

No. 1/4/2017-Estt.(Pay-I)
Ministry of Personnel, Public Grievances & Pensions
(Department of Personnel & Training)

North Block, New Delhi
Dated the 26th February, 2019

OFFICE MEMORANDUM

Subject:- Restriction of officiating pay under FR 35 in the context of CCS(Revised Pay) Rules, 2016-regarding

The undersigned is directed to state that in terms of the provisions contained in Fundamental Rule 35 (FR 35), the Central Government may fix the pay of an officiating Government servant at an amount less than admissible under the Fundamental Rules. Accordingly, orders have been issued from time to time indicating the circumstances and the extent to which provisions of FR 35 would apply. In this row, this Department vide OM No.1/4/2009-Estt(Pay-I) dated 08.03.2010 laid down the ceilings for restriction of basic pay under FR 35 in running pay bands and grade pay system in the 6th CPC scenario.

2. The question of revising these ceilings after implementation of CCS (RP) Rules, 2016 has been considered by the Government and the President is pleased to decide that the pay under FR 35 shall be restricted in a manner so that the increase in the basic pay of the post held by the Government Servant prior to the officiating appointment shall not exceed 12.5% subject to a maximum of Rs. 6700 per month. Any increase in excess of 12.5% of the basic pay with a further ceiling of Rs. 6700 per month shall be treated as substantial increase for the purposes of FR 35.

3. In case of appointment on promotion in the normal line within the cadre but which are not on regular basis, initially the pay may also be fixed under relevant rules. After such fixation of pay, if it is found that there is no substantial increase in the pay so fixed as defined in para 2 above, the restriction under FR 35 will not be applied as shown in **Illustration 1**. However, after such fixation of pay, if it is found that there is substantial increase in the pay so fixed, the restriction as mentioned in para 2 above will be applied. In that case, after restriction of basic pay if there is no such Cell equal to the amount so arrived after restriction is available in the Level of Pay Matrix of the officiating post, the officer shall be placed at the next higher Cell in that Level even if the limit for restriction mentioned in para 2 above is breached, as shown in **Illustration 2**. The Government servant will earn his annual increment on the basic pay so fixed after imposition of restrictions under FR 35.

4. However, in the cases where the pay of the officer after imposition of the restrictions in the manner indicated above is fixed at less than the value of the first Cell of the Level of the officiating post, in that case, his pay will be fixed in the Level of post held by him before such officiating appointment. If no such Cell equal to the amount so arrived after restriction is available in the Level of post held by him before such officiating

(i) Bahsee

appointment, the officer shall be placed at the next higher Cell in that Level even if the limit for restriction mentioned in para 2 above is breached and he will draw his annual increment(s) in that Level of the lower post till he reaches the minimum of the Level of the officiating post. After one year of reaching/surpassing the minimum of the Level of the officiating post, the officer will become entitled to increment in the Level of the officiating post and his pay will be fixed in Cell 2 of the Level of the pay matrix of the officiating post as shown in **Illustration 3**.

5. In cases of appointments on promotion in the normal line within the cadre but which are not on regular basis, the pay shall be restricted under FR 35 in the manner given above. However, restriction of officiating pay under FR 35 will not be invoked in respect of regular cadre promotion where the employee who becomes due for promotion falls within the zone of consideration and fulfils all the conditions of eligibility prescribed in the Recruitment Rules for promotion.

6. The new rates will be applicable with effect from the date an employee draws pay in the revised scale of pay applicable in accordance with Central Civil Services (Revised Pay) Rules, 2016.

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

8. Hindi version will follow.



(Rajeev Bahree)
Under Secretary (Pay)
Tele: 23040489

To

All Ministries/ Departments of Government of India.

Annexure to No. 1/4/2017-Estt.(Pay-I) dated the 28th February, 2019

Illustration 1

An officer was drawing pay of Rs.78500 in Cell 6 of Level 11 before his appointment to officiate in Level 12 carrying duties and responsibilities of greater importance than those attaching to the post held by him before such appointment.

On the date of his officiating appointment, he may be granted one increment (Cell 7 in Level 11-Rs.80900) and thereafter, he is to be placed at a cell equal to the figure so arrived (Rs.80900) in the Level 12. Since no such cell equal to Rs. 80900 is available in Level 12, he shall be placed at the next higher cell in that Level [Cell 2 of Level 12- Rs.81200/-].

After such fixation since there is only an increase of amount of Rs.2700 (Rs. 81200-78500) which is less than 12.5% of the basic pay (Rs.78500) of the post held earlier by the officer before such officiating appointment and further limit of Rs.6700/-, there is no substantial increase in the pay so fixed. The restrictions under FR 35 will, therefore, not apply in this case and his pay will be fixed at Rs.81200/- (Cell 2 in Level 12).

Illustration 2

An officer was drawing pay of Rs.175500 in Cell 13 of Level 13 before his appointment to officiate in Level 14 carrying duties and responsibilities of greater importance than those attaching to the post held by him before such appointment. In this case, his pay is to be fixed in the following manner under FR 35:-

On the date of his officiating appointment, he may be granted one increment (Cell 14 of Level 13- Rs.180800) in the Level (Level 13) of the post held by him before officiating appointment. Since no cell equal to 180800 is available in Level 14 he shall be placed at the next higher cell in that Level (Rs.182700- Cell 9 of Level 14). By such fixation of pay, the increase in pay comes to Rs. 7200 (Rs. 182700-175500). Amount of /Increase of Rs.7200 is more than increase of Rs.6700/- permissible under FR 35 and as such this increase shall be treated as substantial increase for the purpose of restriction under FR 35. Thus, his pay is to be fixed at Rs. 182200(175500+6700). However, as no such cell equivalent to the value of Rs. 182200 is available in Level 14, his pay is to be fixed at next Cell in Level 14, i.e. Rs.182700 (Cell 9 in Level 14) breaching the limit of Rs.6700.

P. Babbar

Illustration 3

An officer was drawing pay of Rs.36500 in Cell 2 of Level 6 before his appointment to officiate in Level 7 carrying duties and responsibilities of greater importance than those attaching to the post held by him before such appointment. In this case, his basic pay is to be fixed in the following manner under FR 35:-

On the date of his officiating appointment, he may be granted one increment (Cell 3 of Level 6 Rs.37600) in the Level (Level 6) of the post held by him before officiating appointment. However, no cell equal to amount of Rs. 37600 is available in Level 7 as minimum Cell value in Level 7 is Rs.44900 (Cell 1 of Level 7). If his pay is fixed at Rs.44900 (Cell 1 of Level 7) , the increase in pay comes to Rs. 8400 (Rs.44900-36500) which is more than increase of Rs.4562.5/- (12.5% of 36500) limit prescribed under this OM. As such this increase shall be treated as substantial increase for the purpose of restriction under FR 35. His basic pay is thus to be fixed at Rs.41062.5 (36500+4562.5) in the Level of the post held by him before such officiating appointment i.e. Level 6. Since no such Cell equal to the amount of Rs.41062.5 is available in Level 6, his pay is to be fixed at next Cell in that Level, i.e. Rs.41100 (Cell 6 in Level 6) breaching the limit of 12.5%.

R Babree