

**CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH
ALLAHABAD**

This is the 17th day of January, 2020.

ORIGINAL APPLICATION NO. 874 of 2012

HON'BLE MR RAKESH SAGAR JAIN, MEMBER (J)

Sohan Dutt Sharma S/o Late Shri Lakhmi Chand Sharma R/o House No. M-II/66, Maha Vidya Colony, Phase – II, Mathura.

.....Applicant.

By Advocate: Shri Rakesh Verma

VERSUS

1. The Union of India through the General Manager, Northern Railway, Baroda House, New Delhi
2. Divisional Railway Manager, Northern Railway, Moradabad Division, Moradabad.
3. Senior Divisional Personnel Officer, Northern Railway, Moradabad Division, Moradabad
4. Senior Divisional Finance Manager, Northern Railway, Moradabad Division, Office of the Divisional Railway Manager, Moradabad

.....Respondents

By Advocate: Shri Sanjay Kumar Ray

O R D E R

BY HON'BLE MR RAKESH SAGAR JAIN, MEMBER (J).

1. The present original application has been filed by the applicant Soham Dutt Sharma against the action of the respondents in not allowing the benefit/payment of the personal pension as a separate element while fixing the total monthly pension of the applicant w.e.f. 01.01.1996 onwards even though said benefit was allowed to the applicant upon his retirement from service w.e.f 01.10.1985 when IIIrd Central Pay Commission was enforced

and the same continued to be paid to the applicant while revising the monthly pension after the enforcement of the IVth Central Pay Commission w.e.f. 01.01.1986. The action of the respondents in not allowing the benefit of personal pension as a separate element while calculating and revising the month pension of the applicant after enforcement of the Vth C.P.C. w.e.f. 01.01.1996 is in violation of the provisions contemplated in office memorandum dated 16.04.1987, 01.05.1987, 27.10.1997 and 01.09.2008, issued by the Ministry of Personnel, Public Grievances and Pensions (Department of Pension and Pensioners Welfare), New Delhi.

2. It is the further case of applicant that his personal pension of Rs.112/- per month has been withdrawn and that the Government servants, who retired in between 31.03.1985 to 31.12.1985 were allowed by the Government of India personal pension keeping in view of the fact that monthly pension of these Government Servants was prepared by calculation of two different methods i.e. (A) at 320 points and other (B) 568 points and the difference in between the two above was allowed as personal pension as would be evident from a bare perusal of the Pension Payment Order dated 04.02.1986 wherein the applicant was allowed basic pension Rs.540/- after commutation of Rs.269/- plus personal pension as a separate element of Rs.126/- totalling to Rs.666/- per month w.e.f. 01.10.1985.

3. Hence, the applicant seeks the following reliefs:-

- “(i) to issue a writ, order or direction in the nature of certiorari quashing the impugned order dated 11.12.2010 so far as it rejects the representation of the petitioner having claimed personal pension of Rs.112/- per month as a separate element which has illegally been stopped from 01.01.1996 onwards against the provisions of the Govt. of India (Annexures A-6, A-7, A-8 and A-9 respectively to Compilation No. ‘II’ of this petition) passed by the respondent No.2 (Annexure A-1 to Compilation No. I of this petition).*
- (ii) to issue a writ, order or direction in the nature of mandamus directing the respondent Nos. 2, 3 & 4 to allow the benefit of*

personal pension of Rs.112/- per month with effect from 01.01.1996 and pay the arrears thereof, within a period as may be fixed by this Hon'ble Tribunal.

- (iii) to issue a writ, order or direction in the nature of mandamus directing the respondent No. 2, 3 & 4 to compensate the petitioner in terms of interest @ 12% per annum on the whole amount of arrears for the period from 01.01.1996 till the payment is actually made, within a period as may be fixed by this Hon'ble Tribunal.*
- (iv) to issue any other suitable writ, order or direction in the facts and circumstances of the case which this Hon'ble Tribunal may deem fit and proper.*
- (v) to award cost of the petition in favour of the petitioner".*

4. Alongside the O.A., applicant also filed an application seeking condonation of delay in filing the O.A. I have heard the learned counsels for the parties on the question of delay. Looking to the nature of the relief i.e. regarding the payment of pension, the delay in filing the O.A. is condoned.
5. In reply, the stand of respondents is that the applicant was paid his personal pension as a separate element till the implementation of IVth Central Pay Commission, but after the commencement of Vth Central Pay Commission in order to revise the monthly pension of the pensioners an Office Memorandum dated 10.02.1998 was issued by the Government of India, Ministry of Personnel, Public Grievances & Pensions, Department of Pension and Pensioner's Welfare, Para-8 of which clearly states that the personal pension paid may be adjusted against the arrears. Personal pension will need to be discontinued w.e.f. 01.01.1996 and in this regard, DOPT issued OM dated 26.09.2000 and OM dated 03.10.2008. Both the OMs were implemented by the Railway Board vide RBE No. 189/2000 (Annexure CA-1) and RBE No. 146/2008 (Annexure CA-2) and therefore, the aforementioned personal pension was discontinued w.e.f. 01.01.1996, as such, applicant is not entitled to the relief claimed in the O.A.

6. I have heard and considered the arguments of counsel for the parties and gone through the material on record and during the course of argument, reiterated the pleas taken by them in their respective pleadings.
7. I may in the first instance refer to Office Memorandum dated 26.09.2000 issued by DOPT which reads as under:-

"The undersigned is directed to refer to this Department's O.M. Nos. 45/86/87-P&PW(A) (pt. II) dated the 27th October, 1997, 24th December 1997 and 10th February, 1998 wherein the criteria to be adopted by the Pension Sanctioning authorities while revising the pension of pre-1986 retirees have been detailed. In the course of implementation of the above orders, clarifications are still being sought by Ministries/ Departments of Government of India about regulation of personal pension sanctioned to Government servants who retired between 31.3.1985 and 31.12.1985. It is clarified that:

Personal pension was given as an interim measure to compensate the loss that occurred where the amount of pension calculated after the merger of DA upto AICPI 568 in pay resulted in loss as compared to the total amount of pension calculated on emoluments after merger of DA upto AICPI 320 with graded relief thereon. However, in the wake of implementation of recommendations of the V CPC bringing the pre-1986 pensioners notionally on the revised scale of pay w.e.f. 1.1.86, on the same criteria as for serving employees on that date, the pay scale included merger of DA upto AICPI 608. As per O.M. of 10.2.98 issued by this Department, para 8 clearly states that personal pension paid may be adjusted against the arrears. Personal Pension will need to be discontinued w.e.f 1.1.1996.

The above clarifications may be taken due note of while finalising the cases of revision of pension/ family pension of pre-1986 and pre 1996 pensioners/ family pensioners.

This issues with the concurrence of Ministry of Finance, Department of Expenditure vide U.O. No. 715/EV/2000 dated 31.8.2000"

8. Reference may be made to OM dated 03.10.2008 issued by DOPT whereby provision with regard to pension in Para-4.6 of the O.M. No. 18/37/08-P&PW(A) dated 01.09.2008 was deleted, in the following manner:-

| Provision in the O.M. No. 18/37/08-P&PW(A) dated 1.9.2008 | Clarification/ modification |
|---|---|
| <p>4.6 Some of the existing pensioners who retire between 31.3.1985 and 31.12.1985 are in receipt of personal pension will continue to be granted as a separate element and will not be consolidated above.</p> | <p>Personal pension was discontinued vide Department of Pension & PW O.M. No. 45/86/97-P&PW(A) (Pt.IV), dated 21.09.2000. Therefore, this para may be treated as deleted.</p> |

9. Both the aforementioned OMs were circulated for implementation vide RBE No. 189/2000 (Annexure CA-1) and RBE No. 146/2008 (Annexure No. C.A. 2).

10. Looking to the aforementioned OMs which have been implemented by the Railway Department, it is clear that the personal pension sought by the applicant was discontinued w.e.f. 01.01.1996 and that the personal pension was given as an interim measure which stand discontinued as mentioned above. Therefore, applicant is not entitled to the relief of personal pension as sought by him in the O.A.

11. Accordingly, the O.A. being meritless, is dismissed. No order as to costs.

(RAKESH SAGAR JAIN)
Member (J)

Manish/-