

To

Dr. Amarjit Singh, IAS
Secretary & Chairman, Governing Body of NWDA
Ministry of Water Resources,
River Development & Ganga Rejuvenation, Govt. of India
Shram Shakti Bhawan, Rafi Marg
New Delhi- 110001

Dated: - 14.09.2017

Speed Post
Most Immediate

(Kind attention: - Shri Arun Kumar, Under Secretary (Estt. IV).

Sub: -Request for restoration of NWDA order no. 10/52/2012-Admn./9182-84 dated 12.07.2012 regarding grant of MACP w.e.f. 01.11.2011 and quashing of NWDA office order no. 3/72/2012-Admn./16794-16800 dated 31.12.2015 regarding grant of MACP w.e.f. 20.05.2016 on the post of Director (Finance) in NWDA – refund of Rs. 629732/- recovered illegally by NWDA before retirement vide NWDA office order no. 3/72/2012-Admn./1639-47 dated 29.01.2016.

Hon'ble Sir,

May I request your kind honour to kindly intervene to arrange for an immediate redressal of my genuine grievance as per following details: -

1. I had joined as direct Under Secretary in the NOVOD Board under M/o Agriculture on 28.10.1991 and proceeded on deputation to National Water Development Agency on the post of Director (Finance) on a higher scale w.e.f. 01.11.2001. Later on, I was absorbed on the same post w.e.f. 19.05.2006. I had not repatriated to my parent department and had retired from the NOVOD Board.
2. DoPT, Estt. (D) vide their ID Note Dy. No. 29599/CR/12 dated 26.04.2012 **(Encl. I)** addressed to Dept. of Agriculture & Cooperation had advised regarding grant of ACP / MACP, reproduced hereunder: -

"3. As per guidelines of ACP Scheme, when a person is appointed in a higher grade initially on deputation followed by absorption the same will be treated as direct recruitment and past service/promotion which was in different scale will not be counted. **In the instant case, Shri Gupta's appointment as Director in the National Water Development Agency for the purpose of grant of ACP will be counted from the date he has proceeded on deputation i.e. 01.11.2001.** The officer cannot claim the benefit of regular service on both the posts. i.e. substantive post in the parent Department as well as on the Deputation post for the same period. Hence, Shri Gupta is not eligible for grant of ACP in the NOVOD Board as he has not completed the 12 years regular service in the post of Under Secretary".

3. Accordingly, National Water Development Agency vide their office no. 10/52/2012-Admn./9182-84 dated 12.07.2012 (Encl. II) had granted MACP to me w.e.f. 01.11.2011 after completion of ten years in the pay band of Rs. 37400-67000 plus Grade Pay of Rs. 8700/- on the post of Director (Finance).
4. The NWDA does not have pension whereas NOVOD Board has pension provisions. Accordingly, my service of NOVOD Board could not be counted in NWDA for pensionary purpose. As per the Govt. of India rules, the NOVOD Board had released prorata retirement and pensionary benefits for the service rendered in NOVOD Board as per terms and conditions approved for permanent absorption conveyed by National Water Development Agency to NOVOD Board vide letter no. 3/72/2005-Admn. /6800 dated 14.06.2006 (Encl. III). As per terms and conditions no. 6 & 9, retirement benefits accruing out of pre-absorption service will be settled between the concerned employee and his parent Organisation and the NWDA will bear no liability in this regard because NWDA is a purely temporary organization without pension facilities.
5. The receipt of prorata pensionary and retirement benefits by the undersigned from NOVOD Board has resulted in misunderstanding of the whole case on the part of NWDA in the year 2014 because Mr. Sastri, the then consultant wrongly advised the NWDA officers due to lack of his knowledge. The NWDA did not bother to read the above mentioned terms and conditions of absorption and hence this misunderstanding. Accordingly, they reviewed the entire case thinking that the service from 01.11.2001 to 19.05.2006 was counted for both benefits i.e. MACPS in NWDA and Pension/Gratuity in NOVOD Board. The NWDA did not also carefully read the above mentioned observations of DoPT dated 26.04.2012 wherein the DoPT has already clarified this misunderstanding, reproduced hereunder: -

“3. ---- In the instant case, Shri Gupta's appointment as Director in the National Water Development Agency for the purpose of grant of ACP will be counted from the date he has proceeded on deputation i.e. 01.11.2001. The officer cannot claim the benefit of regular service on both the posts. i.e. substantive post in the parent Department as well as on the Deputation post for the same period. Hence, Shri Gupta is not eligible for grant of ACP in the NOVOD Board as he has not completed the 12 years regular service in the post of Under Secretary”.

The DoPT had clearly stated that ACP in NOVOD Board is not to be given. The NWDA has to give MACP by counting deputation period. On the basis of this decision of DoPT, the NOVOD Board had not given ACP whereas the NWDA had released MACP as advised by DoPT w.e.f. 01.11.2011.

6. In view of the above mentioned misunderstanding on the part of NWDA, the NWDA had again wrongly sought the advice of DoPT through M/o Water Resources by misrepresenting all the facts. The DoPT vide their ID Note Dy. No. 1036448/CR/2014 dated 23.10.2015 (**Encl. IV**) received on file no. 17/6/2014-Estt.IV of M/o Water Resources had advised as under: -

“7. The Administrative Ministry may be requested to take up the matter with the Department of Pensions and Pensioners’ Welfare being nodal department on pension for clarification as to whether service for which pensionary benefit has been availed may be taken into reckoning for other purposes viz. MACP or not”.

7. Accordingly, the M/o Water Resources had referred the case to Deptt. of Pensions & Pensioners’ Welfare vide their ID Note Dy. No. 17/6/2014-Estt.IV/1947 dated 05.11.2015. The Deptt. of Pensions & Pensioners’ Welfare vide their ID Note Dy. No. 4/2/15-P&PW(D) dated 17.11.2015 to M/o Water Resources (**Encl. V**) had advised as under: -

“This Deptt. has no comments to offer as to whether or not the service rendered in the previous organisation would count for MACP in the new organisation in such cases”.

8. From the above it is evident that neither the DoPT nor the Department of Pensions and Pensioners’ had advised the M/o Water Resources to allow MACP w.e.f. 20.05.2016 instead of 01.11.2011. The M/o Water Resources ,however, wrongly directed the DG, NWDA vide their letter no. 17/6/2014-Estt.IV/2133 dated 27.11.2015 (**Encl. VI**) to count my service for the purpose of MACP from the date of permanent absorption in NWDA. While advising DG, NWDA the then Under Secretary (Shri Ajay Kumar) deliberately did not enclose the copy of ID Note received from DoPT & Deptt. of Pension & Pensioners’ Welfare. The same has now been obtained through RTI. Since neither the DoPT nor the Department of Pensions and Pensioners’ Welfare had nothing new to advise, the earlier advice of DoPT received vide their ID Note Dy. No. 29599/CR/12 dated 26.04.2012 (**Encl. I**) will continue to be applicable wherein the DoPT had clearly advised as under: -

“3. -- In the instant case, Shri Gupta’s appointment as Director in the National Water Development Agency for the purpose of grant of ACP will be counted from the date he has proceeded on deputation i.e. 01.11.2001”.


9. The NWDA by acting on the wrong advice of M/o Water Resources revised grant of MACP w.e.f. 20.05.2016 instead of 01.11.2011 vide NWDA office order no. 3/72/2012-Admn. /16794-16800 dated 31.12.2015 (**Encl. VII**) and irregularly recovered Rs. 629732/- (Rupees Six Lakhs Twenty Nine Thousand Seven Hundred

Thirty Two Only) vide NWDA office order no. 3/72/2012-Admn. /1639-47 dated 29.01.2016 (Encl. VIII) just before my retirement on superannuation. The DoPT had never advised the Ministry to grant MACP w.e.f. 20.05.2016 but the Ministry advised the NWDA to grant MACP w.e.f. 20.05.2016. Both the DoPT and the Department of Pensions and Pensioners' Welfare had no comments to offer on the revised date of grant of MACP. Hence, the MACP will continue to be regulated by the earlier advice of DoPT.

10. It is, therefore, requested that the NWDA may please be directed to restore the NWDA order no. 10/52/2012-Admn./9182-84 dated 12.07.2012 regarding grant of MACP w.e.f. 01.11.2011 and quash the NWDA office order no. 3/72/2012-Admn./16794-16800 dated 31.12.2015 regarding grant of MACP w.e.f. 20.05.2016. Further, NWDA may also be directed to treat their office order no. 3/72/2012-Admn./1639-47 dated 29.01.2016 regarding recovery of Rs. 629732/- as null and void. The NWDA may accordingly be advised to refund Rs. 629732/- along with interest immediately which they had recovered in the month of February 2016, by restoring the grant of MACP w.e.f. 01.11.2011 without any further delay. The responsibility may also be fixed on the highly irresponsible officers concerned of M/o Water Resources and NWDA and the interest payable on Rs. 629732/- may be recovered from them. Since this irregularity had occurred due to wrong advice of M/o Water Resources to NWDA, the M/o Water Resources has to withdraw its letter no. 17/6/2014-Estt. IV / 2133 dated 27.11.2015 and advise NWDA appropriately to grant MACP w.e.f. 01.11.2011 as was advised by DoPT vide their ID Note Dy. No. 29599/CR/12 dated 26.04.2012. which is strictly as per rules.

Encl. As above.

Yours faithfully


14/09/2017
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