

Pay Revision of Employees of State Public Enterprises

GOVERNMENT OF ASSAM

DEPARTMENT OF PUBLIC ENTERPRISES

No.PE.42/96/19. Dated Dispur the 17th May/99

From: Shri C. K. Sharma, IAS

Secretary to the Govt. of Assam,

Department of Public Enterprises

Dispur, Guwahati-6

To: The Chairman/Chairman cum Managing Director/Managing Director/Chief Executive Officer/Executive Director _____

Sub: ASSAM SERVICES (ROP) RULES 1998 AND REVISION OF PAY SCALE ETC. OF THE EMPLOYEES OF THE STATE PUBLIC ENTERPRISES OF THE STATE OF ASSAM

Sir

I am directed to inform you that the All Assam State Govt. undertaking Workers union has been submitting of repeated appeals to the Hon'ble Chief Minister for issue of instruction to release revised pay scale to the employees of the State Level Public Sector Enterprises.

In this connection, the guidelines issued by the Finance Deptt. vide FTC 32/95/84 dtd.15.10.98 (copy enclosed) may be referred to . The instructions on the matter specifically state that the entire financial burden for the purpose of making payments of the revised pay scale and other benefits will have to be met from the resources of the enterprise concerned and no financial support would be given from the State Govt. to the PSUs for the purpose. As such, it is imperative that while considering the proposal on release of revised pay scale, the Board of Directors of the enterprises will very carefully examine the capability of the enterprises to bear the burden through assessment of performance of the enterprise in terms of business turnover, profit earning, turnover per employee and the performance plan for the following years, as this will lead to a continuing liability. It is clear that unless the performance is improved and surplus generated, the liability of bearing increased financial burden can not be taken.

Only after the Board of Directors is convinced of the capability of taking the burden of increased liability on account of revision of pay scale, the enterprises may move the Finance Department through the respective administrative Departments, for necessary approval, supported by relevant details on the proposal.

Yours faithfully,

Sd/-C.K.Sharma

Encl: As stated

Secretary to the Govt. of Assam

Public Enterprises Department

Dispur, Guwahati-6

Memo No.PE.47/96/19-A, Dated Dispur the 17th May/99

Copy to:

1. The Principal Secretary/Commissioner & Secretary/Secretary to the Govt. of Assam _____Department, Chandmari./ Dispur
2. The Financial Commissioner / Secretary to the Govt. of Assam, Finance department, Dispur

By order etc

Sd/-C.K.Sharma,

Secretary to the Govt. of Assam,

Public Enterprises Department, Dispur, Guwahati-6

GOVERNMENT OF ASSAM

FINANCE (PRU) DEPARTMENT

RECORD NOTE OF THE DISCUSSION HELD BETWEEN COMMISSIONERS OF PUBLIC ENTERPRISES AND FINANCE DEPARTMNTS ON 26TH DECEMBER 2002 ON THE MATTER OF REVISION OF PAY SCALES OF THE EMPLOYEES IN THE STATE LEVEL PUBLIC ENTERPRISES

The Finance (PRU) Department brought up that the Chief Minister, Assam desired examination of adoption of uniform policy in respect of revision of Pay Scale of the employees of the State Level Public enterprises

The following were considered:

1. The Pay Commission 1988 on Public Sector enterprises categorized the State Level Public enterprises in 4 levels in consideration of nature of activities, size of operation, number of employees and extent of investment. While the Pay scales were recommended to be revised post-wise in each of the public sector, for the Chief Executives, the Commission recommended 4 different scales as per the levels of the Enterprises for the Chief Executives. The Pay Commission of 1994 for State Public Enterprises recommended scale to scale revision and not enterprise and post-wise. Since all the enterprises cannot be equated, uniform pay scales even for same nomenclature of posts in different enterprises was not considered logical
2. The Finance (PRU) Department has already issued concurrence of revision of Pay scales in following 12 enterprises/organizations, subject to the condition that the entire financial burden for the purpose of making payment of the revised pay scales and other benefits would be made from own resources of the enterprises and no financial support would be given from the State Government for this purpose, in terms of letter No.FPC 34/95/60 dated 25.2.97 and FPC.32/95/64, dated 15.10.98.
 1. Assam Tribal Development Authority
 2. Assam Plains Tribes Development Corporation Ltd.
 3. Assam State Dev. Corpn. for OBC Ltd.
 4. Assam Fisheries Dev. Corporation Ltd.
 5. AMTRON
 6. Assam Tea Corporation Ltd.
 7. Assam Mineral Dev. Corporation Ltd.
 8. Assam Minority Dev. Board.
 9. Assam Financial Corporation

10. Ashok Paper Mills Ltd.
11. Assam State Text Book Production Corporation Ltd.
12. Assam Gas Company Ltd.

Supplementing the directions of the Finance Department, the PE Department vide letter No. PE 42/96/19 dated 17.5.99 advised the enterprises, that the Board of Directors of the enterprises would very carefully examine the capability of the enterprises to bear the burden, through assessment of performance of the Enterprises in terms of business turn over, profit earning, turn over per employee and the performance plan for the following years, as the pay revision would lead to continuing liability. Only after the Board of Directors is convinced of the capability of taking the burden of increased liability on account of revision of pay scale, the Enterprises could move the Finance department through the respective Administrative Departments for necessary approval, supported by relevant details. This circular was issued as per discussions with the Hon'ble Chief Minister in May, 1999.

As such, the uniform policy in this regard would be to consider proposals of the Enterprises in terms of directions of the PE and Finance Departments for scale to scale revision as per recommendation of the Pay Commission of 1994 and based on level and post-wise recommended scales of the Pay Commission of 1988. Further all proposals for pay revision should be along with the decisions of Governing Body on the capability of the PSU of taking the burden of increased liabilities on account of revision of pay scales without any additional assistance for State Government. The proposals should be routed through PE department with a complete analysis of the resources for meeting the additional financial burden due to pay revision

Sd/- (A. K. Thakur) Sd/- (Alok Perti)

Commissioner & Secretary Commissioner & Secretary

Finance Deptt. P.E. Department

Memo No. FPC 10/2000 Dated Dispur, the 4th January, 2001

Copy to:-

The Commissioner & Secretary to the Govt. of Assam

P.E. Department, Dispur

By order etc,

Sd/-

Under Secretary to the Govt. of Assam.

Finance (PRU) Department

GOVERNMENT OF ASSAM

FINANCE (PAY RESEARCH UNIT) DEPARTMENT

DISPUR, GUWAHATI - 6

No. FPC. 32/95/60 Dated Dispur the 25th February 1997

From : Shri S. C. Das IAS

Commissioner & Secretary to the Govt. of Assam

Finance Department

To : The Commissioner & Secretary to the Govt. of Assam

_____ Department

Dispur

Sub : Recommendation of the Assam Pay Commission, 1994 on the revision of pay scale etc. of the employees of State Public Enterprises of the State of Assam

Sir,

I am directed to forward herewith a copy of the Report of the Assam Pay Commission, 1994 for State Public Enterprises duly accepted by the Government.

You are requested to strictly follow the guidelines indicated below while initiating action as per recommendation of the Pay Commission.

- i. The individual Public sector undertaking under the Government of Assam may consider at the level of Board of Directors the question

of granting revised pay scales and other benefits to its employees by taking into account that it will have to depend on its own financial capability for the purpose of making payments of the revised pay scales and other benefits, and that no financial support would be given from the State Government to the Public Sector Undertaking for that purpose

- ii. While considering revision of pay scales for the employees of the Public Sector Undertaking under the Government of Assam, as stated above, the revised pay scales as accepted by the Government of Assam on the recommendation of the Assam Pay Commission, 1994 as applicable to the employees of the State Government should be kept in view
- iii. Except in case of those units, which are covered by bi-lateral agreement, the revision of pay scales for the employees of Public Sector Undertakings under the Government of Assam may be considered, as stated above, provided there has been no revision of pay scales after 1.1.89
- iv. Prior approval of the Finance Department of the State Government should be obtained by the Board of Management of the Public Sector Undertakings through the concerned administrative Department of the State Government before giving effect to any proposed revision of pay scales, etc. in respect of its employees as stated above

The receipt of the letter may kindly be acknowledged

Yours faithfully

Sd/- 25.2.97

Commissioner & Secretary to the Govt. of Assam

Finance Department

Memo No. FPC.32/95/60-A Dated Dispur the 25th February/1997

Copy for information and necessary action with a copy of the Report to:

1. The Secretary to the Govt. of Assam, Public Enterprises Department Dispur
2. The Managing Director/Chief Executive Officer/General Manager

_____.

They are requested to kindly acknowledge the receipt of the Report

By order etc.

Sd/- 25.2.97

Commissioner & Secretary to the Govt. of Assam

Finance Department

GOVERNMENT OF ASSAM

FINANCE (PAY RESEARCH UNIT) DEPARTMENT

DISPUR, GUWAHATI - 6

No. FPC. 32/95/64 Dated Dispur the 15th October 1998

From : Shri R. K. Bora IAS

Secretary to the Govt. of Assam

Finance Department

To : The Commissioner & Secretary to the Govt. of Assam

_____ Department

Sub : Assam Services (ROP) Rules 1998 and revision of pay scale etc. of the employees of State Public Enterprises of the State of Assam

Ref : This office letter No. FPC. 32/95/60 Dated 25.2.97

Sir,

With reference to the above, I am directed to request you to follow strictly the guidelines indicated below while initiating action for revision of pay of the employees of the State Public Enterprises of the State of Assam.

- i. Individual Public Sector Undertakings under the Government of Assam may consider at the level of Board of Directors the question of granting revised pay scales and other benefits to its employees by taking into account the revised pay

scales provided in the Assam Services (ROP) Rules, 1998, subject to the condition that the entire financial burden for the purpose of making payments of the revised pay scales and other benefits, will be met from their own resources. No financial support would be given from the State Government to the Public Sector Undertaking for that purpose

- ii. While considering revision of pay scales for the employees of the Public Sector Undertakings under the Government of Assam, as stated above, the revised pay scales as accepted by the Govt. of Assam and published in the A.S.(ROP) Rules, 1998 vide notification No. FPC.5/94/169 dated 4.7.98 and notification No. FPC.5/94/248 dated 4.7.98 as applicable to the employees of the State Government should be kept in view.
- iii. Except in case of those units, which are covered by bilateral agreements, the revision of pay scales for employees of a public sector undertaking under the Govt. of Assam may be considered, as stated above, provided there has been no revision of pay scales after 1.1.89.
- iv. Prior approval of the Finance Department of the State Government should be obtained by the Board of Directors, Board of Management of the Public Sector undertakings through the concerned administrative department of the State Government before giving effect to any proposed revision of pay scales, etc. in respect of its employees as stated above.

The receipt of the letter may kindly be acknowledged.

Yours faithfully

Sd/-

Secretary to the Govt. of Assam

Finance Department

Memo No. FPC.32/95/64-A Dated Dispur the 15th October/1998

Copy for information and necessary action to:

1. The Secretary to the Govt. of Assam, Public enterprises Department Dispur
2. The Managing Director/Chief Executive Officer/General Manager

_____.

They are requested to kindly acknowledge the receipt of the letter

By order etc.

Sd/-

Secretary to the Govt. of Assam

Finance Department

GOVT. OF ASSAM

DEPARTMENT OF PUBLIC ENTERPRISES

HOUSEFED COMPLEX : BLOCK IV : 1ST FLOOR

BELTOLA ROAD : DISPUR:

GUWAHATI 781 006

No. PE (D) 16/2003/49 Dated Dispur the 17th December 2003

From : Sri A. K. Das

Adviser (P)

To : The Principal Secretary to the Govt. of Assam

Industries/ Transport Department, DISPUR

The Commissioner & Secretary to the Govt. of Assam

Agriculture / Cultural Affairs / Education / Hill Areas / Home / HT & S / AH
& Veterinary / WPT & BC / Power / Urban Development / Finance / Fisheries
/ Mines & Minerals / Tourism Department, DISPUR

The Commissioner & Special Secretary to the Govt. of Assam

PWD, DISPUR

The Secretary to the Govt. of Assam

Co-operation / Soil Conservation / Minority Welfare Development Department,
DISPUR

The Secretary to the Govt. of Assam

Irrigation Department, Chandmari, GUWAHATI 781 003

**Sub : JUDGMENT OF HON'BLE SUPREME COURT OF INDIA ON
TRANSFERRED CASE No.8 of 2000**

Sir,

I am directed to forward an extract from the copy of judgment of the Hon'ble Supreme Court of India in Transferred case No. 8 of 2000 relating to Central Public Sector Undertaking, which may be of interest to you, in dealing with demands for salary & revision of pay scales of the employees of the State Level Public Enterprises under your administrative control.

Yours faithfully

Enclo : EXTRACT

Sd/- A.K.Das

Adviser(P) : Department of Public Enterprises

EXTRACT FROM THE JUDGMENT

On TRANSFERRED CASE No.8 of 2000

in the SUPREME COURT OF INDIA

The legal position is that identity of the Government Company remains distinct from the government. The Government Company is not identified with the Union but has been

placed under a special system of control and conferred certain privileges by virtue of the provisions contained in Section 619 and 620 of the Companies Act. Merely because the entire share holding is owned by the Central Government will not make the incorporated company as Central Government. It is also equally well settled that the employees of the Government Company are not civil servants and so are not entitled to the protection afforded by Article 311 of the Constitution (Pyare Lal Sharma v. Managing Director AIR 1989 SC 1854). Since employees of Government Companies are not government servants they absolutely no legal right to claim that government should pay their salary or that the additional expenditure incurred on account of revision of their pay scale should be met by the government. Being employees of the companies it is the responsibility of the companies to pay them salary and if the company is sustaining losses continuously over a period and does not have financial capacity to revise or enhance the pay scale, the petitioners cannot claim any legal right to ask for a direction to the Central Government to meet the additional expenditure which may be incurred on account of revision of pay scales. It appears that prior to issuance of the Office Memorandum dated 12.4.1993 the Government had been providing the necessary funds for the management of Public Sector Enterprises which had been incurring losses. After the change in economic policy introduced in early nineties, Government took a decision that the Public Sector Undertakings will have to generate their own resources to meet the additional expenditure incurred on account of increase in wages and that the government will not provide any funds for the same. Such of the Public Sector Enterprises (Government Companies) which had become sick and had been referred to BIFR, were obviously running on huge losses and did not have their own resources to meet the financial liability which would have been incurred by revision of pay scales. By the Office Memorandum dated 19.7.1995 the Government merely reiterated its earlier stand and issued a caution that till a decision was taken to revive the undertakings no revision in pay scale should be allowed. We therefore did not find any infirmity legal or constitutional in the two Office Memorandums which have been challenged in the writ petition.