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**Minutes of the meeting of the Standing Committee held on
7th May, 2014**

1. A meeting of the Standing Committee of the National Council (JCM), was held on 7.5.2014 at 11.00 AM in Conference Room No 119, North Block and was chaired by Dr S K Sarkar, Secretary DOP&T. A list of members who attended this meeting is at ANNEXURE I.

2. The Chairman welcomed all members of Official and Staff Side of the Standing Committee and conveyed condolences on the demise of Late Shri Umraomal Purohit, who was Secretary of the Staff Side for more than three decades. He mentioned that the 7th Pay Commission since set up by the Government was an opportunity for all stakeholders to take part in its deliberations in a constructive manner. The Chairman concluded by expressing the hope of continued support from staff organizations in this regard.

3. The Leader, Staff Side, while thanking the Chairman raised the issue of non-regular functioning of the Joint Consultative Machinery which was a cause of concern. He pointed out that inspite of DoPT instructions, Departmental Councils were either not functioning or have not been constituted in many Departments. He stated that JCM is always cooperative. He mentioned that anomalies of 6th CPC are still unresolved and 7th CPC may not go into the anomalies of 6th CPC like in past. He referred to the meeting of the Joint Sub Committee on MACP held on 27th July 2012 and mentioned that though it was assured that the pending cases

will be looked into positively, the proposals are being sent back. There are instructions of DoPT that MACP is a fall back option and that Cadre reviews should be done in the right earnest; it was noted that the Cadre Restructuring proposal of the Defence civilian staff was returned by the authorities on the plea that 7th CPC has been set up. He mentioned about MACP anomalies cases which were not being processed positively like in the case of LDCE/GDCE quota where this was being treated as promotion even though original DoPT instructions very clearly state that upgradation or merger is not promotion, but later on DoPT has clarified that it is a promotion. He also raised the issue of TOR for the 7th CPC and stated that the meeting with Secretary (Expenditure) which was asked for by the Staff Side before finalisation should have been held. On DA merger he stated that it is already 100 % and may go up further, so there is need for merger. Drawing attention to Railways related issues, he stated that unanimous decisions taken in their Department Anomaly Committee when referred to Ministry of Finance have not resulted in any decision even after three years.

4. The Secretary, Staff Side, in his opening remarks thanked the Chairman for calling this meeting of the Standing Committee and stated that it is a good start and expressed the hope that the National Council (JCM) meeting would also be held soon. He suggested that decision making needs to be decentralized. He stated that in the case of Railways, even though there is a Financial Commissioner who takes part in the meetings of the Departmental Council, even then decisions of Departmental Council are sent to DoPT and Deptt of Expenditure for finalisation. He stated that only necessary cases need to go to DoPT/ Deptt of Expenditure.

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5. The Secretary, Staff Side stated that all the pending Cadre Review proposals should be finalized and should not be held up on account of setting up of 7th CPC. Similarly, he requested that the left over items of Anomalies should be discussed in a meeting of the National Anomaly Committee so that there is closure with proper reasoning and logic. He also suggested that like in Railways there should be a Calendar for Standing Committee and National Council meetings. He also referred to letter written by him to the Chairman on why lower level employees are forced to go to the Court for the redressal of their issues when issues can be resolved under the JCM. He also stated that it would have been better if TOR for the 7th CPC had been discussed with the Staff Side before finalizing.

6. The other Staff Side representative also raised certain issues in their opening remarks. The representative from Defence raised the issue relating to erstwhile Group 'D' Posts in the Category of Industrial and Non-Industrial which were upgraded and merged as Semiskilled and MTS by 6th CPC w.e.f. 1.1.2006. DOP&T later clarified that such merger is effective from 01.09.2008, thereby denying the ACP benefits due to them after 1.1.2006. The issue relating to Night Duty Allowance for employees working in Defence Industrial Establishments where the Hon'ble Supreme Court has upheld the ruling of CAT that NDA rates should be revised from 1.4.2007 in 6th CPC Pay scale and applied to similarly placed employees was yet to be implemented. Cadre restructuring proposals pending with Ministry of Defence, DOP&T and Deptt. of Expenditure should not be returned back on the plea

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that the 7th CPC has been constituted. Risk Allowance rates of the Defence Civilian employees which have not yet been revised may be revised urgently. It was also brought out that for the past 3 years no meeting of the Departmental council (JCM) of the Defence Ministry has taken place. Similarly last Departmental council meeting in Ministry of Finance was held in 2005.

7. On the issue relating to the finalization of the Terms of Reference of the 7th CPC the Staff Side stated that these have been finalized by the Government of India unilaterally without having thorough discussion with the Staff Side as was specifically requested by the Staff side in the meeting held under the chairmanship of Secretary (Personnel) on 24th October, 2013. The Staff Side has mentioned that the ToR, as finalized by the Government, had not considered many of the suggestions of the Staff Side, in regard to date of effect of Pay Commission, Merger of D.A., Interim Relief, representation of labour representative in the Commission itself, parity issues in regard to pensioners, settlement of the pending Anomaly items etc.,

8. Thereafter the Agenda Items were taken up for discussion. Since Agenda Items No 1,2 and 3 on Terms of Reference of the 7th CPC , date of effect of the recommendations of the 7th CPC from 01.01.2011 and merger of DA with pay were interrelated, these three items were taken up for discussions together.

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Item No 1, 2 & 3 : Terms of Reference of the 7th CPC , date of effect of the recommendations of the 7th CPC from 01.01.2011 and Merger of DA with pay

9. Secretary (Expenditure) expressed his condolences at the demise of Sh Purohit. He then mentioned that the issue of the ToR of the 7th CPC was handled with great sensitivity and it was not correct to say that the views of the Staff Side have not been taken into account. Almost 90% of what Staff Side had suggested for the TOR for the 7th CPC was taken very seriously and only in the case of GDS and Interim Relief there were certain issues due to which these could not be included in the TOR. In regard to the date of effect of the recommendations is also one of the ToR of the 7th CPC. The date of effect of the recommendations of a Pay Commission is suggested by the Commission itself. This was the practice followed in respect of the previous central pay commissions. Therefore, the date of effect of the recommendations of the 7th CPC cannot be suggested upfront, since this would be recommended by the 7th CPC itself having regard to various factors that they may take into account. In regard to the Interim Relief, he mentioned that this is normally given when there is delay in constitution of the Central Pay Commission, say. Since the 7th CPC has been set up well on time, question of interim relief was not considered necessary.

10. On the issue of merger of DA with pay he pointed out that the 6th CPC in its Report had specifically recommended against it. As to the inclusion of a representative of labour in the composition of the 7th CPC is concerned, the composition

of the 7th CPC was broadly in line with the composition of the previous three Central Pay Commissions and Government did not want to make it unwieldy. So far as the issue relating to Pensioners is concerned, the same has been amply included in para (f) of the ToR. As regards the pay anomalies, the same would be considered by the 7th Central Pay Commission as part of its overall ToR.

Item No 4 Appointment on Compassionate Grounds under the Central Government

11. The Staff Side mentioned that the 5% ceiling on compassionate ground appointment was illogical; due to this ceiling, a large number of cases of appointment on compassionate grounds have been pending in different departments, with the result that, the bereaved families of the late employees are constrained to face hardship due to loss of bread winner. They wanted that condition of 5% ceiling must be done away with. It was mentioned by them that in Ministry of Defence vacancies under compassionate appointments are worked out by not taking into account vacancies in Service whereas while appointing Service civilian on compassionate grounds, the vacancies of civilian side are also taken to adjust Service civilians.
12. The Official Side stated that the issue of enhancing the upper ceiling of 5% / doing away with the ceiling of 5% altogether, has already been considered in this Department keeping in view the various judgments of the Supreme Court on the subject. It was observed that care has to be taken that provision for compassionate employment which is in the

nature of an exception does not unduly interfere with the right of those other persons who are eligible to seek appointment against the post which would have been available, but for the provision enabling appointment being made on compassionate ground of the dependant of the deceased employee. The Supreme Court has held that as a rule, appointments in the public services should be made strictly on the basis of open invitation of applications and merit and compassionate appointment is an exception to this general rule. The official side also indicated that this issue has come under examination in the Parliamentary Committee and it has been decided to collect requisite information in implementation of the scheme from all Ministries/ Departments and thereafter the whole issue will be examined and reviewed. It was also mentioned that this is a part of the RFD item for this Ministry.

Item No:5 Regularisation of Casual/Contingent/Daily Rate Workers

13. The Staff Side stated that due to ban on creation of posts and restriction on recruitment of personnel that continued till 2009, many departments recruited personnel on daily rated basis or as casual workers. Thus, the Government should evolve a scheme by which these casual/contingent/daily rated workers are made regular workers. The official side stated that Casual labourers/ daily wage workers are to be engaged for work which is casual or seasonal or intermittent nature or for work which is not of full time nature, for which regular posts cannot be created. The official side also referred to the Constitutional Bench judgment of the Supreme Court in Uma Devi case where the Apex Court has clarified that

appointments cannot be in violation of the provisions of Constitution. Further, as per the 6th CPC report and the instructions issued by Deptt. of Expenditure, all Group 'D' posts have been upgraded to Group 'C' and recruitment such Group 'C' posts would be through Staff Selection Commission.

Item No 6 Downsizing, Outsourcing, Contractorisation etc.

14. The staff side stated that due to ban on recruitment and creation of posts specifically by the Government Orders of 2001, many departments resorted to outsourcing of its functions. The large scale outsourcing and contractorisation of functions had a adverse effect on the efficacy of the Government departments. Staff side mentioned that regular nature of jobs were being out sourced in violation of Contract Labour Regulation Act. In Defence establishments, the Staff Side stated that 10-30% employees were on contract who were being exploited as labour laws were not being strictly enforced. Further, there were issues of safety hazards and maintenance of assets created in sectors like Railway and Defence. It was therefore suggested by Staff Side that the present scheme of outsourcing and contractorisation of essential functions of the Government must be abandoned and all the regular and perennial nature works should be entrusted on regular Government employees only.

15. The official side explained that as on date there is no ban on recruitment in Central Government and the respective Ministries/Departments concerned are required to fill up the vacancies within the framework of existing instructions/rules keeping in view functional requirement of the posts.

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Outsourcing of non core activities of Ministries Departments is required to be done as per the GFRs 2005 .

Item No 7 Revising Overtime Allowance(OTA) and Night Duty Allowance rates

16. The Staff Side raised the issue of revision of Overtime Allowance and Night Duty Allowance which is paid to Government employees who are called upon to do overtime or night duty on the basis of the 4th CPC pay structure. They referred to the Board of Arbitration award in favour of the staff which directed the Government to revise the order to link the payment of Overtime Allowance and Night Duty Allowance to the actual pay of the Government employees. They demanded that the Government must accept the award of the Board and issue instructions linking the Allowance to the actual pay of the employee.

17. The Official Side stated that the awards on Overtime Allowance and Night Duty Allowance were considered by the Government and it was decided by the Government not to accept these awards in view of large estimated financial implication. Further, the 5th & 6th CPC had also suggested abolition of OTA and the Government had decided to maintain status quo at the existing rates till the introduction of Performance Related Incentive Scheme (PRIS). It was suggested that this issue may now be examined by the 7th CPC.

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Item No 8 : Stepping up of pay of Seniors drawing less pay than the Juniors consequent on fixation of Pay due to implementation of 6th CPC recommendations between Direct Recruits and Promotees

18. On this issue the Staff Side referred to the discussions in the National Anomalies Committee where after discussions it was agreed by both the Staff Side and the Official Side that wherever there is a provision of direct recruitment in the Recruitment Rules, pay on promotion would be fixed at the prescribed minimum of the Entry Pay as provided for the Direct Entrants in the Revised Pay Rules, irrespective of the fact whether direct recruitment has actually taken place or not. The Staff Side stated that non implementation of this agreement in National Anomalies Committee was a serious issue which has resulted in discontentment among the seniors promoted employees. The Staff Side insisted that orders need to be issued to give effect to this agreement.

19. The Official Side stated that this issue was considered by the Government very carefully and the Government has agreed to stepping of pay of seniors, if their pay happens to be lower than junior direct recruits joining on or after 1.1.2006, if both senior and junior belong to the same seniority list. It was also brought out that since this issue is presently *sub judice* it may not be possible to consider the issue at this stage, pending an outcome of the Court cases.

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Item No 9 Stepping up of Pay of Senior employees at par with their Juniors consequent upon implementation of MACPS

20. The Staff Side in their Note had indicated that under the Modified Assured Progression Scheme(MACPS) there are cases where the seniors who were promoted before implementation of the MACPS and the juniors who could not get normal promotion due to non-availability of vacancy or otherwise, and were extended the benefit of financial upgradation under MACPS on fulfilment of conditions laid down therein, the seniors are drawing lesser pay than their juniors under this scheme which is causing sense of frustration among the seniors.
21. The Official side stated that under the MACP Scheme no stepping of pay in the pay band or grade pay is admissible with regard to junior getting more pay than the senior on account of pay fixation under MACP Scheme as financial upgradation under the MACPS is personal to the employee, it was however decided that to mitigate the instances of senior employees who got benefit under ACP Scheme prior to 1.1.2006 and were drawing less pay than their juniors who got benefits under ACP Scheme after 01.01.2006 (i.e. between 01.01.2006 to 31.08.2008) to allow stepping up of pay in cases where the senior, but for the pay revision on account of 6th CPC would have continued to draw higher pay subject to certain conditions, vide this Department's OM No. 35034/1/97-Estt.(D) dated 04.10.2012. Barring this situation, no stepping up of pay is allowable in the MACP Scheme.

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Item No 10 Granting of Additional Pay to Loco & Traffic running staff

22. The Staff Side stated that though additional pay with appropriate Dearness Allowance has been granted in favour of Loco Pilot, Sr. Motorman Loco Pilot, Motorman and Guard on the basis of recommendations of the 6th CPC, but the same has not been granted to rest of the Loco & Traffic Running Staff, causing great injustice to these set of Loco & Traffic Running Staff. They demanded that the Additional Pay should be granted in favour of all other categories of Loco & Traffic Running Staff.

23. The Official Side stated that the Sixth Central Pay Commission had examined the demands of various categories of employees relating to their pay structure and allowances & formulated their recommendations as a package. Since, Sixth Central Pay commission has not recommended grant of additional allowance to other categories of Loco and Traffic running staff, the same cannot be extended to all other Loco and Traffic running staff. It was decided that Ministry of Railways may separately examine the issue in consultation with the Department of Expenditure.

In the end, the Chairman thanked the participants for very stimulating and frank discussions. The meeting ended with a vote of thanks to the Chairman.

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DEPARTMENT OF PERSONNEL & TRAINING
LIST OF PARTICIPANTS WHO ATTENDED THE MEETING OF THE STANDING
COMMITTEE OF THE NATIONAL COUNCIL (JCM) HELD ON
7TH MAY, 2014

CHAIRMAN: SECRETARY (PERSONNEL)

OFFICIAL SIDE

STAFF SIDE

1	Shri S.K. Sarkar, Secretary (P)	1	Sh. Shiva Gopal Mishra, Secretary, Staff Side.
2	Shri R.P. Watal, Secretary, Deptt. of Expenditure	2	Sh. M. Raghvaiah, Leader, Staff Side
3	Ms Mamta Kundra, JS (E), DoPT	3	Shri Ch. Sankara Rao, Member
4	Ms. Sudha Krishnan, JS (Pers), Deptt. of Expenditure	4	Shri Rakhal Das Gupta, Member
5	Shri Navin K. Choudhary, JS Ministry of Defence	5	Shri R.P. Bhatnagar, Member
6	Ragini Yechury, ED/IR, Railway Board	6	Shri Guman Singh, Member
7	Shri M. Akhtar, Advisor, Railway Board.	7	Shri C. Srikumar, Member
8	Shri Robin Deka, ED PC-1	8	Shri K.S. Murty, Member
9	Shri Vikram Gulati, Dir. PC-II, Min. of Railways.	9	Shri R. Srinivasan, Member
10	Ms. Neera Khuntia, ED PC-II	10	Shri K.K.N. Kutty, Member
11	Shri Mukesh Chaturvedi, Dir (Pay), DoPT	11	Shri J.R. Bhosle, Member.
12	Shri J.A. Vaidyanathan, Dir. (E), DoPT		
13	Ms. Mukta Goel, Dir. (E-I), DoPT		
14.	Shri Ashok Kumar, DS (JCA), DoPT		
15	Shri Shri A.N. Singh, DS (E-III),		