

DELHI ADMINISTRATION DOCTORS' WELFARE ASSOCIATION (REGD.)

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Our Ref. No.DADWA/2015-07/MOHEFW

Dated: 07-12-2015

To

1. The Secretary to GOI (Health), MOHEFW, Nirman Bhavan, Delhi
2. Jt. Secretary to GOI, DOPT, Ministry of Personnel, Public Grievances and Pensions, New Delhi

Sub: REQUEST FOR AMENDS IN RECOMMENDATION OF 7TH C.P.C. FOR SERVICE DOCTORS

Ref: Letter no.21/19/2014-CS.I(P) dated 5-12-15 of DOPT

Sir,

Our Association Delhi Administration Doctors' Welfare Association (nicknamed 'DADWA') is a registered society looking after interest of service doctors working under Government of Delhi belonging to both CHS and DHS. Prior to formation of Delhi Health Services, Govt. of Delhi was a participating unit of Central Health Service (CHS) and a large number of CHS Officers happen to be members of DADWA.

DADWA is also an affiliate to central bodies of service doctors like All India GDMO Association and JACSDO. Its members belong to the four functional sub-divisions or sub-cadres of CHS/DHS and man the health delivery system of Govt. of Delhi that includes about 40 hospitals, two directorates (DHS and DFW), 240 dispensaries, 9 Integrated District Health Societies and several other societies and autonomous bodies managing super-specialty hospitals, AIDS, Blood-banks, TB-control and other national/state health programs. They work in different positions ranging as health-service providers, heads of dispensaries, hospitals, specialists, health-administrators, health-planners, teachers and public health specialists etc. divided into four functional subgroups or sub-cadres viz. General Duty Medical Officers' (GDMO), Non-teaching specialists, Teaching Specialist and Public health specialists in order of their numbers in these services.

The report of 7th Central Pay commission has failed to address the hopes and aspiration of service doctors especially when it has reduced the NPA to 20% of basic pay from the earlier 25%. The recommendations fall short of being adequate to attract the best among doctors to the public service. The report seems to have created a negativity that needs to be addressed and rectified. I am directed to submit the inputs of DADWA for examination and onward transmission to the competent authority for further N/A.

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1. THE KEY OBSERVATIONS IN THE 7CPC REPORT AFFECTING SERVICE DOCTORS:

- No mention that the benefits of 6th PC to be ensured to service doctors including NFU to HAG, merger of DA etc.
- Reduction of Non Practicing Allowance (NPA) from 25% to 20 percent of Basic Pay and its exclusion from the basic pay for purpose of calculation HRA and CTG benefits. There is lack of clarity about treatment of NPA as basic pay.
- Low cap of Basic Pay at the average of Apex pay and of Cabinet Secretary's pay
- Issues related to Doctor's Conveyance Allowance
- Denial of Higher Admn. Grade (HAG) through DACP
- No mention of Central Staffing Scheme for service doctors
- Lack of uniformity in retirement age amongst CHS doctors
- Paltry enhancement of Annual Allowance

2. Non Practicing Allowance (NPA)

2.1 NPA came into existence after an act of Parliament for doctors so as to attract the best among doctors to the public service. The earlier Pay Commissions had recommended NPA at varying rates from 33% to 50% of basic pay from time to time but never less than 25% since the 5th CPC. But 7CPC had reduced it to 20%.

2.2 The 7th Pay Commission was expected to have reviewed the pay scales and allowances in the light of the upward change in the living standards and aspirations of the work force vis-à-vis the economic growth of the country and to check the falling purchase power of its our currency with time. Reduction of the NPA to 20% of basic pay for service doctors who as such join late in service and whose career span is lesser than that of other civil services is unfair and regressive. Besides NPA is an incentive for doctors to join public service instead of going to private sector. The move to reduce NPA is thus perceived as retrograde and not in consonance with the mandate given to the 7th CPC. In view of above the NPA needs be restored to 25% of the basic pay and be treated as part of basic for all purposes including housing and calculation of HRA etc. Delinking of HRA from NPA is unfair and violation of Fundamental Rules FR 9(25) that has been in existence since 1962.

2.3 As consequence to 7CPC report the CHS Doctors retiring at basic pay of Rs.85000/- (inclusive of NPA) and getting more pay than their counterpart in other services in 2015 should not get lesser pension as compared to others in 2016 onwards. Similarly for pension purpose NPA should be used for calculation of monthly contribution in New Pension Scheme.

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2.4 Attention is drawn to the judgement of **Hon'ble Supreme Court of India in Civil Appeal Nos.10640-46 of 2013 (Arising out of SLP(C) Nos. 3358-64 of 2011) dated 27.11.2013 of K.C. Bajaj And Ors vs Union Of India And Ors.** Wherein Hon'ble Court has made specific observations about NPA for doctors based on submissions by the Attorney General of India. This judgement clearly states that NPA is the right of a government doctor and has to be considered as a part and parcel of basic pay for all practical purposes.

Relevant portions of the said judgement are reproduced below for your ready reference:

Para 5.0: "History of grant of N.P.A. clearly shows that the same was being granted in lieu of private practice. It was also granted having regard to availability of less promotional avenue and late entry in the service, N.P.A. was granted in terms of Fundamental Rule 9(21)(a)(i) read with Fundamental Rule 9(21)(a)(ii), which read thus:- "F.R. 9: Unless there be something repugnant in the subject of context the terms defined in this Chapter are used in the Rules in the sense here explained:- xxx xxx xxx xxx (21)(a) Pay means the amount drawn monthly by a Government servant as (i) the pay other than special pay or pay granted in view of the personal qualifications which has been sanctioned for a post held by him substantively or in an officiating capacity or to which he is entitled by reason of his position in a cadre: (ii) overseas pay, special pay and personal pay; and (iii) any other emoluments which may be specially classed as pay by the President." xxx xxx xxx xxx 5.2 It also appears that the Ministry of Health and Family Welfare in terms of the instructions, as contained in the letter dated 07.04.1998, categorically stated that N.P.A. be treated to be a pay by way of service benefits including retirement benefits."

Para 11.1: "We may, in this connection, notice that emoluments has been defined in Rule 33 of CCS (Pension) Rules, 1972 in the following terms:- "The expression 'emoluments' means basic pay as defined in Rule 9(21)(a)(i) of the Fundamental Rules which a Government servant is receiving immediately before his retirement or on the date of his death and will also include Non Practising Allowance granted to the Medical Officer in lieu of private practice." Thus, even in terms of the aforementioned definition, N.P.A. would be part of pay."

Para 10: "Thereupon, the Government of India made a reference to the Attorney General and sought his opinion on the question whether judgment of the Delhi High Court was correct and should be accepted. The Attorney General considered the relevant rules, the Office Memorandums and gave detailed opinion, which reads thus:....

As per the Rule 9(21)(a)(i) of the Fundamental Rules, NPA forms a part of the pay of a government doctor and is taken into account for computing dearness allowance, entitlement of IADA for sanctioning advances under GFRs, House Building Advance and other allowances as well as for calculation of retrial benefits.”

Again para 8, 9 and 10 of Attorney General’s submission states that,

“8. The distinction between 'pay' and 'scale of pay' made out in the Office Memorandum dated 29.10.1999 to deny benefit of NPA for the purpose of stepping up of the pension to 50%, is purely technical and mechanical distinction and does not take into account the special position of NPA qua a Government doctor.

9. NPA is a matter of right of government doctor and is meant as a compensation for denial of private practice. The scale of pay prescribed..... department of the Government of India and does not account the special feature of Central Health Service. In Central Health Service, NPA de jure and de facto is a part of the scale of pay as it is inevitably linked to the basic pay. Simply because NPA is not formally included in the scale of pay of the government doctors and taken as a separate element, it cannot be said that NPA has to be ignored altogether for stepping up of pension. NPA is a separate element only because scales of pay of government servants are of general application and not meant for individual services. However, if an element is inevitably a part of the pay, as NPA is, in effect it has to be construed as a scale of pay.

10. Since, NPA for government doctors is a part of their pay, it would be discriminatory if retired government doctors are denied benefit of stepping up of their pension without reference to the NPA presently given to serving doctors and those who retire after 01.01.1996. In fact, denial of NPA to pre 01.01.1996 retired government doctors would fall foul of the guarantee of equality under Article 14 of the Constitution.”

3. Cap on Basic Pay + NPA at average of Apex pay and Cabinet Secretary’s pay:

3.1 In 1989 in a Memorandum of Settlement between the Govt. of India and JACSDO, it was stated among other things that members of CHS to be placed among the best of group A services and that the cap of Basic Pay plus NPA at that time was nominally lower than that of the Cabinet Secretary’s pay. The 7th CPC has significantly reduced the cap on basic pay in relation to that of the Cabinet Secretary. Stagnation of doctors at the peak of their scale is common especially at SAG and HAG level. The 7th CPC has not been able to remedy this situation by not increasing this cap appropriately causing loss to scores of such officers and for calculation of Pensionary benefits. This cap needs to be enhanced to Cabinet Secretary Pay level which also should be increased suitably if required to ensure that senior-level officers do not stagnate.

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3.2 Removal of anomalous and unjustified recommendation that appear prejudicial against service doctors would be able to address to following issues being faced by CHS,

- Mass Exodus of Doctors and High attrition rate
- Failure to attract the best of talent
- Aggravation of already existing shortage of doctors
- Crumbling of public health institutions leading to rise in cost of treatment

4. Doctor's Conveyance Allowance

4.1 The 7th CPC in its report (chapter 8.15) has states that,

“It is paid to Doctors for visits to hospitals and dispensaries outside normal duty hours as well as for making domiciliary visits. It is also paid to those employees who maintain their own Motor Car/Scooters/Motor Cycle/Moped and have to undertake frequent journeys on official business in their conveyance.”

4.2 The 7th CPC report however has inadvertently not referred to the fact that the conveyance allowance for doctors is not linked to mileage but to the number of visits made in each quarter of a year. The rate at which it is calculated is also different and thus this chapter needs to be revisited and amended. It is also noteworthy that there is a significant change in cost of cars, their maintenance and of the fuel but the recommendations have not addressed to these factors at all. We had requested this allowance to be made in terms of liters of fuel per month for this to remain meaningful. The provision of doctors maintaining a log-book should be removed for being impractical and cumbersome.

5. Non Grant of HAG through DACP AND DIFFERENTIAL RETIREMENT AGES:

5.1 The 7th CPC states in section 7.6.32 that:

*“The Commission notes that DACP is a more liberal time bound scheme especially when compared to other assured career schemes viz., MACP. The Ministry of Health and Family Welfare has commented that All India Service Officers also have time bound promotion up to Non Functional Selection Grade (NFSG). **The Commission therefore observes that the present system–DACP up to SAG level–is appropriate, and promotion beyond this level should be vacancy based.**”*

5.2 At present the DACPS is limited up to SAG level only. It is noteworthy that the 6th CPC enhanced the scope of promotion of CHS doctors to HAG level through NFU as applicable to all group A services and that the Memorandum of Settlement of JACSDO with GOI MOHFW states that service doctors should be placed among the best of group A services. In this scenario denial of financial upgrade of CHS doctors to HAG level

through DACP/NFU is unfair and needs be rectified. In the current setup, GDMO reaches SAG rank after completion of 20 years of service whilst a Specialist Doctor reaches SAG rank after completion of 13 years of service. A GDMO usually joins service at 29-32 years of age in JTS rank whereas a Specialist doctor usually joins service between 35-37 years of age in STS rank. Consequently, both GDMOs & Specialist Officers reach SAG rank roughly by the age of 50 and thereafter stagnate till retirement.

5.3 Consequent to above situation number of HAG & above posts in various Central Health Services vary between 0.34% (IOFHS) to 0.72% (IRMS) of the sanctioned strength which is much less as compared to other group A services. Denial of financial upgradation for service doctors to HAG level despite importance being given by the involvement of technical persons in governance and despite the importance being given to the public health sector is something that needs be addressed and remedied urgently. There is a Delhi High Court Judgement in this regard (CWP No.4067/2014) that is being implemented by the MOHFW granting NFU to all CHS doctors. Stopping this process suddenly is not desirable especially since there is a strong case for service doctors as appreciated by Hon'ble High Court of Delhi.

6. Central Staffing Scheme for service doctors:

6.1 The CHS Officers deployed occupying duty posts in DHS are not getting deputation allowance ostensibly because the Central Staffing Scheme as in other group A service is not applicable in CHS/DHS due to reasons not known and despite the fact that these officers are selected through UPSC and perform the duties as health administrators and managers in various fields. There is no reason that such a scheme is not applied on members of CHS and hence the request. In recent past this deputation has been allowed in several technical services such as Indian Engineering Services (IES), Indian Railway Service for Engineers, Signal Engineers, Electrical Engineers and Mechanical Engineers etc. This inconsistency and discrimination should have been addressed by the 7th pay commission and we request that this may be done now to remove this anomalous situation.

In view of above it is requested that recommendations be made to the select committee under Cabinet Secretary that 7CPC Report is suitably modified so as to remove any negative impact on wages/emoluments/pension of service doctors of all hues.

Yours faithfully,



Dr. Vijay Rai
Secretary DADWA