

- iii) The higher pay drawn by a Junior on account of earlier officiating in the higher post is not an anomaly requiring the stepping up of the pay of senior.

In the past, the University had made local officiating arrangement to the higher post against short term leave vacancies based on sectional/departmental Seniority and not on the basis of Common Seniority. The said local officiating arrangement was purely out of administrative consideration and was resorted to tide over the exigencies of work of section/department concerned for which it was administratively difficult to fill the short term vacancies on the basis of Common Seniority by calling a senior employee in cadre who may be stationed in a different section/department that too for a short duration. As a result, a junior employee on regular promotion gets higher pay than the senior by virtue of various officiating promotion because of proviso to F.R.22(1) and F.R.26(a) which recognises the service rendered on officiating promotion for pay fixation and increment on regular promotion. It is on record that in the given circumstances, the University had to resolve the pay anomaly by stepping up the pay of the Senior at par with the Junior.

The University, in order to avoid future cases of pay anomalies and stepping up of pay which costs additional expenditure had decided to discontinue the practice of extending local officiating promotion against leave vacancies and in lieu, decided payment of remuneration. An order to this effect is at Annexure-I for reference.

Unfortunately, the payment of remuneration in lieu of officiating promotion has not evoked any positive results as the employees are not inclined and responsive to shoulder the responsibilities of higher posts during the short term leave vacancies. This has caused considerable dislocation of works and administrative inconvenience. Moreover, the payment of remuneration in the given circumstances is not practiced in any central government organisations.

It is pertinent to clarify here that it is not necessary that in all cases where a junior draws higher pay than the Senior merits stepping up of pay of the Senior. In this regard the Govt. of India order under F.R.22(I) has laid down the following conditions for the stepping up of the pay:

- (i) The anomaly should be directly as a result of the application of F.R.22(1).
- (ii) Both the Junior and Senior should belong to the same cadre/posts in which they have been promoted.
- (iii) The scales of pay of lower and higher posts in which they are entitled to draw pay should be identical.

The circumstances under which the University had made local officiating arrangement on the basis of Sectional/Departmental Seniority was basically due to administrative exigencies for a short duration as a matter of administrative policy. Therefore, the pay anomaly between the Senior and Junior arises on account of purely administrative reasons and not directly as a result of the application of F.R.22(1) which is a mandatory condition of the Govt. of India for the purpose of stepping up of the pay. Hence, the senior employees are not entitled to have their pay stepped up at par with the junior.

In this connection, while noting a similar situation in the Department of Posts & Telegraph where the local Officiating arrangement to the higher post against short term vacancies were made on the basis of circle seniority and not on the basis of the All India Seniority, the Supreme Court has contended that the local officiating arrangement to the higher post against leave vacancies for a short duration is purely due to administrative reasons and therefore, a junior by virtue of various officiating spells in the higher posts gets higher pay than the senior and junior is due to administrative reasons and not as a result of any anomaly nor is as a result of the application of F.R.22 (1). Therefore, the senior employees are not entitled for stepping up of their pay. The Supreme Court Judgement dated 12-09-97 (Union of India Vs. R. Swaminathan & others, 1997, SCC (L & S) 1852) is at Annexure-II for reference.

Under the given facts and circumstances, it will be appropriate to abolish and dispense with the payment of remuneration and to continue with the local officiating arrangement to the higher post against short term leave vacancies for a period beyond 45 days but not exceeding 180 days on the basis of Sectional/Departmental Seniority. The officiating promotion on the basis of the Sectional/Departmental Seniority will be in addition to the normal duties attached to the lower post. In respect of the vacancies caused by leave, deputation/lien etc. exceeding a period of 180 days, the officiating arrangement will be made on the basis of overall Seniority (Common Seniority) of the grade.

Any consequential pay anomaly between the Senior and Junior employees will not merit stepping up of the pay of senior as per the directive of Supreme Court.

It is proposed that the aforesaid officiating arrangement be effective from 01-01-2001.

The matter is placed before the Executive Council for consideration.

No:F.3-32/Estt.I/Per/91

NORTH EASTERN HILL UNIVERSITY
P.O. NEHU CAMPUS
S H I L L O N G

No.F.3-32/Estt-I/Per/91 (Vol.II)-4397

17th February, 1997

N O T I F I C A T I O N

In pursuance of the Executive Council's Resolution No.EC:91:96: 4:(iv), it has been decided that the practice of extending officialing promotion to another post carrying duties or responsibilities of greater importance during the short term leave vacancies beyond 45 (fourty-five) days will discontinued and henceforth, sectional arrangement for performing the duties of officials on short term leave beyond 45 (fourty-five) days will be regulated by payment of remuneration as indicated below:-

- | | |
|--|---------------|
| 1. for looking after the duties of LDC- | Rs.100/- p.m. |
| 2. for looking after the duties of UDC- | Rs.125/- p.m. |
| 3. for looking after the duties of Asstt.- | Rs.150/-p.m. |
| 4. for looking after the duties of S.O.- | Rs.200/-p.m. |
| 5. for looking after the duties of Asstt. Registrar- | Rs.250/- p.m. |
| 6. for looking after the duties of Deputy Registrar- | Rs.300/-p.m. |

The above remuneration will be applicable on receipt of specific recommendation of the controlling officer giving the name of the employee who will look after the additional duties of the incumbent allowed to proceed on leave in the leave application form. The order for payment of remuneration will be issued after joining of the incumbent who proceeded on leave.

Sd/-
Deputy Registrar, Estt.I.

Copy to :-

All concerned.

The Higher pay drawn by a junior on account of earlier officiation in the higher post is not an anomaly requiring stepping up of the pay of the senior.

Facts: The respondents in these appeals are employees of Deptts. of Posts and Telegraphs and Telecommunications. The Deptts. of Posts and Telegraphs and Telecommunications are divided into a number of circles within the country. The regular promotions from the junior posts to the higher posts are made on the basis of All India Seniority. The Heads of Circles have, however, been delegated powers from making local officiating arrangements based on Circle Seniority to the higher posts against short-term vacancies upto 180 days in the event of regular empanelled officers are not being available in that Circle. This is purely out of Administrative considerations and is resorted to tide over the exigencies of work. It is also not always possible to convene the DPC meeting for filling up all the posts which are only available for short periods, on an All India basis because of Administrative problems. The junior employees under the above mentioned circumstances gets the higher pay because of proviso to FR 22(1) and FR(26)(a) which recognise service rendered on adhoc promotion for pay fixation/ increment on regular promotion. The junior by virtue of adhoc promotion gets more pay than his senior in All India Seniority list.

This has happened in all the present cases and the respondents in these appeals claim that this is an anomaly which should be removed by stepping up their pay to the same level as their junior from the date he was promoted.

Held: The Office Memorandum, dated 4-11-1993, govt. of India, Deptt of Personnel and Training, has set out various instances where stepping up of pay cannot be done.

The aggrieved employees have contended with some justification that local officiating promotion within a circle have resulted in their being deprived of a chance to officiate in the higher posts, if such chance of officiations arises in a different circle. They have submitted that since there is All India Seniority for regular promotions. This All India Seniority must prevail even while making local officiating appointment within any circle. The question is basically of administrative exigencies and the difficulty that the Administration may face, if even short term vacancies have to be filled on the basis of All India Seniority by calling a person who may be stationed in a different circle in a region remote from the region where the vacancy arises, and that too for a short duration. This is essentially a matter of Administrative policy. But, the only justification for local promotions is their for short duration. If such vacancy is of long duration there is no administrative reasons for not following the All India Seniority. Most of the grievances of the employees will be met, if proper norms are laid down for making local officiating promotions. One thing, however, is clear. Neither the Seniority nor the regular promotion of these employees is affected by such officiating local arrangements. The employees who have not officiated in the higher post earlier, however, will not get the benefit of the proviso to Fundamental Rule.

The employees in question are, therefore, not entitled to have their pay stepped up under the said govt. order because the difference in their pay drawn by them and the higher pay drawn by their juniors is not as a result of any anomaly; nor is it a result of the application of F.R. (Fundamental Rule)

The appeals are, therefore, allowed and the impugned order of the different benches of the Central Administrative Tribunal which have held to the contrary are set aside.

(Union of India and another Vs R. Swaminathan and others,
1997 SCC (L & S) 1852, date of judgement 12-9-1997)

6:6- Service Condition / Financial & Other Benefits.

(i) Extension of the benefit of One-Upward Movement Scheme beyond 31.12.1993.

EC:108:2000:6:6:(i): The Council considered the payment of arrears to those employees granted the benefit of One-Upward Movement beyond 31.12.1993 and RESOLVED to approve the same. The arrears however shall be paid after the release of funds being held up by the UGC.

(ii) Promotion in respect of Medical Officer.

EC:108:2000:6:6:(ii): The Council considered the promotion in respect of the following Medical Officers and RESOLVED to approve the same.

1. Dr.(Ms) M. Synrem, SMO-I - Rs.3700-5000(PR)
to M.O. Specialist Gr. I. Rs.4500-5700/- (PR) w.e.f. 1.1.1994.
2. Dr. I. Hussain, SMO-I - Rs.3700-5000(PR)
to M.O. Specialist Gr. I. Rs.4500-5700/- (PR) w.e.f. 24.4.1996.
3. Dr. VSV Prasad SMO-I - Rs.3700-5000(PR)
to M.O. Specialist Gr. I. Rs.4500-5700/- (PR) w.e.f. 1.9.1998.
4. Dr. BK Bahali SMO-I - Rs.3700-5000(PR)
to M.O. Specialist Gr. I. Rs.4500-5700/- (PR) w.e.f. 20.9.1998.
5. Dr. M. Marwein, SMO-II -Rs.8000-13500/-
to SMO-I Rs. 10,000/- 15200/- w.e.f. 24.1.1996.

(iii) The higher pay drawn by a junior on account of earlier officiating in the higher post is not an anomaly requiring the stepping up of the pay of senior.

EC:108:2000:6:6:(iii): The Council considered the grant of remuneration to staff performing the duties of a senior during his absence and RESOLVED as follows:

1. For a vacancy beyond 45 days and upto 180 days the vacancy may be filled up on the basis of seniority-cum-merit in the Department / Section.
2. For a vacancy beyond 180 days it shall be filled up on the basis of the overall seniority in the University.

3. The duties of the higher post shall be performed in addition to the normal duties.
4. Such staff shall be paid the salary of the post that they are officiating.
5. This decision shall come into effect from 1.1.2001 and past cases shall be governed as per the existing guidelines of the Council.

(iv) Qualifications of University teachers.

EC:108:2000:6:6:(iv): The Council considered the qualifications recommended for University Teachers by the UGC vide D.O. No.F.3-1/2000/(PS) of 4th April, 2000 and RESOLVED to accept the same.

(v) Effective date of maximum accumulation of 300 days of Earned Leave.

EC:108:2000:6:6:(v): The Council considered the effective date of maximum accumulation of 300 days of Earned Leave and RESOLVED that the effective date shall be 1.7.1996.

(vi) Recruitment Rules on Grant of Benefit of added years of service under Rule 30 of CCS pension Rules.

EC:108:2000:6:6:(vi): The Council considered the recommendations of the Committee appointed by it for grant of benefit of added years of service and RESOLVED to approve the same.

(vii) Draft Recruitment / Service Rules in respect of the Group B,C, & D of Non-Teaching Staff of the University.

EC:108:2000:6:6:(vii): The Council considered the draft recruitment / service rules in respect of the Group B,C and D Non-Teaching staff of the University and RESOLVED to approve the same with modifications as indicated in Annexure 'C'.

(viii) Pay Anomaly in respect of Non-Teaching Staff of the University.