of CSS, who is senior by virtue of having been recruited through an earlier examination but is drawing less pay on promotion in the Grade of Section Officer than his junior recruited through a later examination, up to a level equal to the pay of such junior Section Officer in the same cadre i.e. senior DR Assistant to junior DR Assistant of later exam on their promotion as Section Officer. Vide **OM No.5/21/92-CS.I dated 23.2.1994** this benefit of stepping up was extended to Section Officers appointed through Limited Departmental Competitive Examination (LDCE) (again applicable to DR Assistants only). **OM No.5/1/96-CS.I dated 8.10.1996** further extended this benefit in case of promotee Assistants and also to the cases where both junior and senior have been recruited on the basis of the same Select List/Assistants Grade Examination, as the case may be in accordance with judgments of CAT in OA No. 365/90 (Shri K.C. Sehgal VS UOI and OA No. 869/91 (Shri L.K. Chawla VS UOI), which were upheld by the Hon'ble Supreme Court.
3. That there are general guidelines of stepping up of pay issued by the Ministry of Finance vide **OM No.F.2(78)-E.III(A) dated 04.02.1966** and this Department vide **OM dated 04.11.1993**. One of the conditions of the general guidelines for allowing stepping up of pay to a senior Govt. servant with reference to a junior is that **the senior should have drawn more pay than the junior in the lower grade also.**
4. However, certain clarifications were issued by CS-I Division, DoPT in 2007 and 2008 to individual Ministries/Departments, on references received from them, **which were at variance with the general conditions of stepping up of pay** i.e. stepping up of pay was allowed even if junior was drawing more pay than the senior in the lower grade i.e. in Assistant Grade. Therefore, vide **OM dated 29.5.2009, the clarifications issued in 2007 & 2008 were withdrawn and Ministries/Departments were advised to strictly allow stepping up enforcing conditions laid down in OM dated**

8.10.1996. Departments were also informed vide **OM dated 21.05.2010** that as the matter was still under consideration, status-quo, as on date, might be maintained in the matter of stepping up of pay of Section Officers of CSS till the matter attains finality. Eventually, the matter attained finality and a consolidated OM as vetted by the Estt.(Pay) Division of this Department and Department of Expenditure was issued on 20.05.2014.

5. The Ministries/Departments were requested vide OM dated 20.05.14 that stepping up of pay already allowed in cases where the individuals are not covered by the OMs dated 13.04.1988, 23.02.1994 and 08.10.1996 and general conditions as laid down in OM dated 04.11.1993, should be reviewed and pay re-fixed accordingly. That excess payments made to the employees in the cases of wrong stepping up of pay should be recovered in terms of DOP&T's OM No.18/26/2011-Estt(Pay-I) dated 06.02.2014 and a compliance report in this regard furnished to this Department. It was further clarified vide **OM dated 08.7.2014 that all the three OMs and general conditions of stepping up of pay are not exclusive of each other and the three OMs are to be read with and subject to the general conditions reiterated vide OM dated 4.11.1993**, therefore, stepping up of pay is not to be allowed where junior was drawing more pay than the senior in the lower grade.

6. **As regards, OA No.2884/2015 and similar OAs filed in this regard,** it is observed that only applicants in these cases have been granted interim stay by the Learned CAT. That the said OAs have been filed by the applicants in the individual capacity. Thus in all those cases where stepping up of pay has been allowed, but where the benefited individuals were not covered by the OMs dated 13.4.88, 23.2.94 and 8.10.96 and the general conditions of stepping up of pay as laid down in the DOP&T's OM No. 4/7/92-Estt(Pay-1) dated 04.11.93, **pay will have to be re-fixed and recovery of excess payment, if any, is to be made.**

7. Therefore, vide reminder **OM dated 27.12.16,** the Ministries/Departments were requested to expedite the compliance reports as requested vide OM dated 20.05.2014 except in those cases where matter of recovery is subjudice/stayed by order of any competent court.

8. It may be mentioned that one of the similarly placed officers, in whose case orders for stepping up of pay with reference to a promotee assistant was issued but not implemented, had approached CAT(PB) through **OA No.1199/2014(H.C. Rai vs. UOI).** The CAT vide its order dated 28.03.17 while dismissing the OA had **categorically ruled that the stepping up of his pay was not in consonance with the provisions of OM dated 20.05.2014** i.e. OMs dated 13.4.88, 23.2.94 and 8.10.96.

9. With regards difficulty being faced by some Ministries/Departments in establishing links/chain of officers in refixation/recovery matters, it is hereby mentioned that many Ministries/Departments have already issued re-fixation orders establishing links by themselves as per the instructions issued by this Department.

10. All the Ministries/Departments are thus again requested to furnish the compliance reports in the prescribed proforma, latest by 15th November 2017.

11. In view of above, the representations/OMs of following have no merit and are accordingly disposed off:

Sl.No.	Name & Designation	Ministry/Deptt.
01	Smt. Veena Dunga, US	Cabinet Sectt.
02	Shri Avinash Chandra, US	NITI Aayog
03	Shri Brajesh Kumar Mathur, US	NITI Aayog
04	Shri P.S. Thakur, US	ISCS, M/o Home
05	Shri P.K. Tyagi, US	Consumer Affrs.
06	Manoj Kumar Singh, US	Posts
07	Shri Satish Chander, US	Civil Aviation
08	Shri U.K. Bhardwaj, US	Civil Aviation
09	Shri Amit Ghosal, US	Civil Aviation
10	Shri Anup Pant, US	Civil Aviation
11	Shri Sanjay Singh, US	Civil Aviation
12	Shri S.V. Ramana, US	Civil Aviation
13	Shi K.C. Patra, US	AHD&F
14	General Secretary, CSS Forum	-----
15	Shri Ajay Malik, US	Labour & Employ.
16	Shri Subhash Kumar, US	Labour & Employ.
17	Shri G.A. Raghuvanshi, US	Labour & Employ.
18	Shri Santhosh Kumar Singh, US	Labour & Employ.
19	Shri Atul Kumar Singh, US	Labour & Employ.
20	Shri Raj Kumar, US	Labour & Employ.
21	OM.No.A-29015/08/2014-D(Est. I/Gp.II)-Pt. dt. 1 st March 2017	Defence
22	OM No.G-12012/1/2016-E.I dt. 7 th February 2017	Food & PD

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To

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