

**CENTRAL ADMINISTRATIVE TRIBUNAL,**  
**ERNAKULAM BENCH**

**Original Application No. 180/01026/2018**

**Wednesday, this the 11<sup>th</sup> day of March, 2020**

**CORAM:**

**Hon'ble Mr. Ashish Kalia, Judicial Member**

1. K.P. Moidutty, S/o. Late Muhammed, aged 90 years,  
Chief Commercial Clerk (Retd.), 36/1276-B,  
B.T.S. Road, Mattathil Lane, Edapally PO, Cochin-682 024.
2. C.K. Mathew, S/o. Unnunni, aged 78 years,  
Chief Supervisor (E&R) (Retd.), Chelippalill House,  
Vidya Vihar Road, Thevara, Cochin – 682 013.
3. P.K. Sasidharan, S/o. Krishnakunju Panicker, aged 75 years,  
Commercial Controller (Retd.), House No. 9/2432, Sastha  
Sadanam, Pallichal Road, Cochin – 682 005.
4. Balakrishnan N.T., S/o. Ayyappan, aged 77 years,  
Section Engineer (Retd.), Nandanam, Chemakassery Avenue,  
Aluva – 683 101.
5. B. Haridas, S/o. M.N. Bhaskaran Pillai, aged 73 years,  
Section Engineer (Retd.), Jyithis, 31/020 A, Rail Nagar,  
Ponnurunni, Vytilla PO, Cochin – 682 019.
6. V. Narayana Pai, S/o. Late L. Vaikundha Pai, aged 76 years,  
Section Engineer (Retd.), Thrikovil House, Thazhathangadi PO,  
Kottayam – 686 005.
7. K. Gopinathan Nair, S/o. Late Kumara Pillai, aged 81 years,  
Chief Commercial Clerk (Retd.), House No. 20, Jai Vihar,  
Press Club Colony, Edapally PO, Cochin – 682 024.
8. C.K. Damodara Pisharody, S/o. Karunakara Pisharody, aged 76 years,  
Chief Commercial Clerk (Retd.), North Pisharom, Parakadavu PO,  
via Kurumassery, Ernakulam Dist. - 683 579.
9. P.O. Variath, S/o. P.V. Ouseph, aged 77 years,  
Chief Commercial Clerk (Retd.), Palattikonathan,  
Thuravoor PO, angamaly – 683 586.

10. K. Mathew Umman, S/o. K.C. Mathew, aged 76 years,  
Station Master-I (Retd.), Karukayil House, Rail Nagar, Vytilla PO,  
Cochin – 682 019.
11. K.K. Abraham, S/o. Late Chandy Kurian, aged 77 years,  
Station Master-I (Retd.), 31/995 E, Rail Nagar II, Vytilla PO,  
Cochin – 682 019.
12. P.K. Chandra Sekharan, S/o. Kesava Pillai, aged 79 years,  
Chief Goods Supervisor (Retd.), 51/2327, Customs Colony,  
Punithura, Cochin – 682 038.
13. T.C. Varijakshan, S/o. T.A. Chathan, aged 81 years,  
Dy. Station Superintendent (Retd.), C/o. T.C. Purushothaman,  
Pratheeksha, Changampuzha Road, Edapally PO, Cochin-682 024.
14. K. Jacob, S/o. P.K. Kora, aged 76 years, Chief Draftsman (Retd.),  
29/1763, Parayil House, Bund Road, Vytilla, Cochin – 682 019.
15. R. Ramachandan Nair, S/o. Ramakrishna Panicker,  
Aged 78 years, Chief Draftsman (Retd.), Thalayanasseril House,  
Eramalloor PO, Cherthala – 688 537. .... **Applicants**

**(By Advocate : Mr. C.S.G. Nair)**

**V e r s u s**

1. Financial Advisor & Chief Accounts Officer,  
Southern Railways, Chennai – 600 003.
2. Divisional Personnel Officer,  
Southern Railways, Park Town, Chennai – 600 003.
3. Divisional Personnel Officer,  
Southern Railways, Thycaud, Thiruvananthapuram-695 014.
4. Union of India, represented by its Secretary,  
Department of Pension & Pensioners' Welfare,  
New Delhi – 110 001. .... **Respondents**

**[By Advocate : Mrs. Girija K. Gopal (R1-3)]**

This application having been heard on 05.03.2020 the Tribunal on  
11.03.2020 delivered the following:

## **ORDER**

**Hon'ble Mr. Ashish Kalia, Judicial Member** –

The applicants claim relief as under:

- “(i) To declare that the applicants are entitled for revision of pension in PB-2 with a grade pay of Rs. 4,600/- w.e.f. 1.1.2006 i.e. to Rs. 9,230/- and revised pension in Level 7 instead of Level 6 w.e.f. 1.1.2016.
- (ii) To direct the respondents to issue revised PPO to the applicants specifying the pension on the basis of 50% of the minimum of the pay in the pay band plus grade pay of Rs. 18460/- i.e. Rs. 9,230/- w.e.f. 1.1.2006 and grant all consequential benefits including arrears of pension within a stipulated period.
- (iii) To direct the respondents to revise the pension of the applicants w.e.f. 1.1.2016, based on the 7<sup>th</sup> CPC recommendations in level 7 instead of level 6 and grant all consequential benefits within a time frame.
- (iv) To direct the respondents to revise the family pension of the applicants in level 7 based on their revised pension.
- (v) To grant such other relief or reliefs that may be prayed for or that are found to be just and proper in the nature and circumstances of the case.
- (vi) To grant cost of this OA.”

2. The brief facts of the case are that the applicants are retired employees of Southern Railway. They are pre-2006 retirees all retired from the revised scale of Rs. 6,500-10,500/-. On the recommendation of VIth Central Pay Commission, the pension/family pension of pre-2006 pensioners were revised w.e.f. 1.1.2006. The 4<sup>th</sup> respondent vide issued OM dated 1.9.2008 stating that the fixation of pension will be subject to the provision that the revised pension in no case shall be lower than 50% of the minimum of the pay in the pay band plus the Grade Pay corresponding to the pre-revised pay scale from which the pensioner had retired. On implementation of VIth CPC recommendations the pay scale of Rs. 6,500-10,500/- was revised to Rs. 9,300-34,800/- with Grade Pay of Rs. 4,200/- w.e.f. 1.1.2006. When the Revised Pay Rules, 2008 were implemented, the pre-revised pay scale of

Rs. 5,000-8,000/-, 5,500-9,000/- and Rs. 6,500-10,500/- were given the Grade Pay of Rs. 4,200/- in PB-2. This was subsequently changed to Rs. 9,300-34,800/- with Grade Pay of Rs. 4,600/- for those who were in the pay scale of Rs. 6,500-10,500/-. As per the fitment table annexed to CCS (RP) Rules, 2008, the minimum pay in the pay band of Rs. 9,300-34,800/- with Grade Pay of Rs. 4,600/- is Rs. 18,460/-. Thus, 50% of that amount of Rs. 18,460/- is to be paid as pension i.e. Rs. 9,230/- w.e.f. 1.1.2006. In an identical matter this Tribunal in OA No. 526 of 2016 considered the issue and allowed the OA. Yet in another OA No. 693 of 2017, the same issue was considered and this Tribunal allowed the OA. The Hon'ble High Court in OP (CAT) No. 169 of 2015 – *Union of India v. N.R. Purushothaman Pillai* held as under:

“The resultant position that emerges from the pronouncement of the Central Administrative Tribunal as well as the different High Courts and the Apex Court is that, computation of pension in the matter of implementation of the 6<sup>th</sup> Pay Commission Report has to be at 50% of the pay scale with respect to the scale of pay applicable to the post in question and not to the corresponding scale of pay to the one at which the incumbent has retired.”

Aggrieved the applicants have submitted representations for fixing their pension based on the Grade Pay of Rs. 4,600/- instead of Rs. 4,200/-. However, the respondents have not taken any decision on the same and have not revised the pension of the applicants taking into account the Grade Pay of Rs. 4,600/-. Hence, the present OA.

3. Notices were issued to the respondents. They have entered appearance through Mrs. Girija K. Gopal who filed a reply statement. The stand taken by the respondents in the reply statement is that though all the applicants

herein have prayed for revision of pension in PB-2 with Grade Pay w.e.f. 1.1.2006 as they were in the equal scale of Rs. 6,500-10,500/-, they have made irrelevant submission to fix pension at Rs. 9,230/- w.e.f. 1.1.2006 wrongly annexing Annexure A2 stating as if they were in the equivalent scale of Rs. 7,450-11,500/-. The applicants were in the equivalent scale of Rs. 6,500-10,500/- before their retirement. 50% of the minimum pension for the scale of Rs. 6,500-10,500/- is Rs. 8,345/- only which has been granted to all the applicants including revision of family pension. Therefore, the respondents pray for dismissing the OA.

4. Heard Shri C.S.G. Nair, learned counsel appearing for the applicant and Smt. Girija K. Gopal learned counsel appearing for the respondents. Perused the records.

5. The Principal Bench of the Tribunal in a similar matter in OA No. 2943 of 2017 dated 3.8.2018 passed the following order:

“10. I have gone through the facts of the case carefully and considered the rival submissions made by both sides. It is indeed a matter of concern that despite orders of various judicial fora, starting from the judgment of CAT, Principal Bench, Hon'ble High Court of Karnataka, Hon'ble High Court of Delhi as well as the judgment of the Hon'ble Supreme Court on the issue, the respondents have managed to side track the issue, causing grave injustice and avoidable harassment to the applicant.

10.1 The plea of the respondents that they have revised the PPO of the applicant is not correct. The basic pay of the applicant has been shown as Rs. 12,723/- in the earlier PPO dated 15.6.2013 (Annexure A5). The revised PPO (at page 6 of the counter reply), now issued by the respondents on 21.09.2017 again shows his basic pension as Rs. 12,723/-, which is the same as reflected in the earlier PPO. No change has been made in the revised basic pension of the applicant while granting him the benefit of 7<sup>th</sup> CPC. In other words the respondents have totally ignored the orders of the Courts by which the OM dated 11.2.2009 has been quashed, which stipulated denial of upgradation of pension to pre-2006 pensioners. It is indeed unfortunate that the respondents have shown utter contempt to the orders of not only the Hon'ble High Court but also of the Hon'ble Supreme Court.

11. In view of the aforesaid discussion and the citations relied upon by the applicant, I have no hesitation in concluding that the relief prayed for by the applicant is fair and just. The respondents are accordingly directed to:-

- (i) Refix the pension of the applicant w.e.f. 1.1.2006 in the correct corresponding scale in PB3 + Grade Pay of Rs. 7600 (pre-revised Rs. 12000-16500) applicable to the post of Principal from which he retired. In the relief clause, pre-revised amount has wrongly been shown as Rs. 12000-15200, which has subsequently been corrected to Rs. 12000-16500 in the rejoinder filed by the applicant.
- (ii) Issue a fresh PPO to the applicant.
- (iii) Pay the admissible arrears to the applicant w.e.f. 1.1.2006. The interest, however, may be paid w.e.f. 17.3.2015 (the date when the issue attained finality by order of the Apex Court) at GPF rate.
- (iv) This exercise must be carried out expeditiously and completed within a span of three months from the date of receipt of a certified copy of this order. No costs.”

6. The department went on appeal before the High Court of Delhi in WP(C) No. 2255/2019, against the above order passed by the Principal Bench of the Tribunal, wherein the Hon'ble High Court vide judgment dated 23.4.2019 dismissed the Writ Petition observing as under:

“7. The record reveals that despite various judicial pronouncements to the effect that pre-2006 pensioners cannot be deprived of the revision in their pension in accordance with the recommendations of the 6<sup>th</sup> CPC, the petitioners are persistently denying the extension of the said benefit to the respondent, who had superannuated as the Principal, Government Boys Senior Secondary School in 1992. The plea of the petitioner is that the revision of pension in accordance with the recommendations of the 7<sup>th</sup> CPC as directed under the DoPT's OM dated 6.7.2017 has been duly granted to the respondent and therefore, he is not entitled to claim any further revision in pension. This submission overlooks the fact that the respondent's grievance was that he was not being granted revision of pension w.e.f. 1.1.2006 in accordance with the recommendations of the 6<sup>th</sup> CPC. Merely because the petitioner claims to have revised his pension w.e.f. 1.1.2016 based on the recommendations of the 7<sup>th</sup> CPC cannot be a ground to deprive the respondent of benefit of revision in pension w.e.f. 1.1.2006 and that too when the issue is squarely covered by various decisions of the Tribunal which have been upheld by the Supreme court. Once the pay scale of the post of Principal, from which the petitioner had retired stood revised to Rs. 12000-16500/- which was placed in PB-3 with a grade pay of Rs. 7600/- pursuant to the recommendations of the 6<sup>th</sup> CPC, the respondents has rightly been held by the Tribunal to be entitled to be granted pension w.e.f. 1.1.2006 in accordance with the revised pay scale.

8. For the aforesaid reason, we find no infirmity in the order passed by the Tribunal. The petition being meritless is dismissed.”

7. This Tribunal finds that the Principal Bench, Bangalore Bench and Ernakulam Bench of the Tribunal in various cases had already decided the issue in the favour of the applicants. In a recent order quoted above in ***J.D. Gupta v. The Chief Secretary & Ors.*** - OA No. 2943/2017 the Principal Bench allowed the OA on 3.8.2018 which was upheld by the Hon'ble High Court of Delhi in WP(C) No. 2255/2019 dated 23.4.2019. Therefore, this Tribunal is of the view that the present OA can also be decided on similar lines as done in OA No. 2943/2017. Accordingly, this Tribunal directs as under:

(i) Refix the pension of the applicants w.e.f. 1.1.2006 in the correct corresponding scale in PB2 + Grade Pay of Rs. 4,600/- applicable to the post from which the applicants retired.

(ii) Issue fresh PPOs to the applicants.

(iii) Pay the admissible arrears to the applicant w.e.f. 1.1.2006. The interest, however, may be paid w.e.f. 17.3.2015 (the date when the issue attained finality by order of the Apex Court) at GPF rate.

(iv) This exercise must be carried out expeditiously and completed within a span of three months from the date of receipt of a certified copy of this order.

8. In view of the above, the Original Application is allowed. No costs.

**(ASHISH KALIA)**  
**JUDICIAL MEMBER**

**“SA”**



**Original Application No. 180/01026/2018**

**APPLICANTS' ANNEXURES**

- Annexure A1** - True copy of the OM.F. No. 1/1/2008-IC dt. 13.11.2009 issued by the 4<sup>th</sup> respondent.
- Annexure A2** - True copy of the fitment table annexed to CCS (RP) Rules, 2008.
- Annexure A3** - True copy of the order in RP © No. 2565/2015 in SLP © No. 6567/2015 dt. 28.8.2015.
- Annexure A4** - True copy of the order in OA No. 526/2016 dt. 16.3.2017.
- Annexure A5** - True copy of the order in OA no. 693/2017 dt. 10.9.2018.
- Annexure A6** - True copy of the OM No. 38/37/2016-P&PW(A), dt. 12.5.2017.
- Annexure A7** - True copy of the representation dt. 10.10.2017 submitted by the 1<sup>st</sup> applicant.

**RESPONDENTS' ANNEXURES**

- Annexure R1** - True copy of RBE 17/2019.
- Annexure R2** - Details of revision of pension of the applicants.
- Annexure R3** - True copy of RBE 197/2001.

-X-X-X-X-X-X-X-