

No. AB.14017/34/2008-Estt. (RR) (Pt.)
Government of India
Ministry of Personnel, Public Grievances and Pensions
Department of Personnel and Training

New Delhi, the 16th June, 2014

OFFICE MEMORANDUM

Subject: Recommendations of 6th CPC in para 6.1.13 regarding lateral entry against identified SAG/HAG posts requiring technical/ specialized knowledge.

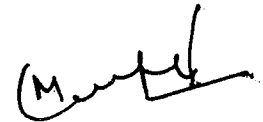
The Sixth Central Pay Commission (6th CPC) have inter alia recommended in para 6.1.13 of its Report that some of the SAG and HAG posts in Government requiring technical or specialized knowledge and which are not encadred in any of the Service be identified and filled by suitable officers within the Government as well as by the outsiders.

2. This Department has circulated vide OM of even No. dated 17.06.2013 (copy enclosed). A concept note on the above recommendations to various Ministries/Departments to carry out an exercise in this regard for identifying posts requiring technical/specialized knowledge and to examine the need for such contract appointment in the Ministry/Department.

3. This Department has not received any comments from the Ministries/Departments. It is, therefore, again requested to send your comments on Para-2 above.

4. This issues with the approval of Secretary (P).

Encl: As above



(Mukta Goel)
Director (E-I)
23092479

To

1. All Ministries/Departments of Government of India
2. The President's Secretariat, New Delhi.
3. The Vice-President's Secretariat, New Delhi
4. The Prime Minister's Office, New Delhi.
5. The Cabinet Secretariat, New Delhi.
6. The Comptroller and Auditor General of India, New Delhi.
7. The Union Public Service Commission, New Delhi.
8. The Staff Selection Commission, New Delhi.

Copy to:

1. The Rajya Sabha Secretariat, New Delhi.
2. The Lok Sabha Secretariat, New Delhi.
3. All Attached Offices under the Ministry of Personnel, Public Grievances and Pensions.
4. Establishment Officer and Secretary, ACC (10 copies).
5. All Officers and Sections in the Department of Personnel & Training.
6. Secretary, Staff Side, National Council (JCM), 13-C, Ferozeshah Road, New Delhi.
7. All Staff Members of National Council (JCM).
8. All Staff Members of the Departmental Council (JCM), Ministry of Personnel, PG and Pensions.
9. Establishment (RR Division) (10 copies).
10. NIC, North Block for posting on the website.



(Mukta Goel)
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No. AB.14017/34/2008-Estt. (RR) (Pt.)

Government of India

Ministry of Personnel, Public Grievances and Pensions

Department of Personnel and Training

New Delhi, the 17th June, 2013

OFFICE MEMORANDUM

Subject: Recommendations of 6th CPC in para 6.1.13 regarding lateral entry against identified SAG/HAG posts requiring technical/ Specialized knowledge.

The Sixth Central Pay Commission (6th CPC) have inter alia recommended in para 6.1.13 of its Report that some of the SAG and HAG posts in Government requiring technical or specialized knowledge and which are not encadred in any of the Service be identified and filled by suitable officers within the Government as well as by the outsiders.

2. A copy of the relevant extracts of the recommendations of the 6th CPC is enclosed. The recommendations envisage that selection to such posts be through the UPSC and the Government employees applying for the posts, at the time of applying, be given the option to continue in the normal pay and allowances or receiving market driven salary, on selection. The objective is to ensure availability of the best talent for these higher level posts in Government and to bring in a higher sense of participation among citizens.

3. The recommendations have been examined in consultation with Department of Expenditure and UPSC in this Department. UPSC agrees to make selection, in accordance with its mandate as given to it by the Constitution, for all posts so identified. However, selection methodology shall be worked out as and when the complete proposal specifying details of posts, duties attached to posts, qualification and experience required etc. are made available to them.

4. The various Ministries/Departments would need to carry out an exercise in this regard for identifying posts requiring technical/specialized knowledge and examine the need for such contract appointment in the Ministry/Department.

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5. A Note on guidelines for making contract appointment along with draft contract agreement is enclosed. It is requested that comments on the issue of having lateral entry into high level posts may be submitted to this Department by 15th July, 2013.

6. Hindi version will follow.

(Mukta Goel)
Director (E-I)
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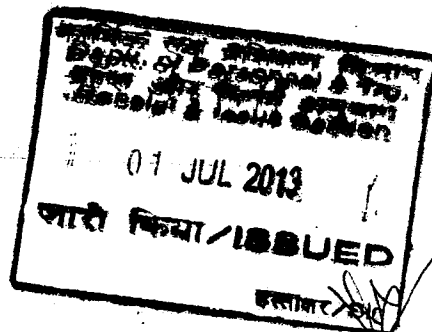
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- (ii) It will ensure that domain expertise is the major criteria for selection to a post.
- (iii) It will facilitate infusion of younger persons that have excelled in their field and break the nexus between seniority and selection to such posts with high emphasis on performance.
- (iv) It will ensure a level playing field for members of different services/AIS cadres and will afford an equal opportunity to the high performers irrespective of the service to which they happen to belong.
- (v) The scheme will be transparent, equitable and assure the applicants of the fairness and impartiality of the selection process.

Lateral entry at higher grades

6.1.13 Apart from opening up the process of selection for deputation to the higher level posts, the Government should also identify some of the SAG and HAG posts requiring technical or specialized knowledge and which are not encadred in any of the service. These posts would be open for being filled by suitable officers within the Government as well as by the outsiders. The Government can also suggest some names for consideration of the selecting agency. The selection for deputation to these posts could be made by the UPSC irrespective of their working in the Government or outside it. Government employees applying for these posts will, at the time of applying, have the option of either:-

- continuing on normal pay and allowances in case they are selected (After their tenure in the post they will revert to their cadre); or
- being given market driven salary on selection.

In case a Government employee chooses the option of appointment on market driven salary, he/she will have to sever all ties with the Government before applying for the post. The employee will have to either resign or take retirement at the time of applying, as an outside candidate. Candidates selected from outside the Government will invariably be appointed on contract for a fixed tenure and their remuneration fixed as dictated by the extant market forces. Their appointment will be for a fixed term that could, however, be renegotiated once the term expires at the option of the employing agency. This will ensure availability of the best talent for higher level posts in the Government and will also bring a higher sense of participation amongst citizens who would

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have an opportunity to contribute in the higher echelons of the Government provided they possess the right qualifications and experience for the job. Initially, the Government could consider filling some of the non-sensitive posts in the technical /other branches in this manner.

Ban on creation of additional SAG/HAG posts in individual cadres

6.1.14 Once the aforesaid method of selection for holding deputation posts in SAG/HAG in Centre is implemented, a total ban on creation of any fresh posts in SAG and HAG in various Central Civil Services/AIS should be placed. No fresh creation of posts should take place in any cadre. Any further creation has to be based on functional considerations and the post so created would be an open post not encadred in any service.

Promotion Policy

ACPS

6.1.15 Promotion policy exists to provide adequate career progression to the employees. The Fifth CPC was of the opinion that the Government should formulate a promotion scheme that caters to the promotion aspirations of Central Government employees in general. They recommended the Assured Career Progression Scheme (ACPS) for the general employees in the Government. The Fifth CPC had also recommended use of cadre review mechanism to bring uniformity in the career prospects of Group A central services. Department of Personnel & Training (DOPT) was also advised to issue detailed guidelines for cadre reviews of posts belonging to Groups B, C & D so as to ensure timely review thereof. The scheme of ACP recommended by the Fifth CPC envisaged three time bound promotions for Group A posts after 4, 8 & 13 years of service. For posts in Groups B, C & D, two time bound promotions were to be provided on completion of 8 & 16 years of service for Group B, 10 & 20 years for Group C and 12 & 24 years of service for Group D. The Government accepted this recommendation in a modified manner and introduced the ACPS for Groups B, C & D and isolated posts in Group A where two financial upgradations were to be provided on completion of 12 & 24 years of service. The financial upgradations were to be in the next higher grade in the existing hierarchy. Benefit of pay fixation under FR-22(1) (a) (i) was to be given at the time of these financial upgradations but no change in designation or functions accompanied such upgradation. The scheme, therefore, did not envisage a change in the status or rank of the employee who continued in the same post but only extended the next higher pay scale available in the hierarchy. ACPS has, by and large, alleviated the problem of stagnation and also allowed higher rate of increments in the higher scale extended under it. However, it has given rise to many other problems, mainly because the financial

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Concept Note on guidelines for making contract appointments as
per the recommendations of 6th CPC

The Sixth Central Pay Commission (6th CPC) have inter alia recommended in para 6.1.13 of its Report that some of the SAG and HAG posts in Government requiring technical or specialized knowledge and which are not encadred in any of the Service be identified and filled by suitable officers within the Government as well as by the outsiders. A copy of the relevant extracts of the recommendations of the 6th CPC is enclosed. The recommendations envisage that selection to such posts be through the UPSC and the Government employees applying for the posts, at the time of applying, be given the option to continue in the normal pay and allowances or receiving market driven salary, on selection. In case a Government employee chooses the option of appointment on market driven salary, he/she will have to sever all ties with the Government before applying for the post. The employee will have to either resign or take retirement at the time of applying as an outside candidate. Candidates selected from outside the Government will invariably be appointed on contract for a fixed tenure and their remuneration will be for a fixed term that could, however, be renegotiated once the term expires at the option of the employing agency. The objective is to ensure availability of the best talent for these higher level posts in Government and to bring in a higher sense of participation among citizens who would have an opportunity to contribute in the higher echelons of the Government provided they possess the right qualifications and experience for the job.

2. Presently the guidelines on framing/amendment/relaxation of Recruitment Rules issued by this Department prescribe the different methods of recruitment as under:

- (a) Promotion
- (b) Direct Recruitment
- (c) Deputation
- (d) Absorption
- (e) Re-employment
- (f) Short-term contract.

3. Method of appointment by contract is not provided in the guidelines. In the context of 6th CPC recommendations as above the modalities for making contract appointment have been prepared as under:-

- (a) The mode of recruitment shall be inter alia specified at the time of identification of post/consideration of proposal for creation of posts. The job description, qualifications, experience required for making appointments to these identified posts shall need to be formulated before making necessary/additional provisions in the Recruitment Rules for these posts.
- (b) The tenure may be kept fixed to 3 to 5 years to execute contracts on the basis of the nature and requirement of the post with no claims for subsequent permanent employment. There should be a provision for Annual Review.
- (c) Contract employee is expected to deliver against assigned work against prescribed agreed compensation. Provisions shall be made in the contract agreement to include required competencies to execute their responsibilities, ability to render advice, recommendations/ decision on file. As appointment on contract is against regular posts, provisions on CCS (Conduct) and CCS (CCA) Rules shall be included in the contract agreement. The same shall need to be vetted by DOPT and Ministry of Law & Justice.
- (d) The provisions for increment if any shall be in-built within the contract agreement to cater for inflationary trends/ performance. Minimum throughput to measure performance/ deliveries will form part of contract.
- (e) There shall be no provision for lien against the post in which officers have been appointed on contract basis.
- (f) The Government employees applying for the posts, at the time of applying, be given the option to continue on deputation in the normal pay and allowances or receive market driven salary on selection. In case a Government

employee chooses the option of appointment on market driven salary, he/she will have to take a "No Objection Certificate" before applying for contract appointment and that final offer of appointment would be subject to VRS/Resignation being accepted. There shall be no provision for lien against the post held prior to their contract appointment. Applicants from PSUs, autonomous bodies, private organizations must also resign from their previous employment if they wish to be considered for such posts to avoid conflict of interest.

Provided that in case a regular Central Government employee is to be appointed on contract basis, it should be ensured that the selection has been done in a transparent manner by inviting public participation and after fulfilling conditions for appointment on contract basis

(g) Candidates selected from outside the Government will invariably be appointed on contract for a fixed tenure and their remuneration will be for a fixed term that could, however, be renegotiated once the term expires at the option of the employing agency.

(h) The compensation package in various cases is as suggested below:

(i) Compensation package in case of contractual appointments through open market

In accordance with the revised pay structure, the basic pay at entry level in the case of direct recruits to SAG will be Rs. 53000/- (including Grade Pay of Rs. 10000) and the maximum basic pay for SAG employees cannot exceed Rs. 77000/-. Similarly, in the case of HAG the minimum and maximum pay is between Rs. 67000/- and Rs. 79000/-. In accordance with these, the initial basic pay of a candidate can be fixed within the minimum and maximum indicated above for SAG and HAG. This shall depend on the requirement of the job, educational and technical qualification, experience, availability of talent in the market etc.

The concerned Department can have the following two options to fix the compensation package for the selected candidates.

- A consolidated package without any increment for the entire duration of the contract; and
- A package with annual increment to be given each year of the contract depending on the performance of the candidate. In this case, the minimum basic pay should be fixed in such a manner that at the end of the contract, it should not exceed Rs. 77000/- for SAG and Rs. 79000/- for HAG.
- The candidates having more experience may be paid more than those having lesser experience. The pay package for candidates in fields requiring highly specialized knowledge can be higher. The Ministry concerned would decide the pay on case to case basis.

(iii) Market-driven compensation package

- If the Ministry/Department is of the view, that the required talent will not be available within the overall maximum pay prescribed for the Pay Band (PB) 4, they may fix the higher compensation package in the form of consolidated monthly pay for the entire period. The consolidated package so fixed will not normally exceed Rs. 2,00,000/- per month and this will be without house and car or any other perks. In the case of contractual market driven pay package, no other allowance including Dearness Allowance will be admissible. The package will have to be decided by the concerned Ministry/Department in consultation with their FA. However, in case the consolidated package exceeds Rs. 2.00 lakhs per month, the matter may be referred to Department of Expenditure for approval.
- Depending upon the requirement of the job, the duration of the contract may be fixed but it shall not exceed five years. The concerned Department should include performance linked annual milestones in the contract. In the case of

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non-achievement of milestone the employer should have the liberty to terminate the contract after following normal procedure in this regard.

4. The various Ministries/Departments would need to carry out an exercise in this regard for identifying posts requiring technical/specialized knowledge.

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AGREEMENT

ARTICLES OF AGREEMENT made this.....day ofTwo Thousand and Nine BETWEEN.....son of Shri..... at present residing at Here in after referred to as party of the first part) and the PRESIDENT OF INDIA (HEREINAFTER CALLED "THE Government") of the second part.

WHEREAS it has been agreed between the parties that the party of the first part shall be appointed as the.....in thewith effect from the afternoon of For a period of.....years or until further orders on contract basis on the terms and conditions herein contained.

NOW THESE PRESENTS WITNESSETH AND THE PARTIES HERETO RESPECTIVELY AGREE AS FOLLOWS;

1. The Government has agreed to engage the party of the first part and the party of the first part has agreed to serve the Government as.....in the With effect from the afternoon ofof a period ofyears or until further orders on contract basis on the terms and conditions herein contained. The party of the first part shall submit himself to the orders of the Government and of the officers and authorities under whom he may from time to time be placed by the Government and shall remain in the service subject to the provisions herein contained.
2. The party of the first part shall devote his whole time to his duties and shall, whenever required, proceed to any part in or outside India and perform such duties as may be assigned to him by the Government.
3. The appointment of the party of the first part asin the Shall continue for a period of ...years or until further orders of the Government, subject to the provisions contained in the following clause 4.
4. The service of the party of the first part may be terminated by giving one calendar month notice in writing any time during the terms of the appointment under this agreement either by the party of the first part to the Government or by the Government or its authorized officer to the party of the first part without assigning any reasons whatsoever.

AGREEMENT

5. The party of the first shall, from the forenoon/afternoon _____ receive a pay of Rs. _____ (Rupees _____ only) minus pension and ad-hoc relief grants, if any, paid or payable by the Central or State Government to the party of the first part subject to the condition that the pay plus pension should not exceed Rs. _____. He shall, in addition, be entitled to receive such compensatory and other allowances as may be prescribed by the Government for the class of officers serving in the equivalent post to which Government has declared the party of the first part to correspond in status or conditions of service. The aforesaid pay and allowances shall be paid to the party of the first part for such time as he shall serve under this agreement and actually perform his duties commencing from the aforesaid date and ceasing on the date of his quitting service or on the date of his discharge there from or on the expiration of his terms of service under this agreement or on the day of his death if he shall die whilst in service. If at any time the party of the first part proceeds on deputation out of India his pay during the period of his deputation shall be regulated by the Central Government rules and orders regarding deputation.

6. In case the party of the first part opts to occupy government residential accommodation, he will be eligible for the type and category of accommodation on the same terms as for the class of officers serving in equivalent post, which the Government has declared the party of the first part to correspond in status or conditions of service. This would need concurrence of Ministry of Urban Development. In case the party of the first part resides in his own accommodation, he will be entitled to the House Rent Allowance @ 30%. However, there shall be no provision of Government accommodation and HRA in case of market-driven compensation package where a consolidated salary has been provided.

7. The party of the first part will be entitled for leave/encashment of leave in terms of DOPT's OM No. 12016/3/84-Estt. (L) dated 12th April 1985 as amended by OM No. 12016/1/90-Estt. (L) dated 5th July 1990, OM No. 12016/2/90-Estt. (L) dated 12th July 1999 and OM No 12016/5/2009-Estt.(L) dated 31st January 2011.

8. The party of the first part will be entitled to travelling allowance and other allowances, as admissible to equivalent class of officers in the Government of India on transfer, for the journey of the party of the first part and his family members for taking over his assignment at the headquarters. The party of the first part will be allowed the same facilities, to settle anywhere in India, on his relinquishing the charge.

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AGREEMENT

9. If the party of the first part is required to travel in the interest of the public service, he shall be entitled to traveling allowance on the scale provided for in the rules supplementary to the Fundamental rules framed by the Government from time to time in force and applicable to the officers of his class.
10. The party of the first part shall be eligible for all concessions in relation to medical attendance and treatment that may be prescribed by Government for the class of officers serving in the equivalent post to which the Government may declare the party of the first part to correspond in status or in conditions of service, subject to the payment by him of contribution as applicable, under the prescribed rules.
11. During his service under these presents, the party of the first part shall be entitled to Leave Travel Concession as admissible under the rules and orders of the Government from time to time in force.
12. Notwithstanding anything hereinbefore contained the pay and leave salary admissible under these presents whether payable in India or elsewhere shall be subject to any emergency cut that may be ordered by the Government for the same period and on the same terms as for other officers of the equivalent post and status under the administrative control of the Government.
13. The party of the first part will not be allowed to join any retirement scheme of the Government of India.
14. In respect of any matter relating to the conduct, discipline and other conditions of service and in respect of which no provisions has been made in this agreement, the provisions of the C.C.S. (Conduct) Rules, 1964 and C.C.S. (C.C.A.) Rules 1965, or any other rules made or deemed to be made under article 309 or contained under article 313 of the constitution shall apply to the party of the first part to the extent to which they are applicable to the service hereby provided for and the decision of the Government as to their applicability shall be final.
15. The stamp duty payable on this agreement shall be borne by the Government.

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IN WITNESS WHEREOF the party of the first part and Shri
have hereunto set and subscribed their respective hands the day, the
month and year first above written.

Executed by Shri
at
in the presence of:-

Witness.....

Name.....

Designation.....

Address.....

Executed for and on behalf of the
President of India by.....
.....
at New Delhi in the presence of :-

Witness.....

Name.....

Designation.....

Address.....

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IMMEDIATE

F.No.38/6 /2013-P&PW(A)
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Pension and Pensioners Welfare

Lok Nayak Bhawan
Khan Market, New Delhi-110003
21st June, 2013

Office Memorandum

Subject:- Draft guidelines for making contract appointments as per the recommendations of 6th CPC in para 6.1.13 regarding lateral entry against identified SAG/HAG posts requiring technical/Specialized knowledge –reg.

The undersigned is directed to refer to DoPT(Establishment -RR)'s ID No.AV.14017/34/2008-Estt.(RR)(Pt.) dated on the above subject and to say that, from the note/guidelines, it is not clear whether the contract employees would be treated as Government servant. Therefore, DoPT is requested to clarify this position.


(S.K. Makkar)

Under Secretary to the Government of India



Department of Personnel & Training
(Ms. R. Gayathri, Under Secretary (RR))
North Block,
New Delhi