

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Applicaton No.180/00640/2014,
Original Applicaton No.180/00672/2014,
Original Applicaton No.180/00674/2014,
Original Applicaton No.180/00676/2014,
Original Applicaton No.180/00694/2014,
Original Applicaton No.180/00745/2014,
Original Applicaton No.180/00746/2014,
Original Applicaton No.180/00747/2014,
Original Applicaton No.180/00748/2014,
Original Applicaton No.180/00755/2014,
Original Applicaton No.180/00849/2014,
Original Applicaton No.180/00918/2014,
Original Applicaton No.180/00930/2014,
Original Applicaton No.180/00931/2014,
Original Applicaton No.180/00932/2014,
Original Applicaton No.180/00933/2014,
Original Applicaton No.180/00934/2014,
Original Applicaton No.180/01068/2014,
Original Applicaton No.180/01069/2014,
Original Applicaton No.180/01077/2014,
Original Applicaton No.180/01114/2014,
Original Applicaton No.180/01120/2014,
Original Applicaton No.180/00005/2015,
Original Applicaton No.180/00006/2015,
Original Applicaton No.180/00007/2015,
Original Applicaton No.180/00072/2015,
Original Applicaton No.180/00231/2015,
Original Applicaton No.180/00500/2015,

&

Original Applicaton No.180/00065/2015

Friday this the 31st day of July 2015

C O R A M :

**HON'BLE Mr.U.SARATHCHANDRAN, JUDICIAL MEMBER
HON'BLE Mrs.P.GOPINATH, ADMINISTRATIVE MEMBER**

O.A.No.180/00640/2014

N.Karthikeyan Pillai,
Postal Assistant (Retd.),
Vaisakh, Vellithode, Thrikkaipetta,
Mepadi, Wayanad District – 673 577.

...Applicant

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

V e r s u s

1. The Director of Accounts (Postal),
Kerala Circle, Thiruvananthapuram – 695 001.
2. Postmaster General,
Northern Region, Calicut – 673 011.
3. Chief Postmaster General,
Kerala Circle, Thiruvananthapuram – 695 033.
4. Union of India represented by its Secretary,
Department of Pension & Pensioners' Welfare,
South Block, New Delhi – 110 001. ...Respondents

(By Advocate Mr.Anil Ravi,ACGSC)

O.A.No.180/00672/2014

N.N.Bhaskaran Nair,
Sub Postmaster (LSG) (Retd.),
Neelakandavilasam House,
Mannanam P.O., Kottayam – 686 561. ...Applicant

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

V e r s u s

1. Director of Accounts (Postal),
Kerala Circle, Trivandrum – 695 001.
2. Chief Postmaster General,
Kerala Circle, Trivandrum – 695 033.
3. Union of India represented by its Secretary,
Department of Pension & Pensioners' Welfare,
Loknayak Bhavan, Khan Market,
New Delhi – 110 001. ...Respondents

(By Advocate Mr.N.Anilkumar, Sr.PCGC [R])

O.A.No.180/00674/2014

Swami Anubhavananda Saraswathi,
Ex.Nb.Subedar K.V.Unnithan,
Army Postal Service,
Room No.3, Jayasree Building,
Kalloor Junction, Memana, Oachira – 690 526. ...Applicant

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

V e r s u s

1. Director of Accounts (Postal),
Kerala Circle, Thiruvananthapuram – 695 001.
2. Chief Postmaster General,
Kerala Circle, Thiruvananthapuram – 695 033.
3. Director of Accounts,
Army Postal Service (Accounts Section),
Nagpur – 440 001.
4. The Director of Army Postal Service,
C/o.56 A.P.O., Army Postal Service (Accounts Section),
Nagpur – 440 001.
5. Union of India
represented by its Secretary,
Department of Pension & Pensioners' Welfare,
South Block, New Delhi – 110 001. ...Respondents

(By Advocate Mr.SINU G NATH, ACGSC)

O.A.No.180/00676/2014

T.R.Balan,
S/o.late Parameswaran Namboodiri,
Postal Assistant (Retd.),
Tholkunnath House, Kunnakkal P.O.,
Valakom, Muvattupuzha – 682 316. ...Applicant

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

V e r s u s

1. Director of Accounts (Postal),
Kerala Circle, Thiruvananthapuram – 695 001.
2. Chief Postmaster General,
Kerala Circle, Thiruvananthapuram – 695 033.
3. Union of India
represented by its Secretary,
Department of Pension & Pensioners' Welfare,
South Block, New Delhi – 110 001. ...Respondents

(By Advocate Mr.N.Anilkumar, Sr.PCGC [R])

O.A.No.180/00694/2014

K.V.Poulose,
Postal Assistant (HG) (Retd.),
Cherumkathadathil House,
Mekkadampu P.O., Kunnakkal,
Muvattupuzha – 682 316.

...Applicant

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

V e r s u s

1. Director of Accounts (Postal),
Kerala Circle, Trivandrum – 695 001.
2. Chief Postmaster General,
Kerala Circle, Trivandrum – 695 033.
3. Union of India
represented by its Secretary,
Department of Pension & Pensioners' Welfare,
Loknayak Bhavan, Khan Market,
New Delhi – 110 001. ...Respondents

(By Advocate Mr.N.Anilkumar, Sr.PCGC [R])

O.A.No.180/00745/2014

P.P.Perrisseri Pillai,
Post Master (LSG) (Retd.),
Puthenveedu, Erumeli P.O.,
Kottayam District – 686 509.

...Applicant

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

V e r s u s

1. Director of Accounts (Postal),
Kerala Circle, Trivandrum – 695 001.
2. Chief Postmaster General,
Kerala Circle, Trivandrum – 695 033.
3. Union of India
represented by its Secretary,
Department of Pension & Pensioners' Welfare,
Loknayak Bhavan, Khan Market,
New Delhi – 110 001. ...Respondents

(By Advocate Mr.N.Anilkumar, Sr.PCGC [R])

O.A.No.180/00746/2014

K.V.Varghese,
Mail Overseer (Retd.), Postal Department,
Kallumalikkal House, M.E.Road,
Mundakayam P.O., Kottayam District – 686 513. ...Applicant

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

V e r s u s

1. Director of Accounts (Postal),
Kerala Circle, Thiruvananthapuram– 695 001.
2. Chief Postmaster General,
Kerala Circle, Thiruvananthapuram– 695 033.
3. Union of India
represented by its Secretary,
Department of Pension & Pensioners' Welfare,
Loknayak Bhavan, Khan Market,
New Delhi – 110 001. ...Respondents

(By Advocate Mr.Sinu G Nath,ACGSC)

O.A.No.180/00747/2014

C.Kunhayamu,
Sub Postmaster (LSG) (Retd.),
Cholakkal House, Thirurkad (Via),
Angadipuram, Malappuram District – 679 321. ...Applicant

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

V e r s u s

1. Director of Accounts (Postal),
Kerala Circle, Thiruvananthapuram– 695 001.
2. Chief Postmaster General,
Kerala Circle, Thiruvananthapuram– 695 033.
3. Union of India
represented by its Secretary,
Department of Pension & Pensioners' Welfare,
Loknayak Bhavan, Khan Market,
New Delhi – 110 001. ...Respondents

(By Advocate Mr.S.R.K.Prathap,ACGSC)

O.A.No.180/00748/2014

K.Hamza,
Sub Postmaster (Retd.),
Kaipilly House, Cherpulassery Road,
Perinthalmanna P.O., Malappuram District – 679 322. ...Applicant

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

V e r s u s

1. Director of Accounts (Postal),
Kerala Circle, Thiruvananthapuram– 695 001.
2. Chief Postmaster General,
Kerala Circle, Thiruvananthapuram– 695 033.
3. Union of India
represented by its Secretary,
Department of Pension & Pensioners' Welfare,
Loknayak Bhavan, Khan Market,
New Delhi – 110 001. ...Respondents

(By Advocate Mr.N.Anilkumar, Sr.PCGC [R])

O.A.No.180/00755/2014

M.Neelakandan Namboodiri,
Postal Assistant (Retd.),
Muttathukadu House, Panjal P.O.,
(Via) Cheruthuruthy, Thrissur District – 679 531. ...Applicant

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

V e r s u s

1. Director of Accounts (Postal),
Kerala Circle, Thiruvananthapuram– 695 001.
2. Chief Postmaster General,
Kerala Circle, Thiruvananthapuram– 695 033.
3. Union of India
represented by its Secretary,
Department of Pension & Pensioners' Welfare,
South Block, New Delhi – 110 001. ...Respondents

(By Advocate Mr.N.Anilkumar, Sr.PCGC [R])

O.A.No.180/00849/2014

1. C.J.Varghese,
Retired Mail Overseer,
Office of SDI, Neyyattinkara.
Residing at Chirayil House, Amboori P.O.,
Thiruvananthapuram – 695 505.

2. P.Swarnammal,
Retired Postal Assistant,
Thirumala Post Office.
Residing at VIPILA, 8/459 (2),
Mangattukadavu, Thirumala,
Thiruvananthapuram – 695 006.

3. S.Pushpangadan,
Retired Postal Assistant,
SBCO, Thycaud H.O.
Residing at 8/1489, Sasi Bhavan,
Archana Nagar-D-3, Pongumoodu,
Medical College P.O., Thiruvananthapuram – 695 011.Applicants

(By Advocate Mr.Vishnu S Chempazhanthiyil)

V e r s u s

1. The Superintendent of Post Offices,
South Postal Division, Thiruvananthapuram – 695 036.

2. The Chief Postmaster General,
Kerala Circle, Thiruvananthapuram – 695 033.

3. Union of India
represented by the Secretary & Director General,
Department of Posts, New Delhi – 110 001.Respondents

(By Advocate Mr.N.Anilkumar, Sr.PCGC [R])

O.A.No.180/00918/2014

K.C.Joseph, Postman (Retd.),
Payikkath House, Vimalanagar,
Mananthavady, Wayanad – 670 645.Applicant

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

V e r s u s

1. Director of Accounts (Postal),
Kerala Circle, Trivandrum– 695 001.

2. Chief Postmaster General,
Kerala Circle, Trivandrum– 695 033.
3. Union of India
represented by its Secretary,
Department of Pension & Pensioners' Welfare,
Loknayak Bhavan, Khan Market,
New Delhi – 110 003. ...Respondents

(By Advocate Mr.N.Anilkumar, Sr.PCGC [R])

O.A.No.180/00930/2014

A.Balakrishnan Nambiar,
Postman (Retd.),
Venu Nivas, Anbukutty,
Manathavady P.O., Wayanad District – 670 645. ...Applicant

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

V e r s u s

1. Director of Accounts (Postal),
Kerala Circle, Trivandrum– 695 001.
2. Chief Postmaster General,
Kerala Circle, Trivandrum– 695 033.
3. Union of India
represented by its Secretary,
Department of Pension & Pensioners' Welfare,
Loknayak Bhavan, Khan Market,
New Delhi – 110 003. ...Respondents

(By Advocate Mr.N.Anilkumar, Sr.PCGC [R])

O.A.No.180/00931/2014

M.M.Kurian,
Post Man (Retd.),
Monippilil House, Thrissileri P.O.,
Kartikulam, Wayanad District – 670 646. ...Applicant

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

V e r s u s

1. Director of Accounts (Postal),
Kerala Circle, Trivandrum– 695 001.

2. Chief Postmaster General,
Kerala Circle, Trivandrum– 695 033.

3. Union of India
represented by its Secretary,
Department of Pension & Pensioners' Welfare,
Loknayak Bhavan, Khan Market,
New Delhi – 110 003. ...Respondents

(By Advocate Mr.N.Anilkumar, Sr.PCGC [R])

O.A.No.180/00932/2014

A.D.Thomas,
Postman (Retd.),
Assaniath House, Chellangode P.O.,
Vatuvanchal – 673 587, Wayanad District. ...Applicant

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

V e r s u s

1. Director of Accounts (Postal),
Kerala Circle, Trivandrum– 695 001.

2. Chief Postmaster General,
Kerala Circle, Trivandrum– 695 033.

3. Union of India
represented by its Secretary,
Department of Pension & Pensioners' Welfare,
Loknayak Bhavan, Khan Market,
New Delhi – 110 003. ...Respondents

(By Advocate Mr.N.Anilkumar, Sr.PCGC [R])

O.A.No.180/00933/2014

P.Balan Nair,
Postman (Retd.),
Saji Nivas, Thekkumthara P.O.,
Kalpetta North – 673 122, Wayanad District. ...Applicant

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

V e r s u s

1. Director of Accounts (Postal),
Kerala Circle, Trivandrum– 695 001.

2. Chief Postmaster General,
Kerala Circle, Trivandrum– 695 033.
3. Union of India
represented by its Secretary,
Department of Pension & Pensioners' Welfare,
Loknayak Bhavan, Khan Market,
New Delhi – 110 003. ...Respondents

(By Advocate Ms.Latha P.K.)

O.A.No.180/00934/2014

M.Annan,
Postman (Retd.),
Poolackal House, Pallikunnu P.O.,
Kalpetta North, Wayanad District – 673 122. ...Applicant

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

V e r s u s

1. Director of Accounts (Postal),
Kerala Circle, Trivandrum– 695 001.
2. Chief Postmaster General,
Kerala Circle, Trivandrum– 695 033.
3. Union of India
represented by its Secretary,
Department of Pension & Pensioners' Welfare,
Loknayak Bhavan, Khan Market,
New Delhi – 110 003. ...Respondents

(By Advocate Mr.N.Anilkumar, Sr.PCGC [R])

O.A.No.180/01068/2014

K.K.Purushothaman Nair,
Postal Assistant (Retd.),
Karikattu House, Choondacherry P.O.,
Plassanal, Kottayam District – 686 579. ...Applicant

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

V e r s u s

1. Director of Accounts (Postal),
Kerala Circle, Trivandrum– 695 001.

2. Chief Postmaster General,
Kerala Circle, Trivandrum– 695 033.
3. Union of India
represented by its Secretary,
Department of Pension & Pensioners' Welfare,
Loknayak Bhavan, Khan Market,
New Delhi – 110 001. ...Respondents

(By Advocate Mr.N.Anilkumar, Sr.PCGC [R])

O.A.No.180/01069/2014

Thomas.K.C.,
Postal Assistant (Retd.),
Kudiyattil House, Melukavu P.O.,
Kottayam District – 686 652. ...Applicant

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

V e r s u s

1. Director of Accounts (Postal),
Kerala Circle, Trivandrum– 695 001.
2. Chief Postmaster General,
Kerala Circle, Trivandrum– 695 033.
3. Union of India
represented by its Secretary,
Department of Pension & Pensioners' Welfare,
Loknayak Bhavan, Khan Market,
New Delhi – 110 001. ...Respondents

(By Advocate Mr.N.Anilkumar, Sr.PCGC [R])

O.A.No.180/01077/2014

A.Govindankutty,
Post Master (LSG) (Retd.),
Ayyappath House, Marathamcode P.O.,
Thrissur District – 680 604. ...Applicant

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

V e r s u s

1. Director of Accounts (Postal),
Kerala Circle, Trivandrum– 695 001.

2. Chief Postmaster General,
Kerala Circle, Trivandrum– 695 033.
3. Union of India
represented by its Secretary,
Department of Pension & Pensioners' Welfare,
Loknayak Bhavan, Khan Market,
New Delhi – 110 003. ...Respondents

(By Advocate Mr.Thomas Mathew Nellimoottil, Sr.PCGC)

O.A.No.180/01114/2014

T.P.Sumathykutty Amma,
Post Assistant (LSG) (Retd.),
Tharappel House, Punnathura East P.O.,
Kidangoor South, Thrissur District – 686 583. ...Applicant

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

V e r s u s

1. Director of Accounts (Postal),
Kerala Circle, Trivandrum– 695 001.
2. Chief Postmaster General,
Kerala Circle, Trivandrum– 695 033.
3. Union of India
represented by its Secretary,
Department of Pension & Pensioners' Welfare,
Loknayak Bhavan, Khan Market,
New Delhi – 110 003. ...Respondents

(By Advocate Mr.N.Anilkumar, Sr.PCGC [R])

O.A.No.180/01120/2014

V.A.Bhaskaran Nair,
Sorting Assistant (RMS) (Retd.),
Vadayattu Veedu, Poovarni P.O.,
Kottayam District – 686 577. ...Applicant

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

V e r s u s

1. Director of Accounts (Postal),
Kerala Circle, Trivandrum– 695 001.

2. Chief Sorting Assistant General,
Kerala Circle, Trivandrum– 695 033.
3. Union of India
represented by its Secretary,
Department of Pension & Pensioners' Welfare,
Loknayak Bhavan, Khan Market,
New Delhi – 110 003. ...Respondents

(By Advocate Mr.Thomas Mathew Nellimoottil, Sr.PCGC)

O.A.No.180/00005/2015

C.G.Joseph,
Postal Assistant (Retd.),
Chirakkarottu House, Melukavu P.O.,
Kottayam District – 686 652. ...Applicant

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

V e r s u s

1. Director of Accounts (Postal),
Kerala Circle, Trivandrum– 695 001.
2. Chief Sorting Assistant General,
Kerala Circle, Trivandrum– 695 033.
3. Union of India
represented by its Secretary,
Department of Pension & Pensioners' Welfare,
Loknayak Bhavan, Khan Market,
New Delhi – 110 003. ...Respondents

(By Advocate Mr.Thomas Mathew Nellimoottil, Sr.PCGC)

O.A.No.180/00006/2015

K.R.Sukumaran Nair,
Mail Overseer (Retd.),
Krishna Kripa, Thirumarady P.O.,
Ernakulam District – 686 662. ...Applicant

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

V e r s u s

1. Director of Accounts (Postal),
Kerala Circle, Trivandrum– 695 001.

2. Chief Sorting Assistant General,
Kerala Circle, Trivandrum– 695 033.
3. Union of India represented by its Secretary,
Department of Pension & Pensioners' Welfare,
Loknayak Bhavan, Khan Market,
New Delhi – 110 003. ...Respondents

(By Advocate Mr.K.Kesavankutty,ACGSC)

O.A.No.180/00007/2015

P.D.Varghese,
Mail Overseer (LSG) (Retd.),
Palackasseril House, Melukavu Mattom P.O.,
Kottayam District – 686 652. ...Applicant

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

V e r s u s

1. Director of Accounts (Postal),
Kerala Circle, Trivandrum– 695 001.
2. Chief Sorting Assistant General,
Kerala Circle, Trivandrum– 695 033.
3. Union of India represented by its Secretary,
Department of Pension & Pensioners' Welfare,
Loknayak Bhavan, Khan Market,
New Delhi – 110 003. ...Respondents

(By Advocate Mr.N.Anilkumar, Sr.PCGC [R])

O.A.No.180/00072/2015

1. Kavirajan.K.,
Retired Sub Postmaster, Avanavancherry,
Thiruvananthapuram – 695 103.
Residing at Kanavila Veedu, Puthiyakavu,
Kilimanoor P.O., Thiruvananthapuram – 695 601.
2. Purushothaman.R.,
Retired Postal Assistant (LSG),
Attingal Head Office, Thiruvananthapuram – 695 101.
Residing at Sreevilas, Nagaroor P.O.,
Kilimanoor, Thiruvananthapuram – 695 601. ...Applicants

(By Advocate Mr.Vishnu S Chempazhanthiyil)

V e r s u s

1. The Senior Superintendent of Post Offices, Thiruvananthapuram North Postal Division, Thiruvananthapuram – 695 001.
2. The Chief Postmaster General, Kerala Circle, Thiruvananthapuram – 695 033.
3. Union of India represented by the Secretary & Director General, Department of Posts, New Delhi – 110 001.
4. The Director of Accounts, Postal, Kerala Circle, Thiruvananthapuram – 695 001. ...Respondents

(By Advocate Mr.N.Anilkumar, Sr.PCGC [R])

O.A.No.180/00231/2015

C.D.John, S/o.Daniel,
Retired Lower Selection Grade Postal Assistant,
Chirackachalil House, Arakkunnam P.O.,
Ernakulam District – 682 313. ...Applicant

(By Advocate Mr.C.P.Johny)

V e r s u s

1. The Chief Postmaster General, Kerala Circle, Trivandrum – 695 033.
2. Director of Accounts (Postal), Kerala Circle, Trivandrum – 695 001.
3. The Senior Superintendent of Post Offices, Ernakulam Division, Kochi – 682 011.
4. Union of India represented by its Secretary, Ministry of Pension and Pensioners Welfare, North Block, New Delhi – 110 001. ...Respondents

(By Advocate Mrs.P.K.Latha,ACGSC)

O.A.No.180/00500/2015

T.S.Sumathy, Retired Postal Assistant, P.P.O.No.8523/LPS/TVM, Madhu Bhavan, Pangarappilly P.O., Mulanthuruthy – 682 314. ...Applicant

(By Advocate Mr.C.P.Johny)

V e r s u s

1. The Chief Postmaster General,
Kerala Circle, Trivandrum – 695 033.
2. Director of Accounts (Postal),
Kerala Circle, Trivandrum – 695 001.
3. The Senior Superintendent of Post Offices,
Ernakulam Division, Kochi – 682 011.
4. Union of India
represented by its Secretary,
Ministry of Pension and Pensioners Welfare,
North Block, New Delhi – 110 001. ...Respondents

(By Advocate Mr.T.C.Krishna, Sr.PCGC)

O.A.No.180/00065/2015

E.C.Rajan,
Technical Officer 'B' (Retd.),
Naval Physical & Oceanographic Laboratory,
Elavally House, Kaniyampal,
Kunnamkulam P.O., Thrissur District – 680 503. ...Applicant

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

V e r s u s

1. Principal Controller of Defence Accounts (Pension),
Draupadi Ghat, Allahabad – 211 014.
2. Director,
Naval Physical & Oceanographic Laboratory,
Thrikkakara P.O., Kochi – 682 021.
3. Union of India
represented by its Secretary,
Ministry of Defence, Sena Bhawan,
New Delhi – 110 001.
4. Defence Pension Disbursing Officer,
Chembukavu, Thrissur – 680 020. ...Respondents

(By Advocate Mr.N.Anilkumar, Sr.PCGC [R])

These applications having been heard on 8th July 2015 this Tribunal on 31st July 2015 delivered the following :

ORDER

HON'BLE Mrs.P.GOPINATH, ADMINISTRATIVE MEMBER

Heard both applicants and respondents and perused all records submitted in all the above cases. Applicants in this bunch of O.As are pre 2006 retirees drawing a pay scale which was revised under the 6th Central Pay Commission to a revised pay band with a grade pay. Applicants claim that in para 4.2 of Government of India O.M dated 1.9.2008 there is no stipulation of any minimum period of service for eligibility of pension. The said O.M also stipulates that 50% of the minimum of the pay in the pay band plus grade pay of the post from which the pensioner had retired would be the revised pay of the pensioner under the 6th CPC. Para 4.2 also made it clear that pension in no case shall be lower than 50% of the minimum of the pay in the pay band plus grade pay corresponding to the pre-revised pay scale from which the pensioner had retired. In view of the Cabinet approval and the O.M of 1.9.2008, denial of 50% of the pay as basic pension is illegal and arbitrary.

2. This is a matter which has already been adjudicated by this Bench of the Tribunal in O.A.No.715/2012, High Court of Kerala in R.P.No.741/2014 and O.P.(CAT) No.4/2014, Principal Bench, Central Administrative Tribunal in O.A.No.655/2010 and others & O.A.No.1165/2011 and others, High Court of Punjab & Haryana in W.P.(C) No.19641/2009 and the Supreme Court in Civil Appeal No.8875-76 of 2011 with C.A.No.1998 of 2012,

C.A.No.3564 of 2012, C.A.No.3907 of 2012, C.A.No.4581 of 2012, C.A.No.4952 of 2012, C.A.No.4980 of 2012, C.A.No.4599 of 2013 and C.A.No.1 of 2015 and S.L.P.(C) No.36148 – 36150 of 2013, S.L.P.(C) No.16780 – 16782 of 2014 and S.L.P.(C) No.16903 – 16904 of 2015 wherein the VI CPC pension recommendations and the Government of India approval of the same for pre 2006 pensioners was discussed at length.

3. Prescribing differing criteria causes discrimination in the same category of persons, in this case pre and post 2006 pensioners. The Apex Court in ***D.S.Nakra & Others v. Union of India*** (1983) 1 SCC 305 held that pensioners form a class as a whole and cannot be micro classified by arbitrary, manipulated and unreasonable eligibility criteria for the purpose of grant of revised pension. The Apex Court also held that the words “who were in service”, 'on' or 'after' were words of limitation, denying equality and declared the same unconstitutional and struck down the same.

4. In the present bunch of cases the point being adjudicated is the payment of 50% of pay plus grade pay as pension pursuant to the resolution of the Government accepting the 6th CPC recommendations.

5. The formulation of 6th CPC in para 5.1.47 and the subsequent Government resolution of 29.8.08 clearly states 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 sum of the minimum of the pay in the pay band and the grade pay thereon corresponding to the pre-revised pay scale from which the pensioner had retired. Any modification of the above without the approval of the Cabinet is ultra vires and such a course of action was not available to a functionary of the Government in the garb of clarification dated 3.10.2008 and 14.10.2008, without referring the matter to the Cabinet to bring about a modification in a Cabinet resolution of 29.8.2008 approving the recommendations of 6th CPC which included the payment of pension/family pension of pre-2006 pensioners payable w.e.f 1.1.2006.

6. This Tribunal in order dated 16.8.2013 in O.A.No.715/2012 with O.A.No.1051/2012 ruled that in no case the pension of pre-2006 pensioners shall be lower than 50% of the minimum of the pay in the pay band plus grade pay thereon corresponding to the pre-revised pay scale from which the pensioner had retired proportionate to the length of his service and fix higher of the two as pension with effect from 1.1.2006.

7. In O.P.(CAT) No.1767 of 2012 the High Court of Kerala did not find any reason to interfere as respondent in O.P.(CAT) No.8 of 2014 and the first respondent in the case are similarly placed as both are pre-2006 central government retired pensioners affected by VI CPC relief. This stand was upheld by the Division Bench of Punjab & Haryana High Court in WP No.19641 of 2009 in *R.K.Agarwal and others v. State of Haryana and others*. The Punjab & Haryana High Court in its decision dated 21.12.2012

also confirmed that the clear purport and meaning of the recommendations of the VI CPC as contained in para 5.1.47 accepted by the Government vide Item No.12 of resolution dated 29.8.2008 is that those who retire before 1.1.2006 as well were ensured that their revised pension after enforcing the recommendations of the 6th CPC shall not be less than 50% of the minimum of the pay band plus grade pay corresponding to the pre-revised pay scale from which the pensioner had retired.

8. The Principal Bench of this Tribunal in order dated 1.11.2011 in O.A.No.655/2010 with O.A.No.3079/2009, O.A.No.306/2010 and O.A.No.507/2010 quashed and set aside the clarificatory O.M dated 3.10.2008 and 14.10.2008 and directed the respondents to refix the pension of all pre-2006 retirees with effect from 1.1.2006 based on the resolution dated 29.8.2008 ie. the pay of pre-2006 retirees should not be less than 50% of the sum of the minimum of the pay in the pay band and grade pay thereon corresponding to the pre-revised pay scale held by the pensioner at the time of retirement. Any change in the Cabinet resolution cannot be made by administrative orders modifying the same.

9. The Supreme Court on 7.1.2014 dismissed S.L.P.No.21044 of 2014. The Supreme Court in Civil Appeal No.8875-8876 of 2011 (Union of India and others v. Vinod Kumar Jain and others along with C.A.No.1998 of 2012, C.A.No.3564 of 2012, C.A.No.3907 of 2012, C.A.No.4581 of 2012, C.A.No.4952 of 2012, C.A.No.4980 of 2012, C.A.No.4599 of 2013

& C.A.No.1 of 2015 and S.L.P.Nos.36148-36150 of 2013 & S.L.P.No.16780-16782 of 2014 dismissed the S.L.P on merit citing that no substantial question of law of general/public importance arises for their consideration and they saw no reason to interfere with the orders impugned.

10. Issues raised in these O.As stand covered by the above decisions of the Tribunal, High Court and Supreme Court. We do not find any reason to add to the judgment already delivered in a similar adjudicated matter. Any modification of the Cabinet resolution by a subsequent administrative order is ultra vires. Accordingly, the O.As are allowed. The respondents are directed to issue revised Pension Payment Orders to the applicants in the O.As specifying that pension of pre-2006 retirees will be calculated on the basis of 50% of the minimum of the pay band plus grade pay corresponding to the pre-revised pay scale of the respective post held at the time of retirement, proportionate to the length of his service and fix higher of the two as pension with effect from 1.1.2006 and corresponding family pension and grant all consequential benefits including arrears of pension within a period of 90 days from the date of receipt of a copy of this order. No order as to costs.

(Dated this the 31st day of July 2015)

P.GOPINATH
ADMINISTRATIVE MEMBER

U.SARATHCHANDRAN
JUDICIAL MEMBER