



**CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH, BANGALORE**

**ORIGINAL APPLICATION NO.170/00385/2020**

ORDER RESERVED ON 26.07.2021

DATE OF ORDER: 03.09.2021

**CORAM:**

**HON'BLE SHRI SURESH KUMAR MONGA, MEMBER (J)**

(On video conference from Central Administrative Tribunal, Chandigarh Bench at Chandigarh)

**HON'BLE SHRI RAKESH KUMAR GUPTA, MEMBER (A)**

(On video conference from Central Administrative Tribunal, Bangalore Bench at Bangalore)

V.Krishnamurthy  
S/o Late Vittalamurthy Achar  
Aged 83 years, retired as  
Small Industries Promotion Officer  
MSME Development Institute  
Rajajinagar Industrial Estate  
Bengaluru-560 010, residing at  
No.39, 'Sri Pushkaram'  
2<sup>nd</sup> Main Road, Income Tax Layout  
Vijayanagar, Bengaluru-560 040.

....Applicant

(By Advocate Shri A.R.Holla – through video conference)

Vs.

1. Union of India  
By Secretary  
Ministry of Personnel, Public Grievances & Pensions  
Department of Pensions & Pensioners' Welfare  
Lok Nayak Bhavan  
New Delhi – 110003.
2. The Development Commissioner  
Micro, Small & Medium Enterprises  
Nirman Bhavan  
New Delhi-110 011.
3. The Director  
MSME Development Institute  
Rajajinagar Industrial Estate  
Bengaluru-560 010.



4. The Pay & Accounts Officer (MSME)  
65/1, G.S.T.Road, Guindy  
Chennai-600 032.

.....Respondents

(By Advocate Shri V.N.Holla – through video conference)

### **ORDER**

#### **PER: RAKESH KUMAR GUPTA, MEMBER (A)**

1. The applicant has filed the present Original Application under Section 19 of the Administrative Tribunals Act, 1985 seeking the following relief:

- a) To quash the Order No.PAO/MSME/CHE/PEN/2020-21/144 dated 17.07.2020, issued by the respondent No.4, Annexure-A12.
- b) Direct the respondents to revise the pension of the applicant to Rs.10765/- with effect from 01.01.2006 in PPO No.258989400306/1374678/A4 dated 01.10.2013, Annexure-A2, in pursuance of his representations dated 22.01.2020, Annexure-A10 and 06.06.2020, Annexure-A11, respectively and extend consequential benefits.

2. The applicant in his pleadings has averred as follows:

- a. The applicant was working as Small Industry Promotion Officer (E.I) in MSME Development Institute, Rajajinagar Industrial Estate, Bengaluru. He retired from service on 01.06.1994. At the time of his retirement, the applicant was drawing the pay of Rs.2975/- in the pay scale of Rs.1640-60-2600-75-2900. This pay scale was subsequently revised to Rs.5500-175-9000/- with effect from 01.01.1996 as per the 5<sup>th</sup> CPC recommendation. Subsequently, the 6<sup>th</sup> Central Pay Commission recommendation was also accepted by the Govt. of India by a resolution dated 29.08.2008. The revised pension structure as per the 6<sup>th</sup> CPC was effective from 01.01.2006. In pursuance of the said



resolution, the OM dated 01.09.2008 has been issued which provided for revision of pension of pre-2006 pensioners/family pensioners. The clause 4.2 of the said OM 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 minimum of the pay band plus grade pay corresponding to the pre-revised pay scale from which the pensioner had retired.

- b. Subsequently, the Government of India issued an OM dated 13.11.2009 merging 3 pre-revised scales of Rs.5000-8000/-, Rs.5500-9000/- and Rs.6500-10500/-, and the grade pay of Rs.4600/- corresponding to the pre-revised scale of Rs.7450-11500/-, was granted to those employees who were in the pay scale of Rs.6500-10500/-.
- c. In pursuance of the said OM, the pension of the applicant was required to be revised to Rs.10765 (50% of Rs.21530/-) taking into account the grade pay of Rs.4600/-. However, the pension of the applicant has been revised erroneously to Rs.10139/- considering the grade pay of Rs.4200/- with effect from 01.01.2006 vide PPO No.258989400306/1374678/A4 dated 01.10.2013.
- d. The pension is required to be revised with effect from 01.01.2006 based on 50% of the pay in the pay band + grade pay corresponding to the pre-revised pay scale from which the employee retired. In view of the merger of pay scales, in the scale of Rs.6500-10500/- as per the OM dated 13.11.2009, with effect from 01.01.2006, the pension of the applicant requires to be revised granting the grade pay of Rs.4600/-



corresponding to the pre-revised scale of Rs.7450-11500/-. The issue has been litigated and settled by the Full Bench of the CAT, New Delhi, by order dated 01.11.2011 in OA.No.655 of 2020 & connected matters. Relying on the order of the Full Bench, this Tribunal held in the case of G.R.Parthasarathy & others vs. Union of India & others (OA.No.231 of 2013 & connected matters) that the pension of the concerned employees, who are in the pay scales merged as per the OM dated 13.11.2009 has to be fixed based on their pay in the pay band + grade pay of Rs.4600/- with effect from 01.01.2006(Annexure-A3). The said order of this Tribunal has been confirmed by the High Court of Karnataka by order dated 06.03.2014 in WP No.49080-82 of 2013.

- e. Subsequently, the pension of the applicant has been revised to Rs.27600/- with effect from 01.01.2016 vide PPO No.258989400306/2768830/A5 dated 15.01.2018(Annexure-A4). The revision of pension is based on the fact that his grade pay was Rs.4600/- as on 01.01.2006. Thereafter, the respondent No.1 issued an OM dated 04.01.2019 clarifying that the pension of the pre-2006 pensioners, who retired from 5<sup>th</sup> CPC scale of Rs.6500-10500/-, has to be fixed based on the grade pay of Rs.4600/- with effect from 01.01.2006.
- f. The applicant submitted a representation to the respondent No.3 on 21.02.2019 with a request to revise his pension based on the grade pay of Rs.4600/- with effect from 01.01.2006.



- g. However, the respondent No.3 informed the applicant by letter dated 01.07.2019(enclosing the letter dated 24.06.2019 of the respondent No.4) that he is not eligible for refixation as per the OM dated 04.01.2019.
- h. The respondent has not examined the claim of the applicant as per the OM dated 04.01.2019 but is harping on the earlier erroneous notion that the applicant is entitled to the grade pay of Rs.4200/- only instead of Rs.4600/-, with effect from 01.01.2006.
- i. The applicant submitted a detailed representation dated 22.01.2010 to the respondent No.2, with the statement of calculation of pension, clearly explaining the fact that he is entitled for the grade pay of Rs.4600/- with effect from 01.01.2006 and the consequent revision in pension.
- j. The applicant made a representation to the respondent No.4 on 06.06.2020 with justification for his claim and with a request to revise his pension with effect from 01.01.2006 in terms of the OM dated 04.01.2019.
- k. The respondent No.4 informed the applicant by an order dated 17.07.2020 that 'the last order on pre-2006 revision has been issued by the department on 11.02.2009(Annexure-A12).
3. The respondents have filed their reply statement wherein they averred as follows:



- a) The OA has got no cause of action and the said application is not maintainable both in law and in facts and is devoid of merit whatsoever and hence is liable to be dismissed.
- b) The merging of 3 pre-revised scales of Rs.5000-8000, Rs.5500-9000 and Rs.6500-10500 and the grade pay of Rs.4600 corresponding to the pre revised scale of Rs.7450-11500 in the OM dated 13.11.2009 is not accurate. As per OM it has been decided that the posts which were in the pre-revised scale of Rs.6500-10500 as on 01.01.2006 and which were granted normal replacement pay structure of grade pay of Rs.4200/- in the pay band PB-2 will be granted Grade Pay of Rs.4600/- in the PB-2 corresponding to the pre-revised scale of Rs.7450-11500/- w.e.f. 01.01.2006 (Annexure-A1 to OA). Further it is also submitted that the upgradation is for the serving officials and not for the pensioners who retired before 01.01.2006. Hence, his contention is not tenable.
- c) The applicant is relying on the order dated 01.11.2011 passed in OA.No.655 of 2010, by the Principal Bench, of this Tribunal. The orders passed in the above OA pertains to applicants who had retired from the pay scale of Rs.2000-60-2300-75-3200/- while the applicant had retired from the pay scale of Rs.1640-60-2600-75-2900/-. Accordingly, his pay was notionally fixed in the appropriate 6<sup>th</sup> CPC scale (i.e., PB-2 with grade pay of Rs.4200/-) and therefore, his contention is not tenable.



- d) OM dated 04.01.2019 was issued by the Dept. of Pension and Pensioner's welfare, New Delhi stating that "the revised pension w.e.f. 01.01.2006 for pre-2006 pensioners who retired from the pay scale of 6500-10500 in the 5<sup>th</sup> CPC or equivalent pay scales in the earlier Pay Commissions would be Rs.8345/-. Accordingly, the entries at serial number 13 in the annexure of the Department's OM dated 28.01.2013 may be substituted by the entries shown in the statement annexed to the OM'. The same was informed to the applicant vide letter dated 01.07.2019(Annexure-A9 to the OA).
- e) The last order on pre-2006 revision has been issued by the department on 11.02.2009, wherein it has been clearly stated that the benefit of upgradation of posts is applicable to the employees in service as on 1.1.2006 and no dispensation in this regard can be made in respect of pre-2006 pensioners.
- f) Respondent No.4 is the authority to settle issues of the pensioners and they sought proper clarification vide their letter dated 02.07.2020 from their higher authorities i.e., Principal Accounts Office, Ministry of Industry, Udyog Bhavan, New Delhi and the Principal Accounts Office, New Delhi in their letter dated addressed to PAO, MSME, Chennai have clarified that as per Para 5 of DoPPW OM No.38/37/08 P&PW(A) dated 11.02.2009 the benefit of upgradation of posts subsequent to their retirement would not be admissible to the pre-2006 pensioners in this regard.



g) In view of the above and for the reasons explained in the preceding paragraphs, the OA is without any merit and the same is liable to be dismissed.

4. Heard learned counsels for the parties.
5. The contention of the applicant is that the pension/family pension of all pre-2006 pensioners like himself, who retired in the pre-revised pay scale of Rs.5500-175-9000 (which stood merged with Rs.6500-10500 pay scale, as on 1.1.2006) must be refixed on the basis of the normal replacement pay structure with grade pay of Rs.4600 w.e.f. 01.01.2006 as per Rule 7 (1) note 2B of C.C.S (RP) Rules 2008 with all consequential benefits. According to him, although he had retired prior to 01.01.2006, and he was a pensioner on 01.01.2006, his revised pension should be recalculated after 01.01.2006 taking into account his revised pay, admissible to him, after the revision of his pay scale w.e.f. 01.01.2006.
6. A careful perusal of the OM dated 04.01.2019 issued by DoP&T concerning revision of pension w.e.f. 01.01.2006 for pre -2006 pensioners who retired from the 5<sup>th</sup> CPC scales, clearly states as follows:
 

*“As per Para 4.2 of this Department’s OM of even number dated 01.09.2008 relating to revision of pension of pre-2006 pensioners w.e.f. 01.01.2006, the revised pension w.e.f. 01.01.2006, in no case, shall be lower than 50% of the sum of the minimum of pay in the pay band and the grade pay thereon corresponding to the pre-revised pay scale from which the pensioner had retired.”*
7. In this particular case, the pensioner had retired on 01.06.1994 and he was drawing a pay of Rs.2975 in the pay scale of Rs.1640-60-2600-75-2900 at the time of retirement. This pay scale was revised to Rs.5500-175-9000 w.e.f.



01.01.1996. Subsequently, as per OM dated 13.11.2009, the pay scales of Rs.5000-8000, Rs.5500-9000 and Rs.6500-10500 were merged in the Grade Pay of Rs.4600 corresponding to the pre-revised scale of Rs.7450-11500.

8. The OM dated 04.01.2019, issued by the DoP&T, clarify that instructions were issued vide DoP&T OM dated 28.01.2013 for stepping up of pension of pre-2006 pensioners w.e.f. 24.09.2012 to 50% of the sum of the minimum of pay in the pay band and the grade pay thereon corresponding to the pre-revised pay scales from which the pensioner had retired. As is clearly stated in the OM, the grade pay corresponding to the pre-revised pay scale of Rs.6500-10500 was shown as Rs.4200 in the OM dated 28.01.2013 and the minimum pension in terms of para 4.2 of the OM dated 01.09.2008 was shown as Rs.8145/- (50% of minimum pay of Rs.16,290/- as per fitment table for the pre-revised scale of pay of Rs.6500-10500, annexed to Ministry of Finance, Department of Expenditure's OM No.1/1/2008-IC dated 30<sup>th</sup> August, 2008). Subsequently, since the Grade Pay of Rs.4,200 was revised to Rs.4,600 w.e.f. 01.01.2006 vide Ministry of Finance OM dated 13.11.2009, the pension/family pension was revised and correspondingly the minimum revised pension w.e.f. 01.01.2006 was fixed at Rs.8345/- instead of Rs.8145/-. Hence the minimum pension of Rs. 8,345/- has been fixed after taking into account the grade pay of Rs. 4,600/- instead of Rs. 4,200/-.
9. As provided in the Department's OM dated 28.01.2013, in case the actual consolidated pension/family pension being drawn by the pensioner, is higher than the pension/family pension calculated in the manner indicated above, the



same higher consolidated pension/family pension will continue to be treated as basic pension/family pension.

10.The applicant is already drawing a pension of Rs.10,139/- which is higher than the revised figure of Rs.8,345/- which had been arrived at, after considering the enhanced Grade Pay of Rs.4,600/-. Hence, the applicant is already drawing a higher pension than the minimum prescribed, and there is no scope for any further revision in the pension drawn by him. The revision of pension granted to the applicant is as per the existing rules pertaining to the pension to be drawn by pre-2006 pensioners.

11.The contention of the applicant that his pension should be revised based upon the revised pay granted to the serving employees after 01.01.2006 is not covered under the rules. It has already been clarified by the respondents that the benefits of revised pay after upgradation of posts is admissible only to the employees who are in service as on 01.01.2006 and is not admissible to pre-2006 pensioners which is the case of the applicant.

12.Keeping in view the above facts, the OA being devoid of any merits, is liable to be dismissed. Accordingly, the OA is dismissed.

13.However, there shall be no orders so as to costs.

**(RAKESH KUMAR GUPTA)**  
**MEMBER(ADMN)**

**(SURESH KUMAR MONGA)**  
**MEMBER(JUDL)**

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