Sub: – Circulation of OMs issued by DoP&T regarding MACP/Benchmark grading in ACRs.

Gol, MoD letter received under MoD ID No.27(2)/2017-D(Civ-I) dated 30.04.2020 received vide HQrs office letter No. dated 03.07.2020 on the above subject is uploaded on the official website for information and further necessary action by all concerned.

ACDA (Pay)

File No. Pay/II/Tech/Misc
Dated: 16.07.2020

Distribution

1. IT & S (Local) : For uploading on the official website.

ACDA (Pay)
All concerned are requested to download the under mentioned Govt. Orders issued by Ministry of Personnel, Public Grievances & Pensions, (Department of Personnel & Training) from the website of DoP&T for necessary action/compliance. The provisions contained therein are duly applicable to Defence Civilian Employees paid from Defence Service Estimates. The following are being uploaded by this office on the MoD (Department of Defence) website under the link "Employees’ Corner":

<table>
<thead>
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<th>S. No.</th>
<th>OM No. &amp; date</th>
<th>Subject</th>
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Distribution:

- D(O-II)
- D(Med)
- D(Works-II)
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- D(N-II)
- D(BR)
- D(Air-III)
- D(QA)
- D(Q&C)
- D(GS-I/Civ)
- D(GS-VI)
- D(GS-II)
- D(GS-I)
- D(Estt/NG)
- D(Appll)
- D(Mov)
- D(Res-II)
- D(R&D)
- D(QS)
- D(CG)
- DDP/Coord
- MoD(Fin) (DAD/Coord)
- D(II) with the request to upload this ID Note on the website of MoD under Head MoD>DoD>Employees Corner> Hindi version will follow

MoD ID No. 27(2)/2017-D(Civ-I) dated 30.04.2020
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<tr>
<th>AG/Mp-4(Civ)(a)</th>
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<td>DGDE/Admn</td>
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<td>DGAOA</td>
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Employees' Federations: - AIDEF/INDWF/BPMS/CDRA

Copy for information:

- PPS to Hon. RM/RRM
- SO to Def. Secretary
- Sr. PPS to Secretary of DPE/ESW/ R&D
- PPS to all Additional Secretaries/ Joint Secretaries, MoD
- PS to DS(CP)
Office Memorandum

Subject: Disclosure of below benchmark grading in ACRs prior to the reporting period 2008-09 and objective consideration of representation by the competent authority against remarks in the ACR or for upgradation of the final grading.

The Department of Personnel & Training had vide OM No. 21011/1/2005-Estt (A) (Pt-II) dated 14.05.2009, issued instructions regarding maintenance and preparation of Annual Performance Appraisal Reports. It was inter-alia stated therein that full APAR, including the overall grading and assessment of integrity, shall be communicated to the concerned officer. The new system of communicating entries in the APAR was made applicable prospectively with effect from the reporting period 2008-09.

2. Subsequently, this Department vide O.M. No. 21011/1/2010-Estt A dated 13.04.2010 issued instructions regarding disclosure of below benchmark gradings in ACRs of the period prior to 2008-09, providing that if an employee is to be considered for promotion in a future DPC and his ACRs prior to the period 2008-09, which would be reckonable for assessment of his fitness in such future DPCs, contain final grading which are below benchmark for his next promotion, before such ACRs are placed before the DPC, the concerned employee will be given a copy of the relevant ACR for his representation if any, within 15 days of such communication. It was clearly stated therein that only below benchmark ACR for the period relevant to promotion need be sent to the officer reported upon and there is no need to send below benchmark ACRs of other years.

3. References are being received in this Department from various Ministries/Departments seeking comments/views on disclosure of below benchmark ACRs of the period prior to 2008-09, which have already been considered by DPC prior to 13.04.2010, for promotion to a post/grade, for a representation and holding review DPC after due consideration of such representation.

4. The matter has been considered in this Department and it is felt that acceding to the request for disclosure of below benchmark gradings in ACRs for the period prior to 2008-09 will open flood gates and a large number of employees, both serving and retired, may come up with a request for disclosure of their ACRs of old periods.
resulting into administrative difficulties and chaos. It is therefore, reiterated that only such below benchmark ACRs prior to the reporting period 2008-09 need to be disclosed to the officer reported upon for his representation, as are reckonable for assessment of fitness in future DPCs. In other words, below benchmark grading in the ACRs for the period prior to 2008-09 need not be disclosed to the officer reported upon, if the same are not reckonable for future DPCs.

This Department may be consulted in case of any deviation from the aforesaid instructions.

(Kabindra Joshi)
Director (E-II)

To:
All Ministries/Departments of Government of India

S.H.O., Department of Personnel & Training, vide O.M. No. 2011/1500-6, dated 13.02.2012, issued instructions regarding placement of Promotional branches in ACRs to the effect that, in case, an officer is promoted to the branch 500-60, and during the month of March 2012, for promotion to a higher branch, the ACRs place the ACR prior to the branch 500-60, the following guidelines may be observed:

1. In cases where the ACR has been issued, the promotion in respect of the branch 500-60 is to be given the same status of the ACR, and the ACR issued for the promotion to a higher branch is to be placed at the start of the ACR.

2. In cases where the ACR has not been issued, the promotion in respect of the branch 500-60 is to be given the same status of the ACR, and the ACR issued for the promotion to a higher branch is to be placed at the start of the ACR.

3. In cases where the ACR has not been issued, the promotion in respect of the branch 500-60 is to be given the same status of the ACR, and the ACR issued for the promotion to a higher branch is to be placed at the start of the ACR.

4. In cases where the ACR has not been issued, the promotion in respect of the branch 500-60 is to be given the same status of the ACR, and the ACR issued for the promotion to a higher branch is to be placed at the start of the ACR.

5. In cases where the ACR has not been issued, the promotion in respect of the branch 500-60 is to be given the same status of the ACR, and the ACR issued for the promotion to a higher branch is to be placed at the start of the ACR.

6. In cases where the ACR has not been issued, the promotion in respect of the branch 500-60 is to be given the same status of the ACR, and the ACR issued for the promotion to a higher branch is to be placed at the start of the ACR.

7. In cases where the ACR has not been issued, the promotion in respect of the branch 500-60 is to be given the same status of the ACR, and the ACR issued for the promotion to a higher branch is to be placed at the start of the ACR.

8. In cases where the ACR has not been issued, the promotion in respect of the branch 500-60 is to be given the same status of the ACR, and the ACR issued for the promotion to a higher branch is to be placed at the start of the ACR.

9. In cases where the ACR has not been issued, the promotion in respect of the branch 500-60 is to be given the same status of the ACR, and the ACR issued for the promotion to a higher branch is to be placed at the start of the ACR.

10. In cases where the ACR has not been issued, the promotion in respect of the branch 500-60 is to be given the same status of the ACR, and the ACR issued for the promotion to a higher branch is to be placed at the start of the ACR.

11. In cases where the ACR has not been issued, the promotion in respect of the branch 500-60 is to be given the same status of the ACR, and the ACR issued for the promotion to a higher branch is to be placed at the start of the ACR.

12. In cases where the ACR has not been issued, the promotion in respect of the branch 500-60 is to be given the same status of the ACR, and the ACR issued for the promotion to a higher branch is to be placed at the start of the ACR.

13. In cases where the ACR has not been issued, the promotion in respect of the branch 500-60 is to be given the same status of the ACR, and the ACR issued for the promotion to a higher branch is to be placed at the start of the ACR.

14. In cases where the ACR has not been issued, the promotion in respect of the branch 500-60 is to be given the same status of the ACR, and the ACR issued for the promotion to a higher branch is to be placed at the start of the ACR.

15. In cases where the ACR has not been issued, the promotion in respect of the branch 500-60 is to be given the same status of the ACR, and the ACR issued for the promotion to a higher branch is to be placed at the start of the ACR.

16. In cases where the ACR has not been issued, the promotion in respect of the branch 500-60 is to be given the same status of the ACR, and the ACR issued for the promotion to a higher branch is to be placed at the start of the ACR.

17. In cases where the ACR has not been issued, the promotion in respect of the branch 500-60 is to be given the same status of the ACR, and the ACR issued for the promotion to a higher branch is to be placed at the start of the ACR.

18. In cases where the ACR has not been issued, the promotion in respect of the branch 500-60 is to be given the same status of the ACR, and the ACR issued for the promotion to a higher branch is to be placed at the start of the ACR.

19. In cases where the ACR has not been issued, the promotion in respect of the branch 500-60 is to be given the same status of the ACR, and the ACR issued for the promotion to a higher branch is to be placed at the start of the ACR.

20. In cases where the ACR has not been issued, the promotion in respect of the branch 500-60 is to be given the same status of the ACR, and the ACR issued for the promotion to a higher branch is to be placed at the start of the ACR.
OFFICE MEMORANDUM

Subject: References/ Representations/Court Cases in various Ministries/ Departments/ Organisations for grant of MACPS benefits in the promotional hierarchy – reg.

In continuation of this Department’s earlier O.M. of even number dated 20.01.2016, 01.03.2016 and 17.05.2016 on the above subject, the undersigned is directed to say that the Hon’ble Supreme Court of India vide Order dated 05.03.2020 has disposed of the SLP(C) No.21803/2014, UOI & Ors. Vs. M.V. Mohanan Nair case and other cases tagged together.

2. The Hon’ble Apex Court, in its aforesaid judgment, has, inter alia, set aside all the impugned orders of the High Courts in these batch of appeals arising out of SLP(C) No.21803 of 2014, SLP(C) No.22181 of 2014, SLP(C) No.23335 of 2014, SLP(C) No.23333 of 2014, SLP(C) No.18227 of 2015, SLP(C) No.31125 of 2016 and SLP(C) Diary No.6042 of 2017, and the appeals preferred by the Union of India have been allowed. Further, the appeal arising out of SLP(C) No.33706 of 2016 is also disposed of. Consequently, the Apex Court has upheld the Govt. policy that benefits under MACPS are to be granted in the standard hierarchy of Grade Pays/Pay Levels and not in the promotional hierarchy.

3. The Hon’ble Apex Court, while setting aside the orders of the respective High Courts, has held that the ACP Scheme, which is now superseded by the MACP Scheme, is a matter of government policy. Interference with the recommendations of an expert body like the Pay Commission and its recommendations for the MACP would have a serious impact on the public exchequer. The recommendations of the Pay Commission for the MACP Scheme have been accepted by the Government and implemented, and that there is nothing to show that the Scheme is arbitrary, or unjust, warranting interference. The judgement has also stated that without considering the advantages in the MACP Scheme, the High Courts erred in interfering with the government’s policy by simply placing reliance upon the Raj Pal case, and that the impugned orders cannot be sustained and are liable to be set aside.
4. Accordingly, in terms of the existing MACP guidelines, and in light of above mentioned or dated 05.03.2020, all Ministries/Departments are, therefore, advised to dispose of all pending grievances seeking grant of benefit in the promotional hierarchy under the MACP Scheme, and also to defend the various pending Court Cases or to take immediate suitable action for appealing against such judgments which are contrary to the existing policy, as upheld by the Hon'ble Apex Court in the instant case.

5. All Ministries/Departments are also requested to upload the above order dated 05.03.2020 on their websites for wider publicity.

(A. Bhattacharya)
Deputy Secretary

To

All Ministries/Departments of the Government of India.

Copy to:

1. President's Secretariat/Vice President's Secretariat/Prime Minister's Office/ Supreme Court/
Rajya Sabha Secretariat/ Lok Sabha Secretariat/ Cabinet Secretariat /UPSC/ CVC/ C&AG/
Central Administrative Tribunal (Principal Bench), New Delhi.
2. All attached/subordinate offices of the Ministry of Personnel, Public Grievances and Pensions.
3. Secretary, National Commission for Minorities.
4. Secretary, National Commission for Scheduled Castes/Scheduled Tribes.
5. Secretary, Staff Side, National Council (JCM), 13-C, Ferozeshah Road, New Delhi.
6. PS to MOS(PP) for information to Hon'ble MoS(PP).
7. All Staff Side Members of the National Council (JCM).
8. NIC (for uploading this OM on the website of DOPT (ACP)).
9. Hindi Section, DoPT for Hindi Translation.