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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK

O.A.No.850 of 2010  
Padan & Others .... Applicants  
Vs  
UOI & Ors. .... Respondents

.....  
Order dated - 19-07-2011.

CORAM  
THE HON'BLE MR.C.R.MOHAPATRA, MEMBER (A)  
AND  
THE HON'BLE MR.A.K.PATNAIK, MEMBER (JUDL.)

.....  
In this OA the prayer of the Applicants is to direct the Respondents to implement the RBE No. 112/2008 w.e.f. 01-01-2006 after declaring the cut off date 02-09-2008 as null and void. RBE No.112/2008 (Annexure-A/3) reads as under:

**“RBE No.112/2008**

Railway Board's letter No.F(E)III/2008/PN1/13 dated 15.09.2008 (RBE No.112/2008)

Sub: Implementation of Government's decision on the recommendations of 6<sup>th</sup> Central Pay Commission – Revision of provisions regulating pension/gratuity/ commutation of pension/family pension/ disability pension

...

1. In pursuance of Government's decision on the recommendations of the Sixth Central Pay Commission, the President is pleased to introduce the following modifications in the rules regulating pension; Retirement/Death/Service Gratuity/Family Pension and disability Pension under the Railway Services (Pension) Rules,1993 hereafter referred to as Pension Rules and Commutation of Pension under Railway Services ( Commutation of Pension) Rules,1993 and Railway Services ( Extraordinary Pension) Rules,1993.

2. These orders apply to Railway employees governed by the Railway Services (Pension) Rules,1993.

**DATE OF EFFECT**

3.1 Save as otherwise mentioned in these orders, the revised provisions as per these orders shall apply to Railway servants who retire/die in harness on or after 1.1.2006. Separate orders have been issued in respect of employees who retired before 1.1.2006.

## 3.2

Where pension/family pension/gratuity/commutation of pension, etc. has already been sanctioned in cases occurring on or after 1.1.2006, the same shall be revised in terms of these orders. In cases where pension has been finally sanctioned on the pre-revised orders and if it happens to be more beneficial than the pension becoming due under these orders, the pension already sanctioned shall not be revised to the disadvantage of the pensioner in view of Rule 90 of the Pension Rules.

**EMOLUMENTS**

4.1 The term 'Emoluments' for purposes of calculating various pensionary benefits other than various kinds of Gratuity shall have the same meaning as in Rule 49 of the Pension Rules.

4.2 Basic Pay in the revised pay structure means the pay drawn in the prescribed pay band plus the applicable grade pay but does not include any other type of pay like special pay etc.

4.3 In the case of all kinds of Gratuity, DA admissible on the date of retirement/death shall continue to be treated as emoluments along with the emoluments as defined in Paragraph 4.1 above.

**PENSION**

5.1 A Railway servant retiring in accordance with the provisions of the Pension Rules before completing qualifying service of ten years shall not be entitled to pension but he shall continue to be entitled to service gratuity in terms of Rule 69[1] of the Pension Rules.

5.2 Linkage of full pension with 33 years of qualifying service shall be dispensed with. Once a Railway servant has rendered the minimum qualifying service or twenty years, pension shall be paid at 50% of the emoluments or average emoluments received during the last 10 months, whichever is more beneficial to him.

5.3 In cases where Railway servant becomes entitled to pension on completion of 10 years of qualifying service in accordance with Rule 69[2] of the Pension Rules, pension in those cases shall also be paid at 50% of the emoluments or average emoluments whichever is more beneficial to the Railway servant.

5.4 The revised provisions for calculation of pension in para 5.2 and para 5.3 above shall come into force with effect from 2<sup>nd</sup> September, 2008 and shall be applicable to Railway servants retiring on or after that date. The Railway servants who have retired **on or after 1.1.2006 but before 2<sup>nd</sup> September, 2008** will continue to be governed by the Rules/orders which were in force immediately before coming into effect of these orders.

5.5 The amount of pension shall be subject to a minimum of Rs.3500/- and maximum upto 50% of highest pay in the Government [The highest pay in the Govt. is Rs.90,000 since 1.1.2006].

5.6 The provisions of clauses [a] to [c] of sub-rule [2] of Rule 69 of the Pension Rules shall stand modified to the extent mentioned in para 5.1 to para 5.5 above. The other provisions contained in Rule 69 shall continue to apply.

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5.7 The quantum of pension available to the old pensioners shall be increased as follows:-

Age of Pensioner	Additional quantum of pension
From 80 years to less than 85 years	20% of basic pension
From 85 years to less than 90 years	30% of basic pension
From 90 years to less than 95 years	40% of basic pension
From 95 years to less than 100 years	50% of basic pension
100 years or more	100% of basic pension

The Pension sanctioning Authorities should ensure that the date of birth and the age of a pensioner is invariably indicated in the pension payment order to facilitate payment of additional pension by the Pension Disbursing Authority as soon as it becomes due. The amount of additional pension will be shown distinctly in the pension payment order. For example, in case where a pensioner is more than 80 years of age and his pension is Rs.10,000 p.m. the pension will be shown as (i) Basic pension = Rs.10,000 and (ii) Additional pension = Rs.2,000 p.m. The pension on his attaining the age of 85 years will be shown as (i) Basic pension = Rs.10,000 and (ii) additional pension = Rs.3,000 p.m.

#### GRATUITY

The maximum limit of all kinds of gratuity shall be Rs.10 lakh. Accordingly, first proviso under Rule 70(i)(b) of Pension Rules shall stand modified to the effect that the amount of retirement gratuity or death gratuity payable under this Rule shall in no case exceed Rs.10 lakh.

#### ADDITION TO QUALIFYING SERVICE.

7.1 In view of revised provisions for computation of pension in para 5 above, the extant benefit of adding years of qualifying service for the purpose of computation of pension shall stand withdrawn with effect from *2<sup>nd</sup> September, 2008*. Rule 45 and 66 of the Pension Rules shall stand modified to this extent.

#### FAMILY PENSION 1964

8.1 Family pension shall be calculated at a uniform rate of 30% of basic pay in all cases and shall be subject to a minimum of Rs.3500/- p.m. and maximum of 30% of the highest pay in the Government. [The highest pay in the Govt. is Rs.90,000 since 1.1.2006]. Rule 75[2] relating to Family Pension, 1964 under Pension Rules shall stand modified to this extent.

8.2 The enhanced family pension under Rule 75[4][i][a] shall be payable to the family of a Railway servant who dies in service from the date of death of the Railway servant for a period of ten years, without any upper age limit. Rule 75[4][i][a] shall stand modified to this extent. There will be no change in the period for payment of enhanced family pension to the family in the case of death of a pensioner.

[v] Family pension shall be allowed in accordance with orders applicable prior to the issue of these orders and shall be calculated with reference to basic pay in the pre-revised scale. To the family pension so calculated dearness relief upto average AICPI 536 [Base year 1982=100] at the rate contained in Railway Board's letter No. PV-V/97/1/9/6 dated 21.4.2006 shall be added. The amount so arrived at will be regarded as the family pension for regulating payment of dearness relief beyond average AICPI 536.

(Signature)

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13. Formal amendments to The Railway Services [Pension] Rules, 1993, Railway Services [Extraordinary Pension] Rules, 1993 and Railway Services [Commutation of Pension] Rules, 1993 in terms of the decisions contained in this letter will issue in due course. Provisions of the Railway Services [Pension] Rules, 1993, Railway Services [Extraordinary Pension] Rules, 1993 and Railway Services [Commutation of Pension] Rules, 1993 which are not specifically modified by these orders, will remain unaffected.

14. The pension/family pension in terms of these orders will qualify for dearness relief beyond average AICPI 536 under the revised pattern being introduced on the recommendations of the Sixth Central Commission."

2. Respondents have filed their counter in which at paragraph 4 it has been stated as under:

"That it is humbly submitted that in partial modification of RBE 112/08 RBE 222/09 dated 15.12.09 has been issued and para 5.4 it stands modified to the extent as the revised provision for calculation of the pension in paras 5.2. and 5.3 of the OM No. 38/37/08-P & PW (A) dt.02.09.08 shall come in force with effect from 01.01.06 and shall be applicable to the Govt. retired/retiring after that date. Hence the OA filed by the applicants is infructuous. The copy of the same is enclosed for ready reference.

3. In view of the above there remains nothing further to be adjudicated in this OA. Hence after hearing Learned Counsel for both sides this OA is disposed of as infructuous. No costs.

  
(A.K.PATNAIK)  
Member (Judl.)

  
(C.R.MOHAPATRA)  
Member (Admn.)