

# Freezing of Dearness Allowance to Central Government Employees and Dearness Relief to Central Government Pensioners - Hardships & legal implications thereof. - NC JCM

airf.ncjcmstaffside |

Freezing of Dearness Allowance to Central Government Employees and Dearness Relief to Central Government Pensioners – Hardships & legal implications thereof.....

*Shiva Gopal Mishra*  
Secretary

Ph.: 23382286  
National Council (Staff Side)  
Joint Consultative Machinery  
for Central Government Employees  
13-C, Ferozshah Road, New Delhi – 110001  
E Mail : nc.jcm.np@gmail.com

No.NC/JCM/2020 Dated: May 26, 2020

The Cabinet Secretary,  
Government of India,  
New Delhi

Dear Sir,

**Sub: Freezing of Dearness Allowance to Central Government Employees and Dearness Relief to Central Government Pensioners – Hardships & legal implications thereof.**

Ref.: (i) MoF(Dept of Exp.)'s O.M. No.1/1/2020=E-II(B) dated 23.04.2020  
(ii) Our earlier memorandum No.NC-JCM-2020/CS/PM dated 23.04.2020

This is in continuation of our earlier memorandum cited above regarding unjust decision taken by the Government to freeze the rates of DA and DR up to July 2021, over-riding earlier decision of the Union Cabinet to grant 4% additional DA and DR from 01.01.2020, and arbitrarily changed Cabinet decision through an executive order of the MoF(DoE) vide its O.M. dated 23.04.2020 by Freezing DA and DR as on January 1, 2020. This had put the Central Government employees and Central Government Pensioners in severe hardship. Cost escalation of Essential Commodities, in the wake of Covid-19 crisis period, has further aggravated stressful situation.

We submit the following points for your consideration:-

- Hon'ble Finance Minister has recently announced series of financial boost-ups for Rs.20.97 lakh crores as stimulus under "Atm Nirbhar Bharat Package" covering certain sectors to boost economic activities.
- As a result of above mentioned economic packages, the business and rich sections of the society got motivational packages, in one form or the other, except the workers, poor people, Government Employees and Pensioners, who have to bear the brunt of the COVID-19 lockdown and its severe impact on the inflation and consequential price rise of all commodities. Instead of providing some relief to them to meet with the higher inflation, it is regrettable that, inspite of the protests by the JCM Staff Side, vide its letter cited above, the Government has not yet withdrawn its orders of 23.04.2020 to freeze DA and DR rates as on 01.01.2020 upto July 2021 and not to pay the arrears for the three installments of additional DA and DR falling due from 01.01.2020, 01.07.2020 and 01.01.2021. This has adversely affected the morale of the Employees and Pensioners, besides causing serious hardship to them and their families, especially from the lower and middle income groups.
- DA and DR are the part of Pay and Pension respectively. DA and DR provide protection against erosion of Wages and Pension due to price rise and inflation. DA and DR are having great importance in wage structure for the Central Government Employees and Pensioners. All Central Pay Commissions decided pay structure by merging DA and DR with the Pay and Pension, treating them as zero from the date of implementation of its report and linking them with the revised base of Price Index from the said date of implementation of its recommendations. Subsequent rise in DA and DR installments are being released to compensate the inflation there-onwards.
- The First Central Pay Commission (1946-48) recommended that, "As long as cost of living is continued to be substantially higher, some system of dearness allowance over and above pay must continue in operation". Thereafter, every Central Pay Commissions recommended grant of DA and DR to compensate for inflation.
- Third Pay Commission onwards all the Central Pay Commissions had recommended for Revision of DA and DR every six months as per percentage rise of Price Index over the base point on the date of implementation of the respective CPCs.

Moreover, DA and DR is linked with the Consumer Price Index, as already accepted by the Government, cannot be frozen.

- DA and DR is the Fundamental Right of an Employee and Pensioner respectively, therefore, withholding this Compensation Package, meant for sustenance against price rise, is unacceptable under any circumstances. The government should take note that, DA and DR provision is meant to facilitate survival of the Employee and Pensioner against erosion of Wages and Pension.
- In its recommendations, vide Para 8.17.37, the 7th CPC continued the same formula of revision of DA and DR every 6 months from 1st January and 1st July. The recommendations of the 7th Pay Commission were accepted by the Union Cabinet. The same cannot be changed or taken away unilaterally through an executive order.
- Fair Wages Committee recommended that, "It is clearly necessary for this country to continue to pay dearness allowance to neutralize wholly or atleast substantially the increase in the cost of living".
- Payment of Salary/Pension and DA or DR thereon to an employee and Pensioner are not a matter of bounty. It is a vested right of an employee and a Pensioner to receive the salary and Pension (Pension is a deferred wage as held by the Apex Court in DS Nakara's Case and Major General SPS Bain's case). DA and DR are part of Salary and Pension. It is also a statutory right as it flows from the Service Rules. Right to receive Salary and Pension every month is part of the service conditions emanating from Article 309 of the Constitution of India.
- In the case of State of MP Vs. Ranojirao Shinde [AIR (1968) SC 1053], it has been held that, right to a sum of money is 'property'. In the decision in Deokinandan Prasad Vs. State of Bihar & Others [AIR 1971 SC 1409], it has been held that, right to receive pension is a property and the same cannot be taken away or withheld by a mere executive order.

- Freezing of Dearness Allowance and Dearness Relief is a blatant violation of the provision of Article 360 of the Constitution of India.
- Article 300A of the Constitution of India, which confers a Constitutional Right to Property, includes within its purview, salary as a right to property and as a sequel thereof, it applies to Pension and the DA and DR thereon.
- It is pertinent to mention that, neither Epidemic Diseases Act 1897 nor Disaster Management Act 2005 specify or confer any power upon any Government to defer the Salary or Allowances due to its Employees and Pensioners. DA and DR cannot be denied under any circumstances.
- As per Settled Law, financial difficulty is not a ground for the Government to defer or freeze the Payment of Salary/Allowances or Pension by an executive order.

It is, therefore, requested that, the O.M. dated 23.04.2020 of the Department of Expenditure, for freezing of Dearness Allowance and Dearness Relief to the Central Government Employees and Pensioners, may please be withdrawn and arrears of Additional DA and DR @ 4% w.e.f. 01.01.2020 may please be paid at the earliest as per decision of the Union Cabinet taken prior to the said O.M. on freezing of DA and DR.

In conclusion, I would like to add that, like other employees, the Central Government Employees are also equally subjected to undue hardship due to COVID-19 epidemic, and the resultant economic downfall. Many economic demands of the Central Government Employees, including the ones which are approved by the Union Cabinet, are also remaining unimplemented since Government orders are not issued, especially on revision of Night Duty Allowance and Risk Allowance on 7th CPC pay scales, and 7th CPC anomalies, including assurance given by the Group of Ministers during Strike Demand Negotiations, are all remaining unsettled. In this situation freezing DA/DR for 18 months and not paying the arrears is not at all a justified decision. As many prominent economists have suggested to the Government that, money should be given to the people, to improve liquidity and purchasing power in the market, may be considered by the Government in its true spirit, and, therefore, I once again request you to kindly bring all the above justifications for releasing Additional DA/DR to the notice of the Hon'ble Prime Minister, and a favourable decision may be taken in this regard, considering the fact that, a good number of Government Employees are working during the entire lockdown period, taking risk of not only their life, but also their family members.

Yours faithfully,



(Shiva Gopal Mishra)  
Secretary

- √Copy to: Secretary(DoP&T), Government of India, For necessary action please.
- √Copy to: Secretary(Exp.), Ministry of Finance(Government of India) – For necessary action please.
- √Copy to: Jt. Secretary(Pers.), Government of India – For necessary action please.
- √Copy to: Addl. Secretary(Estt.), Government of India – For necessary action please.
- √Copy to: Dy. Secretary(JCM), Government of India – For necessary action please.
- √Copy to: All Constituents of JCM(Staff Side) – For information.

**Category:** [Uncategorized](#)