

- (vii) Stepping up of pay in respect of shri L.K.Rathaur, Junior Engineer with his senior –Junior Engineer Sri M.Bhattacharjee & Sri M.S.Cidikki.

Executive Council Vide its Resolution No. 142:2010:4:(ii) considered the case of Sri. L.K. Rathaur, Junior Engineer in connection with all such Engineers in NEHU and resolved that stepping up of pay already allowed to Sri. J. Kalita, JE and Sri. K. Biswas, JE stands and request of Sri. M. Bhattacharjee and Sri. Ciddiki for stepping up of their pay be accepted. The Council further resolved to regret the seniority claimed by Sri. L.K. Rathaur, JE.

Accordingly, as per above EC Resolution the stepping up case of Sri. M. Bhattacharjee and Sri. M.S. Ciddiki JE at par with the Junior as per seniority list Sri. L.K Rathaur has been worked out by the Section and forwarded to Audit Section for vetting/clearance.

In the meantime, Sri. S. Prasad, president NEHUNSA sought information under RTI about the Executive Council decision allowing stepping up of pay to Sri. M. Bhattacharjee and Sri. M.S. Ciddiki which are as follows:

- (1) The provision of application of Fundamental Rules under which the removal of pay anomaly was considered by the 142nd Executive Council vide Resolution No.:EC:142:2010:4(ii) in the matter of stepping up of pay.
- (2) Was the decision of the 142nd EC meeting as at (1) above taken in consultation with the Department of Personnel and Training, Govt. of India, New Delhi? If so, the details may be provided.
- (3) Was the decision of the 142nd EC meeting as (1) above had the clearance of the Audit of the University? If so, the details may be provided.

In this connection the office has made an interim reply to the effect that the modalities of the implementation of the above decision of the EC are being examined.

For examining the modalities of implementation of the above decision, the case was referred to Audit for comments

The views/observations of Audit in the above case are as under:

The case of stepping up of pay in respect of Sri. M. Bhattacharjee and Sri. M.S. Cidiki as decided by the Executive Council vide its resolution No. EC:142:2010:4:(ii) has been examined and it has been found that allowing stepping of pay by counting a period when they were not in service, does not seem to be proper. The increased pay drawn by a Junior due to ad-hoc/officiating/ work charged service rendered in the post for periods earlier than the senior may not be termed as anomaly in true sense and as such, stepping up of pay in such cases is not admissible. Especially so because the Work Charged service of Sri. Rathaur as mentioned above was treated as regular service vide Resolution No. EC:97:98:6:6(x) for the purpose of pay and allowances as well as annual increments, in other words for the purpose of monetary benefits.

6:6:4(2)

In the above background of the case, the office vide agenda No.4:2 placed in 142nd Meeting of the Council held on 07.06.2010 had submitted the case as under:

- I. If the council upholds its earlier decision taken vide Resolution No. EC:98:98:6:6(x) treating the work-charged service of Sri. Rathaur for the period from 26.02.90 to 05.01.99 as regular service for the purpose of pay and allowances as well as annual increments then it cannot be taken as anomaly and the stepping up of pay as demanded by Sri. M. Bhattacharjee and Sri. M.S. Ciddiki is not admissible to them as per rules on stepping up of pay.
- II. But, in case the Council resolves to revert its earlier decision as taken vide Resolution No. EC:98:98:6:6(x) and to count the regular service of Sri. Rathaur from the date of his regular appointment i.e. 06.01.99 then the pay of Sri. Rathaur on that day will fall at the minimum of the scale i.e. at the stage of Rs. 5000/- in the scale of Rs. 5000 - 150 - 8000/- which will be less than all of his seniors, and as such, there will be no question of allowing stepping up of pay in respect of Sri. M. Bhattacharjee and Sri. M.S. Ciddiki and the stepping up of pay already allowed to Sri. J. Kalita and Sri. K. Biswas with reference to the said Junior Sri. Rathaur will need to be withdrawn.

But, the decision of the Council as taken vide Resolution No. EC:142:2010:4:(ii) allows stepping up of pays to all the above mentioned Junior Engineers which is found to be infeasible.

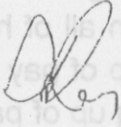
Hence, the matter is again placed before the Council for consideration.

In the above background of the case, the office vide agenda No.4.2 placed in 142nd Meeting of the Council held on 07.08.2010 had submitted the case as under.

ITEM NO.4 DEFERRED ITEM

(i) Departmental proceedings against Shri J.V. Lynrah, L.D.C., Examination Department.

NO:EC:142:2010:4:(i): The Council considered the departmental proceedings against Shri J.V. Lynrah, L.D.C., Examination Department and after a thorough discussion and going through all the papers provided by the concerned Section, the Council RESOLVED to send him on compulsory retirement as disciplinary action.



(ii) Case of Shri L.K. Rathaur, Junior Engineer in connection with all such Engineers in NEHU.

NO:EC:142:2010:4:(ii): The Council considered the case of Shri L.K. Rathaur, Junior Engineer in connection with all such Engineers in NEHU, and RESOLVED that stepping up of pay already allowed to Shri J. Kalita and Shri K. Biswas, Junior Engineers stands and the request of Shri M. Bhattacharjee and Shri M.S. Cidiki for stepping up of their pay allowed. The Council further RESOLVED to regret the seniority claimed by Shri L.K. Rathaur.

(26) Instances which do not constitute an anomaly for stepping up of pay with reference to juniors.— Cases for stepping up of the pay of seniors in a pay scale to that of juniors are generally considered if the following conditions are satisfied:—

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- (a) both the junior and senior officer should belong to the same cadre and the posts in which they have been promoted or appointed should be identical and in the same cadre;
- (b) the scales of pay of the lower and higher posts in which the junior and senior officer are entitled to draw pay should be identical;
- (c) the anomaly should be directly as a result of the application of FR 22-C. For example, if even in the lower post the junior officer draws from time to time a higher rate of pay than the senior by virtue of grant of advance increments or on any other account, the above provisions will not be invoked to step up the pay of senior officer.

2. Instances have come to the notice of this Department requesting for stepping up of pay due to the following reasons:—

- (a) where a senior proceeds on Extraordinary Leave which results in postponement of Date of Next Increment in the lower post, consequently he starts drawing less pay than his junior in the lower grade itself. He, therefore, cannot claim pay parity on promotion even though he may be promoted earlier to the higher grade;
- (b) if a senior forgoes / refuses promotion leading to his junior being promoted / appointed to the higher post earlier, junior draws higher pay than the senior. The senior may be on deputation while junior avails of the *ad hoc* promotion in the cadre. The increased pay drawn by a junior either due to *ad hoc* officiating / regular service rendered in the higher posts for periods earlier than the senior, cannot, therefore, be an anomaly in strict sense of the term;
- (c) if a senior joins the higher post later than the junior, for whatsoever reasons, whereby he draws less pay than the junior in such cases, senior cannot claim stepping up of pay at par with the junior;
- (d) if a senior is appointed later than the junior in the lower post itself whereby he is in receipt of lesser pay than the junior, in such cases also the senior cannot claim pay parity in the higher post though he may have been promoted earlier to the higher post;
- (e) where a person is promoted from lower to a higher post, his pay is fixed with reference to the pay drawn by him in the lower post under FR 22-C and he is likely to get more pay than a direct appointee whose pay is fixed under different set of rules. For example, an UDC on promotion to the post of Assistant gets his pay fixed under FR 22-C with reference to the pay drawn in the post of UDC, whereas the pay of Assistant (DR) is fixed normally at the minimum under FR 22-B (2). In such cases, the senior direct recruit cannot claim pay parity with the junior promoted from a lower post to higher post as seniority alone is not a criteria for allowing stepping up;
- (f) where a junior gets more pay due to additional increments earned on acquiring higher qualifications.

3. In the instances referred to in Para. 2 above, a junior drawing more pay than the senior will not constitute an anomaly. In such cases, stepping up of pay will not, therefore, be admissible.

[G.I., Dept. of Per. & Trg., O.M. No. 4/7/92-Estt. (Pay-I), dated the 4th November, 1993.]

Pay in the Government v

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- (a) both the junior and senior officer should belong to the same cadre and the posts in which they have been promoted or appointed should be identical and in the same cadre;
 - (b) the scales of pay of the lower and higher posts in which the junior and senior officer are entitled to draw pay should be identical.
 - (c) the anomaly should be directly a result of the application of FR 22-C. For example, if even in the lower post the junior officer draws from time to time a higher rate of pay than the senior by virtue of grant of advance increments or on any other account, the above provisions will not be invoked to step up the pay of senior officer.
3. Instances have come to the notice of this Department requesting for stepping up of pay due to the following reasons:—
- (a) where a senior proceeds on Extraordinary Leave which results in postponement of date of next increment in the lower post, consequently he starts drawing less pay than his junior in the lower grade itself. He therefore, cannot claim parity on promotion even though he may be promoted earlier to the higher grade;
 - (b) if a senior forgoes / refuses promotion leading to his junior being promoted / appointed to the higher post earlier, junior draws higher pay than the senior. The senior may be on deputation while junior avails of the ad hoc promotion in the cadre. The increased pay drawn by a junior either due to ad hoc officiating / regular service rendered in the higher posts for periods earlier than the senior, cannot, therefore, be an anomaly in strict sense of the term;
 - (c) if a senior joins the higher post later than the junior, for whatsoever reasons, whereby he draws less pay than the junior in such cases, senior cannot claim stepping up of pay at par with the junior;
 - (d) if a senior is appointed later than the junior in the lower post itself whereby he is in receipt of lesser pay than the junior, in such cases also the senior cannot claim parity in the higher post though he may have been promoted earlier to the higher post;
 - (e) where a person is promoted from lower to a higher post, his pay is fixed with reference to the scale of pay of the higher post.

Ad hoc Relief	...	1,016.55
	...	840.00
Total	...	<u>4,406.55</u>

from State Government employees of State Government's O.M., No. -1 above], has been engagin

(iv) **Stepping up of pay in respect of Shri L.K. Rathaur,
Junior Engineer with his senior Junior Engineer
Sri M. Bhattacharjee and Shri M.S. Cidikki.**

NO:EC:144:2010:6:6:(iv): The Council considered the stepping up of pay in respect of Sri M. Bhattacharjee and Shri M.S. Cidikki, and observed and **RESOLVED** as follows:

1. The pay fixation in respect of Shri L.K. Rathaur from 1990-99 has been correctly done since he was drawing regular pay scale and getting increments. However, his seniority is counted from the date of regular appointment.

2. In the case of Sri K.Biswas and Sri J. Kalita there was no stepping up and only their date of next increment was changed.

3. The cases of Sri M.S. Ciddiki and Sri M.Bhattacharjee should therefore be examined in the light of observations at (1) and (2) above.

4. A table of other cases should be prepared by the Section concerned.

(v) **Matter concerning HASA and Ordinance OE-10**

NO:EC:144:2010:6:6:(v): The Council considered the letters received from General Secretaries of NEHUNSA and NEHUTA on matter concerning HASA and Ordinance OE-10 and **RESOLVED** that since the Minutes of the 142nd meeting of the Council had already been confirmed in the 143rd meeting of the Council the letters are redundant.

The Chairman also informed the Council that he received letters from four members of the Executive Council with regard to Ordinance OE-10. In view of the letters from the members, the Council considered the Resolution passed in the 142nd Executive Council meeting and it was clarified by the Council that Ordinance OE -10 was not referred back by the Executive Council to the Academic Council.

