

Secur. 63



No. Paytech/4024/DoP&T MACPs

Date : 30.09.2019.

CIRCULAR

To,

1. All offices and sub offices under CDA Secunderabad,
2. All AO GE offices Secunderabad & Visakhapatnam.
3. Pay Sections I, II & III, CDA Secunderabad.
4. All units.

Sub: Circulation of OM issued by DoP&T OM NO.35034/3/2019-Estt-(D) dtd. 27.02.2019 related to Representation regarding MACP Scheme.

Ref: CGDA Ir No.Audit/Army/Pay Civ/VI CPC Order Dtd, 09.09.2019

The HQRS.CGDA letter on the above subject received in this office vide letter mentioned under reference is being circulated to all for information.


Sr.Accounts Officer (Pay Tech)

Tele: 23019018

Dte Gen of Personnel/CSCC
Engineer-in-Chief's Branch
Integrated HQ of MoD (Army)
Kashmir House, Rajaji Marg
New Delhi-110011

B/77027/MP/MLA/VIP/CSCC

07 Aug 2019

ADG (D&C) Range Hills Rd, Kirkee, Pune-411003
ADG(Coast Guard & Projects) Chennai-600009.
ADG(NEI) Guwahati, Pin781027, C/o 99 APO
ADG(North) Jammu C/o CWE(AF) Jammu, Pin-937256
CME Pune, Pin-908797
Chief Engineer Central Command, Pin-908544
Chief Engineer Northern Command, Pin-908545
Chief Engineer Western Command, Pin-908543
Chief Engineer Eastern Command, Pin-908542
Chief Engineer Southern Command, Pin-908541
Chief Engineer South Western Command, Pin-908546



REPRESENTATION REGARDING MACP SCHEME

1. Reference

- (i) DoP&T OM No. 35034/3/2019-Estt-(D) dated 27 Feb 2019.
- (ii) Application of Sh Arun Kumar Sharma, Draughtsman O/o CWE Bikaner dated 15 Dec 2018.

2. A clarification regarding ACP/MACP scheme received from DoP&T is enclosed herewith for disposing the cases of ACP/MACP accordingly at your end please.

Encl : As above.

Copy to:-

MoD D(Works-II)

✓ CGDA, New Delhi

Internal Copy to:-

CRO (O) Delhi Cantt

E1DPC

E1DPC (PP&Sub)

Madan Lal
(Madan Lal)
Jt Dir (Pers), CSCC
For E-in-C

696
3208/19

F.No.35034/3/2019-Estt-(D)
Government of India

Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

North Block, New Delhi
Dated: 27.02.2019

OFFICE MEMORANDUM

Sub: Representation regarding MACP Scheme.

The undersigned is directed to forward herewith a letter (in original) dated 15.12.2018 from Shri Arun Kumar Sharma on the subject of MACP and to say that the recommendations of the 6th CPC were accepted by the Government only on 29.08.2008 (30.08.2008 in case of PBOR). The recommendations of the 6th CPC were required to be examined and a Scheme was to be formulated in consultation with Department of Expenditure and the same took considerable time for its implementation. Before implementation of the Scheme, a cut off date had to be decided / fixed. Accordingly, the Government has taken a conscious decision for implementing the MACPS w.e.f 01.09.2008. Though the MACPS came into existence only w.e.f 01.09.2008, the benefits of the existing ACP Scheme of August, 1999, was allowed to the Government servants upto 31.08.2008.

2. VI Pay Commission recommended separate Schemes for Civilian and the Defence Personnel. After the recommendations were considered and approved by the Cabinet, D/o Expenditure issued Resolution dated 29.08.2008 in respect of Civilian employees. Ministry of Defence issued Resolution dated 30.08.2008 regarding extension of VI CPC benefits to Armed Forces Personnel. Thus the Civilian and the PBOR personnel are governed by two different Resolutions/ two different MACP Schemes.

3. The instant order of Hon'ble Supreme Court is in the context of MACP Scheme issued by Ministry of Defence with regard to PBOR and hence the order of Hon'ble Apex Court is not applicable to the MACP Scheme issued by DoP&T for civilian employees.

4. However, In case, clarification/interpretation of any of the rule position is required, the proposal may be referred to this Department in accordance with the procedure laid down in this Department's OM No.43011/9/2014-Estt-(D) dated 28th October, 2015 through a self contained note giving full facts connected with the case in a file and with the approval of Secretary of the Administrative Ministry.

Encl. As above

The Secretary,
Ministry of Defence,
South Block, New Delhi

Copy to:

Shri Arun Kumar Sharma, Draughtsman, O/o CWE Bikaner. It is advised that future correspondence in the matter if any may be directly made to Ministry of Defence which is the concerned Administrative Ministry.

6/11
7/3/19

Office of Director
Dy. No. 737
Date: 27/2/19

3227
6.3.19

DS(E) - mmtg

Dir(E)

As per mmtg

DS (ap. J)

Pl. speak
P. ul 8/3

US (sp. B) 11/3
w. GK

(Kuldeep Chaudhary)
Section Officer
Tel. No. 23040398

3088
12/03/19

(As per)

From :-
MES-189744
Name - Arun Kumar Sharma
Desg- Draughtsman
Oro - CWE Bikaner

To :-

The Engineer in Chief
Military Engineer Service
Dte of Director General (Pers)
E-in-C's Branch
HQ of MoD (Army)
Kashmir House, Rajaji Marg
New Delhi 110011

(Through proper Channel)

GRANT OF 2ND FINANCIAL UPGRADATION UNDER ACP
SCHEME TO D'MAN/TECH OFFERS

Respected Sir,

1. Reference to judgment of CAT Ernakulam bench CP (C) No 109/2017 in O.A No. 644/2014 Judgment of Karnataka High Court in writ petition Nos 24894-24908 of 2016 (S-CAT) regarding ACP for the intervening period between 01 Jan 2006 and 31 Aug 2008 and extending benefits till 21 Aug 2009.
2. Reference to Judgment of Hon'ble Bombay High Court in respect of writ petition No-1763 of 2013 & Judgment of Hon'ble Supreme Court dt 08 Dec 2017 in civil appeal diary No 3744 of 2016.
3. I hereby submit following few lines as a humble submission for your kind consideration please :-

- (i) Reference above Cat Ernakulam bench CP(C) No 109/2017 in O.A No 644/2014, DG(Pers) Military Engineer Services, Engineer-in-Chief's Branch, Kashmir House, Rajaji Marg, New Delhi issues multiple letters are as under:-
- (a) First letter subject GRANT OF SECOND FINANCIAL UPGRADATION UNDER ACP SCHEME IN RESPECT OF D'MAN/TECH OFFER WHO HAVE COMPLETED 24 YEARS OF REGULAR SERVICE DURING INTERVENING PERIOD BETWEEN 01 JAN 2006 TO 31 AUG 2008 AND THIRD FINANCIAL UPGRADATION UNDER MACP SCHEME AFTER COMPLETION OF 30 YEARS OF REGULAR SERVICE VIDE LETTER No. CG-3/88510/47/MACPD'MAN/6TH DPO/SCS DATED 21 APR 2017.
- (b) Second letter subject GRANT OF 2ND FINANCIAL UPGRADATION UNDER MACP SCHEME IN RESPECT OF D'MAN/TECH OFFER WHO HAVE COMPLETED 24 YEARS OF REGULAR SERVICE DURING THE INTERVENING PERIOD OF 01 JAN 2006 TO 31 AUG 2008 IN THE PRE REVISED PAY SCALE OF 15600-39100, GP 6600 OF MILITARY ENGINEER SERVICE UNDER MINISTRY OF DEFENCE.
- (c) Third letter was issued with subject CP(C) NO 109/2017 IN O.A NO 644/2014 FILED BY SMT USHASHREE G. TECH OFFER & OTHERS V/S UOI & OTHERS AT HON'BLE CAT ERNAKULAM VIDE LETTER NO B/MSD006-110/840/E1CA/ENL(O) DATED 18 JAN 2018 & AS PER APPENDIX 'A' OF DG (PERS)/E1DPOC LETTER NO B/MSD006/CPD'MAN & 10/E1DPOC DATED 15 JAN 2018 SUBJECT PANEL HAD GRANTED BENEFITS OF 2ND ACP TO MES/190015 SMT USHASHREE G, MES/187954 SMT LALI N JOY & MES/149525 BY FRANCES WEF 04 JAN 2007, 28 FEB 2007 & 14 OCT 2006 RESPECTIVELY.
- (d) As per Para No. 13 & 14 of the Hon'ble Bombay high court judgment pronounced on 15 Oct 2015 in respect of writ petition No 1763 of 2013. It is clarified that MACP is part of the pay structure and not merely some allowance, it is also clarified that as per terms of clause (i) of the Central Government's resolution, admittedly the pay components which become payable with effect from 1st January 2006 unlike the allowance component which become payable from 1st September 2009 & as per Hon'ble Supreme Court judgment dated 08 Dec 2017 Para No. 2 (Common

135/15/19/100
B/MAN

13/11/19
The Bench

judgment for all similar cases). In Para 5, it is stated that the appeal in AFT earlier in which the stand of the Union of India was that the MACP was applicable only wef 01 Sep 2008, which was dismissed by the AFT in order dated 21 May 2014. In terms of clause (i) of government resolution the MACP was payable wef 01 Jan 2006 and as per judgment Para No 11 it was again clarified by Hon'ble Supreme Court that pay scales grade pay etc will apply from 01 Jan 2006 and this is decision of the cabinet. This decision could not have been modified by issuing executive instructions. The letter dated 26 May 2011 is a flaw on face of cabinet decision reflected in the resolution dated 30 Aug 2006.

4. As per above judgment of hon'ble Supreme Court and Bombay High Court, now it is clear that date of ACP effect ends as on 31 Dec 2005 & as per cabinet decision and resolution for 6th CPC date of MACP is in effect from 01 Jan 2006. Hence there is no entity of intervening period of 01 Jan 2006 to 31 Aug 2008 while they have already got the benefits of MACP as per 6th CPC wef Sep 2006 (although as per hon'ble Supreme Court clarification MACP was due from 01 Jan 2006 as per resolution of 6th CPC passed by cabinet) and giving ACP benefits to all effected benefits after 31 Dec 2005 is not appropriate as per 6th CPC resolution issued by govt of India, hon'ble Supreme Court decision.

5. In the light of above facts it is hereby requested that the benefits of 2nd ACP may please be granted to either all the indis who have completed 24 years of regular service even after 31 Aug 2008 to the date of pronouncement of Judgment of Hon'ble Supreme Court or the above orders for 2nd ACP and 3rd MACP may please be kept in abeyance till further clear orders of DoP&T & Govt of India in the light of Hon'ble Supreme Court directions. As the date of effect of ACP & MACP is avoid any unwanted litigation in future please.

Thanking you sir,

You're sincerely

Copy to :-

- [Handwritten signature]*
15/12/18
1. Govt of India, Min of Finance, Dept of Expenditure R & I Branch, North Block New Delhi - 110011
 2. Smt Nirmala Sitharaman, Room No 104, South Block, New Delhi-110013
 3. ✓ Ministry of Personnel, PG and Pensions
Department of Personnel Training,
North Block, New Delhi - 110011
 4. Chief Engineer Central Command
M G Marg, Dilkusha, Lucknow Uttar Pradesh - 226002
 5. Chief Engineer Northern Command
Udhampur, Jammu-182101
 6. Chief Engineer Western Command
Sector 36, Chandigarh-160036
 7. Chief Engineer South Western Command
Bani Park, Jaipur-302016
 8. Chief Engineer Eastern Command
Fort William, Parade Ground, Kolkata, West Bengal-700021
 9. Chief Engineer Southern Command
Pune, Maharashtra - 411001
 10. CGDA New Delhi