

6

GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No..... 186/2001
R.A/C.P No.....
E.P/M.A No.....

1. Orders Sheet..... Pg..... 01 to 04

2. Judgment/Order dtd. 1-5-02 Pg..... 01 to 03

3. Judgment & Order dtd..... Received from H.C/Supreme Court

4. O.A..... Pg..... 01 to 21

5. E.P/M.P..... Pg..... to.....

6. R.A/C.P..... Pg..... to.....

7. W.S..... Pg..... 01 to 09

8. Rejoinder..... Pg..... to.....

9. Reply..... Pg..... to.....

10. Any other Papers..... Pg..... to.....

11. Memo of Appearance.....

12. Additional Affidavit.....

13. Written Arguments.....

14. Amendement Reply by Respondents.....

15. Amendement Reply filed by the Applicant.....

16. Counter Reply.....

Bangl/2017
SECTION OFFICER (Judl.)

FORM NO. 4
(See Rule 42)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ::::::: GUWAHATI

ORDER SHEET

Original APPLICATION NO 186 ... OF 2001.

Applicant (s) Tukheasan Chetia

Respondent (s) U.O.I. Tom

Advocate for Applicants (s) Mr. S. Saone, Mrs U. Das

Advocate for Respondent (s) Cash.

Notes of the Registry	Date	Order of the Tribunal
This application is in form but no intimation or Petition is filed vide M.P. No. C.F. for its. 21/ dated vide IPO/SC/No 66792096 Dated..... 9.5.2001	23.5.01	Admit. Issue Notice. Call for the records. Notice returnable on 22.6.2001.
<i>Dy. Registrar</i> JVS 22/5/01		<i>Vice-Chairman</i>
	22.6.01	List on 25.7.01 to enable the respondents to file written statement
Notice prepared and sent to D/S for copy the Respondent No. 1 to 5 by Regd A.D. vide D/No 2054 & 2055 dated 7.6.01 for 4/6/01.	25.7.01 24/8/01 7.6.01	<i>Vice-Chairman</i> List on 24-8-2001 to enable the respondents to file written statement.
① Service report are still awaited.	24.8.01 21.6.01	<i>Vice-Chairman</i> List on 26/9/01 to enable the respondents to file written statement.
		<i>Vice-Chairman</i>

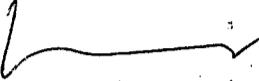
(2)

No written statement
has been filed.

3y
24.7.01

26.9.01

List again on 21.11.01 to enable
the respondents to file written state-
ment.


Vice-Chairman

No WTS has been filed.

3y
23.8.01

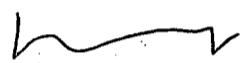
pg

No written statement
has been filed.

21.11.01

Four weeks time is allowed to enable
the respondents for filing of written
statement.

List the matter on 19.12.2001 for
written statement and further orders.


Vice-Chairman

No written statement
has been filed.

3y
28.11.01

trd

19.12.01

List on 9.1.02 to enable the
respondents to file written statement.


Vice-Chairman

No written statement
has been filed.

3y
8.1.02.

lm

9.1.02

Four weeks time is allowed to the
respondents to file written statement.
List on 6.2.2002 for order.

No written statement
has been filed.

3y
5.2.02.

mb


Member

6.2.02

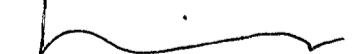
List on 1.3.2002 to enable the respond-
ents to file written statement.

3.4.2002
WTS intimated
by the Respondents.

PD

1.3.2002

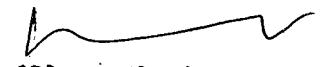
Three weeks further time allowed to
the respondents to file written statement. List
for orders on 5.4.2002.


Vice-Chairman


Vice-Chairman

(3)

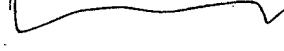
O.A. 186 of 2001

Notes of the Registry	Date	Order of the Tribunal
	5.4.02	Written statement has been filed. The case may be listed for hearing on 1.5.02. The applicant may file rejoinder if any, within 2 weeks.
① Wts has been listed. ② No. rejoinder has been listed.	lm 30.4.02	 Vice-Chairman
Notes of the Registry	Date	Order of the Tribunal

Notes of the Registry	Date	Order of the Tribunal
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1.5.02

Heard counsel for the parties.
Hearing concluded. Judgment delivered
in open Court, kept in separate sheets.
The application is dismissed in terms
of the order. No order as to costs.


Vice-Chairman

pg

6

Notes of the Registry	Date	Order of the Tribunal

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./R.X. NO. . 186 of 2001.

DATE OF DECISION 1.5.2002

Shri. Tukheshwar Chetia

APPLICANT(S)

Sri. S. Sarma

ADVOCATE FOR THE APPLICANT(S)

- VERSUS -

Union of India & Others.

RESPONDENT(S)

Sri. B.C. Pathak, Addl.C.G.S.C.

ADVOCATE FOR THE
RESPONDENTS.

THE HON'BLE MR JUSTICE D.N.CHOWDHURY, VICE CHAIRMAN.

THE HON'BLE

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the judgment is to be circulated to the other Benches ?

5. Judgment delivered by Hon'ble **vice-Chairman.**

✓

4

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 186 of 2001.

Date of Order : This the 1st Day of May, 2002.

The Hon'ble Mr Justice D.N.Chowdhury, Vice-Chairman.

Shri Tukheshwar Chetia,
son of late P.Chetia,
resident of Fancy Cottage,
Nonshillang East Malki, Shillong. . . . Applicant

By Advocate Sri S.Sarma.

- Versus -

1. Union of India,
represented by the Secretary to the
Govt. of India, Ministry of Home Affairs,
New Delhi-1.
2. The Secretary to the Govt. of India,
Ministry of Finance, New Delhi.
3. The Pay & Accounts Officer,
Central Pension Accounting Office,
Ministry of Finance, Govt. of India,
Trikoot-II Complex,
Bhikaji Cama Place, New Delhi-110066.
4. The Pay & Accounts Officer (Assam Rifles)
Ministry of Home Affairs,
Govt. of India, Laitumkhrah,
Shillong-3, Meghalaya.
5. The Director General of Assam Rifles,
Laitumkhrah, Shillong-3, Meghalaya. . . Respondents

By Sri B.C.Pathak, Addl.C.G.S.C.

O R D E R

CHOWDHURY J. (V.C)

The only controversy requiring adjudication in this application is as to the admissibility of interest of the delayed payment of revised rate of pension pursuant to the recommendation of the Fifth Central Pay Commission with effect from September 1997.

2. The applicant was serving under the respondents and at the time of attaining the age of superannuation he was working as Superintendent in the office of the

Director General, Assam Rifles and posted at Shillong. The recommendation of the Fifth Central Pay Commission came into force with effect from 1.1.1996 by which the pay of the applicant was revised. Pursuant to the aforesaid revision the applicant got revision of his pay with effect from 1.1.96% to 31.7.97. The applicant was however not given the benefit towards his pension with effect from 1.8.97. He preferred O.A. before the Tribunal which was numbered and registered as O.A.335/99. The O.A was disposed of at the admission stage directing the respondents to dispose of his representation and communicate the decision with a reasoned order vide order dated 13.10.99. By order dated 31.1.2000 revision of pension was made and PPO was issued. In this application the applicant stated and contended that the delay in payment of the revised pension was arbitrary and administrative lapses and therefore the applicant is entitled for interest of delayed payment.

2. The respondents submitted its written statement and contended that by order dated 13.10.99 the Tribunal disposed of the application with a direction that the "applicant may also submit fresh representation giving details to the appropriate authority of the respondents within 15 days from the date of the order." pension at revised rates differential amount of commuted value of pension and retirement gratuity had been authorised by the respondents vide Government of India, Ministry of Finance, Department of Expenditure, Central Pension Accounting Office, New Delhi's letter dated 7.7.2000. The respondents also stated that as a result of implementation of recommendation of the Fifth Central Pay Commission all the pre 1996 cases of pension have to be revised by the respondents strictly adhering to the

Government of India guidelines on payment of revised pensionary benefits. In the case of the applicant the authority had to complete other mandatory formalities before processing the revised papers for payment of revised pension. The revised pension was accordingly made. It was also mentioned that consequent to the recommendation of the Fifth Pay Commission the Government of India issued guidelines on 14.10.97. On receipt of the office memorandum huge number of cases were required to be re-opened for revision of pension and payment of arrears etc. and thereby processing of pensionary benefits on revised scale of pay. Due to the work load for implementation of Fifth Pay Commission there is some delay no doubt but the delay cannot be attributable to any porpidity or delinquency. In the circumstances the application is accordingly dismissed.

There shall, however, be no order as to costs.

(D.N.CHOWDHURY)
VICE CHAIRMAN

सेन्ट्रल एडमिनिस्ट्रेटिव ट्रिब्यूनल
Central Administrative Tribunal
17 MAY 2001
गुवाहाटी बैच
Guwahati Bench
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the case :

D.A. No. 186 of 2001

Between

Shri Tukheswar Chetia, Applicant.

AND

Union of India & ors, Respondents.

I N D E X

Sl. No.	Particulars	Page No.
1.	Application	1 to ... 10
2.	Verification	11
3.	Annexure-1	12, 13
4.	Annexure-2	14
5.	Annexure-3	15
6.	Annexure-4	16
7.	Annexure-5	17
8.	Annexure-6	18
9.	Annexure-7	19
10.	ANNEXURE-8	20, 21

Filed by : Miss U Das, Advocate.

Regn. No. :

File : W67\TUKHESWAR

Date : 17.5.2001

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(An application under section 19 of the Central Administrative
Tribunal Act.1985)

D.A.No. 186 of 2001

BETWEEN

Shri Tukheshwar Chetia,
S/o Late P.Chetia, resident of Fancy Cottage,
Nonshillang East Malki, Shillong.
..... Applicant.

VERSUS

1. Union of India,
Represented by the Secretary to the Govt.of India,
Ministry of Home Affairs, New Delhi-1.
2. The Secretary to the Govt.of India,
Ministry of Finance, New Delhi-1.
3. The Pay & Accounts Officer,
Central Pension Accounting Office,
Ministry of Finance, Govt.of India,
Trikoot-II Complex,
Bhikaji Comá Place, New Delhi-110066.
4. The Pay & Accounts Officer (Assam Rifles)
Ministry of Home Affairs,
Govt.of India, Laitumukhrah,
Shillong-3, Meghalaya.
5. The Director General of Assam Rifles
Laitumkharah, Shillong-3, Meghalaya.
..... Respondents.

PARTICULARS OF THE APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THIS APPLICATION IS
MADE:

This application is not directed against the order dated 7.7.2000 by which the claim of payment of interest made by the applicant on the delayed settlement of pensionary dues has been rejected.

2. LIMITATION:

The applicant declares that the instant application has been filed within the limitation period prescribed under section 21 of the Central Administrative Tribunal Act.1985.

Filed by
the applicant through
Alka Das
Advocate
17/5/2001

PKW

13

3. JURISDICTION:

The applicant further declares that the subject matter of the case is within the jurisdiction of the Administrative Tribunal.

4. FACTS OF THE CASE:

4.1. That, the applicant through this application has challenged the action on the part of the respondents in delaying the process of settlement of his pensionary dues including the revised rate of pension in view of 5th Central Pay Commission recommendation and prays for due interest on such delayed payment. The applicant at the material time was working as Superintendent in the office of the Director General, Assam Rifles and was posted at Shillong. On 1.8.97 after attaining the age of superannuation the applicant retired from his service. In the mean time the recommendation of the 5th Central Pay Commission came in to force w.e.f. 1.1.96 by which pay of the applicant was revised. Pursuant to the aforesaid revision the applicant got the benefit of such revision of pay w.e.f. 1.1.96 to 31.7.97. After the retirement the applicant however was not given the aforesaid benefit of revision towards his pension w.e.f. 1.8.97. Situated thus the applicant preferred an O.A vide No 835 of 1999. The Hon'ble Tribunal after looking at the urgency of the matter was pleased to dispose of the said OA on the day of admission itself directing the respondents to consider his claim. Pursuant to the said direction of the Hon'ble Tribunal, the respondents have issued an order dated 31.1.2000 by which the said payments have been made. Subsequently a demand was made by the applicant for payment of interest on the delayed payment and the same has been denied to him by an order dated 7.7.2000. Hence this application praying for due interest on the said delayed payment.

4.2. That the applicant is a citizen of India and as such he is entitled to get the rights, privileges and protection as guaranteed by the Constitution of India and laws framed thereunder.

4.3. That the applicant at the material time was working as a Superintendent in the office of the respondent No.5 i.e. the Director General (Assam Rifles) Shillong. After attaining the age of super annuation he was ~~made to~~ retired from his service w.e.f. 1st August, 1997.

4.4. That the applicant at the time of his service got the benefit of 5th Central Pay Commission recommendation which was made effective from 1.1.96. Pursuant to the aforesaid revision he was drawing the revised rate of salary till the date of his superannuation i.e. till 31.7.97. Thereafter the applicant was asked to submit his pay slips and other relevant documents for calculation of his pension and accordingly the applicant submitted all the relevant documents before the authority concerned. However, instead of paying him the revised rate of pension pursuant to the 5th Central Pay Commission, he was paid only the pre-revised rate of pension. The aforesaid action on the part of the respondents shows total non application of mind in calculating the pension of the applicant.

4.5. That the respondent No.4 thereafter issued a letter vide No. PAO/AR/Pen/Revi/23498/9706893 dated 26.8.98 to the respondent No.3 i.e. the Pay & Accounts Officer, Central Pension Accounting Office, New Delhi by which all the relevant particulars of the applicant was sent for revision of pension. In the said letter the respondent No.4 furnished all the relevant documents and informations necessary for such revision and the same was sent to the respondent No.3 by registered post with

special seal.

A copy of the letter dated 26.8.98 is annexed herewith and marked as Annexure-1.

4.6. That the applicant also in addition to the aforesaid Annexure-1 letter dated 26.8.98 made a representation on 13.10.98 making a request to the respondent No.3 i.e. Pay & Accounts Officer, Central Pension Accounting Office, New Delhi for early settlement of his pension case. The applicant also in his aforesaid representation dated 13.10.98 disclosed his Bank Account Number enabling the respondents to make the payments at the earliest.

A copy of the representation dated 13.10.98 is annexed herewith and marked as Annexure-2.

4.7. That the respondent No.3 i.e. the Pay & Accounts Officer, New Delhi after submission of both the Annexure-1 and 2 letters dated 26.8.97 and 13.10.98 issued a letter to the Pay & Accounts Officer, Shillong (Respondent No.4) on 1.2.99 by which it was stated categorically that no letters as mentioned above has been received and hence no action could be taken in this matter. By this letter the said respondent No.3 also made a request to the respondent no.4 to furnish duplicate copy of the letter dated 26.8.97 enabling him to make such payment to the applicant. In the midst of aforesaid communications and so called official formalities, the applicant suffered a lot so far it relates to his revised pension and arrear are concerned. It is pertinent to mention here that just after the retirement each employee used to face tremendous financial hardship and same things happened in case of the applicant also. But the aforesaid delay caused by the respondents due to their inaction has made

14

the applicant to suffer like anything and the said loss can not be compensated in terms of money.

Copy of the letter dated 1.2.99 is annexed herewith and marked as ANNEXURE-3.

4.9. That after receipt of the aforesaid letter dated 1.2.99 issued by the respondents No 3, the Pay & Accounts Officer Shillong (respondents No.4) issued another letter dated 8.2.99 by which it is stated that all the papers have been sent to the office of the respondents No 3 by registered post. It is also stated in the said letter that necessary action may be taken for issuance of Non receipt/ lost Certificate so that duplicate of the said letters can be issued.

Copy of the letter dated 8.2.99 is annexed herewith and marked as ANNEXURE-4.

4.9. That thereafter the applicant was pursuing the matter before the respondents but till date nothing has been done so far in this matter. The respondents were still sitting over the matter and delaying the payment on the name of official procedure. The applicant further states that the official procedures are maintained for expeditious settlement of matters like the present one but the same may not be put to the disadvantages of the employees like that of the applicant, and through this application the applicant has also challenges the said official procedures which has resulted such delay as aforesaid.

4.10. That the applicant begs to state that the respondents have not taken due initiative in the matter and for their such inaction the applicant being a low paid employee is suffering from tremendous financial hardship. It is noteworthy to mention here that due to the aforesaid inaction of the respondents in not revising the pension of the applicant in due time, his entire

payment of retirement benefits has been stalled, and for which he could not settle his other consequential claims like commutation of pension and gratuity.

4.11. That being aggrieved by the aforesaid action on the part of the respondents, the applicant preferred numbers of representations praying for expeditious settlement of the matter but the respondents did not settle the matter and respondents are sitting over the matter causing a tremendous financial loss to the applicant.

Copy of one of such representations dated 1.6.99 is annexed herewith and marked as
ANNEXURE-5

4.12. That the applicant begs to state that the respondents are shifting their responsibilities in the name of official correspondences and the applicant in their midst are suffering from tremendous financial loss. The applicant as per the so called official procedure has submitted all the relevant papers and documents and the rests action for payment is for the respondents but nothing came out so easily. The delay caused for the aforesaid settlement is solely because of the inaction of the respondents.

4.13. That the applicant begs to state that situated thus, he preferred an O.A vide No 335 of 1999 before the Hon'ble Tribunal and the Hon'ble Tribunal after hearing the parties to the proceeding was pleased to dispose of the said O.A directing the respondents to consider his case, vide its Judgment and order dated 13.10.99.

The applicant craves leave of the Hon'ble Tribunal to produce the said Judgment and order dated 13.10.99 at the time of hearing of the case.

4.14. That thereafter the applicant made several requests to the concerned authority and the concerned authority thereafter issued an order dated 31.1.2000 by which his such dues have been settled. However, the respondents have made the actual payments only without adding any interest on it.

A copy of the said order dated 31.1.2000 is annexed herewith and marked as ANNEXURE-6.

4.15. That thereafter the applicant made a demand of payment of interest on the delayed payment of his arrears through a legal notice and the respondent on receipt of the said legal notice dated 7.6.2000 issued an order dated 7.7.2000 rejecting his such claim. The applicant thereafter, made several requests to the DG Assam Rifles requesting for payment of interest @ 10% on the delayed payment but the same has been rejected orally, without serving him any copy.

A copy of the said letter dated 7.7.2000 is annexed herewith and marked as ANNEXURE-7.

4.16. That the applicant begs to state that there are various guidelines issued by the Govt of India in regard to such delayed payment as well as delayed settlement of pensionary dues. It will be pertinent to mention here that Rule 68 of CCS (Pension) Rules clearly indicates that delayed settlement warrants payment of interest to the retired employees. On the other hand the Govt of India Department of Pension and Pensioners welfare has issued an O.M dated 25.8.94 by which the rate of interest on such delayed payment has been increased. The case of the present applicant is fully covered by the spirit of these guidelines and he is entitled to an interest @ 10% on the delayed payments. The applicant made several requests to the concerned authority but same has been rejected orally.

A copy of the O.M dated 25.8.94 is annexed herewith and marked as ANNEXURE-B.

4.17. That admittedly the applicant has been made to suffer by the respondents in not settling his dues in time and for that their entire action is liable to be set aside and quashed and necessary direction may be issued to the respondents to pay due interest on the said delayed payment.

4.18. That this application is made bonafide and secure ends of justice.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the action/inaction on the part of the respondents in not making the payment of revised pension and the arrear thereto to the applicant since Sept. 1997 within the stipulated time frame is illegal arbitrary and hence the same is liable to be set aside and quashed.

5.2. For that inaction on the part of the respondents to settle the matter of the applicant regarding arrear pension in the name of official correspondence and procedures are not sustainable in the eye of law and hence the same is liable to be set aside and quashed.

5.3. For that each employee just after retirement use to face tremendous financial hardship and knowing fully well the aforesaid facts the respondents ought to have expedite the matter and hence the aforesaid action / inaction on the part of the respondents in issuing the impugned order dated 7.7.2000 has resulted in complete violation of the Constitutional mandates more particularly the Art 23 of the Constitution of India and the laws framed thereunder.

5.4. For that the action / inaction on the part of the respondents in issuing the impugned order dated 7.7.2000 has

violated the various guidelines issued by the Govt of India and hence they are liable for payment of compensation in terms of interest @ 18 % p.a. on such delayed payment.

5.5 For that in any view of the matter the action/inaction of the respondents are not sustainable in the eye of law and liable to set aside and quashed.

6. DETAILS OF REMEDIES EXHAUSTED:

That the applicant declares that he has exhausted all the remedies available to them and there is no alternative remedy available to him.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT:

The applicant further declares that he has not filed previously any application, writ petition or suit regarding the grievances in respect of which this application is made before any other court or any other Bench of the Tribunal or any other authority nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above, the applicant most respectfully prayed that the instant application be admitted records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of records, be grant the following reliefs to the applicant:-

8.1. For a direction from this Hon'ble Tribunal for payment of interest @ 18 % p.a. on the delayed payment of revised rate of pension pursuant to commencement of 5th Central Pay Commission Recommendation, w.e.f. Sept. 1997.

8.2. To set aside and quash the impugned order dated 7.7.2000.

8.3. Cost of the application.

8.4. Any other relief/reliefs to which the Applicant is

entitled to under the facts and circumstances of the case and deemed fit and proper.

9. INTERIM ORDER PRAYED FOR:

Pending disposal of the application the applicant prays for an interim order directing the respondents to proceed with the settlement of interest @ 18 % as per his requests on the delayed payment of revised pension.

10.

11. PARTICULARS OF THE I.P.O.:

1. I.P.O. No. : 66 792096

2. Date : 9/5/2001

3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

12

VERIFICATION

I, Shri Tukheswar Chetia, son of late P. Chetia aged about 62 years, resident of Fancy Cottage, Nonshillang East, Malki, Shillong, Meghalaya, do hereby solemnly affirm and verify that the statements made in paragraphs 1,2,3,4,2-4,4,4,4,9,4,10,4,12,4,13,4,17,5 to 12 are true to my knowledge and those made in paragraphs 4,1,4,5-4,8,4,11,4,14,4,15-4,16 are true to my information and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the 15th day of May 2001.

Signature.

Tukheswar Chetia

Regd/Spb Seal

-12-

Government of India

Ministry of Home Affairs

Pay and Accounts Office (Assam Rifles)

ANNEXURE 4 I

No. PAO/AR/Pen/Revi/23498/ 97 06853

Dated 26-8-98 -

To
 The Pay & Accounts Officer
 Central Pension Accounting Office
 Ministry of Finance
 Govt. of India
 TRIKOOT II Complex
 Bhikaji Cama Place
 (Behind Hotel Hyatt Regency)
 New Delhi-110066.

Subject: Revision of Pension of

Shri/Smt Tukheswar Chakrabortyholder of PPO No 23498 97 06853

Sir,

I request you to make arrangement for carrying out the modification in both the halves of the said PPO as detailed below.

- * (a) Revised pension Rs. 3538.....
 (Rupees. Three thousand five hundred thirty eight only.....
 effective from 1.8.97.....
- (b) Revised pension commuted Rs. 1419.....
 (Rupees. One thousand four hundred nineteen only.....
- (c) Revised Reduced
 Pension after commutation Rs. 2123.....
 (Rupees. Two thousand one hundred twenty three only.....
 effective from date of receipt of CVP.....

2. (a) Differential commuted
 value paid or being arranged through pay
 & Accounts Office Rs. not applicable.....
 (Rupees.....)

(b) Differential commuted
 value of Pension
 Payable by the bank Rs. 29536.....
 (Rupees. One lakh twenty nine thousand five hundred thirty six.....

(a) or (b) which ever is applicable should be filled up the
 other column should be prominently marked as
 'Not applicable').

Contd...2

* Amount already paid
 out of amount now authorised

Amrit Chakraborty
Advocate

S61-82 - thols

D
TAN

24

3. Additional amount of Death cum
retirement Gratuity payable by the
bank due to revision (This column is
to be prominently marked as 'Not
applicable' if additional amount of
gratuity is arranged through Pay &
Accounts Officer concerned or no
Death Retirement gratuity
is payable as a result of revision, Rs. 57156/-
(Rupees 57156/-).....

4. Revised Family Pension
(a) At enhanced rate Rs. 35.44/-
(Rupees 35.44/-).....upto.....
(b) At normal rate w.e.f. Rs. 11.44/-.....

5. Details of Disbursing Bank/Disbursing Authority.....
(i) Name of Bank/Disbursed.....
(ii) Branch,
and code No. (If.....
(iii) Account No.
(iv) Deptt... East Khar Hills.....
(v) State.....

Yours faithfully,

S. P. -

Pay & Accounts Officer

Memo. No. PAO/AP/Pon/Rev/23498/7

Date.....

Copy to:

1. Sri/Smt. ...
Vill.
Dist.

2. D.G.A.R., S.H.T.O.MG-11 with reference to your letter No.



ACCOUNTS OFFICE

42903

53626

Refd/A/c. 5245 - dt/d - 26-8-95

Worth - Rs. 50/-

Attested
H. D. D.
Advocate

ANNEXURE-2.

NO. P/TC/98/22

Dated Shillong the 13 Oct 1998.

To,
The Pay & Accounts Officer,
Central Pension Accounting Office
Ministry of Finance
Govt of India, Trikoot II complex.
Brakaji Cema place.
(Behind Hotel Hyatt Regency)
New Delhi-110066.

Sub :- Payment of arrear pension/gratuity and arrear commutation
value in respect of Sri Tukheswar Chetia holder of PPO No
23498-97 06853.

Sir,

Kindly refer to PAO98AR) letter No PAO/AR/Per/Revi/23498
9706853 dated 26.8.98 (copy enclosed) and arrange to issue the
payment authority to my Bank I,E, SBI Malki/ Dhankheti Branch
Shillong (A/C No 01190007023) at the earliest as the same has not
been received as yet.

An early action in the matter will be highly appreciated
please.

Yours faithfully.

(Tukheswar Chetia.)
Ex Supdt.

Address for correspondence.
Fancy Cottage.
Malki (Nongshilliang, East.)
Shillong Meghalaya.

Copy to:-

1. SBI' Malki (Dhankheti) Branch, Shillong. - for information and necessary action on receipt of above authority from CPAO Delhi.
2. PAO (Assam Rifles)
Laitumkhrah, Shillong - for information and necessary action please.

Attested
M. S. S.
Advocate.

Annexure-3

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF EXPENDITURE
CENTRAL PENSION ACCOUNTING OFFICE
TRIKOOT-II, BHAKAJI CAMA PLACE,
NEW DELHI-110066
PHONE : 6174596, 6174456, 6174438

Date : 1.2.99.

To : The Pay & Accounts Officer
P.A.O (Assam Rifles)
MHA, Shillong.

Sub: Revision of pension in a/c Sh. Tukheswar Chetia,
PPO No. 234989706853.

Sir,

Please refer Pensioner's letter No.P/TC/98/22 dated 13.10.98
and subsequent telegram dated 4.12.98 on the subject cited above
and to state that as per computer record available with this
office. No revision of pension authority have been received by
this office. You are requested to issue duplicate authority of
the revision of pension at an early date.

Yours faithfully

Jr. Accounts Officer

Copy to Pensioner (by hand)

Attested

Advocate.

27
Annexure-4

Government of India
Ministry of Home Affairs
Pay & Accounts Office
(Assam Rifles)
Shillong-793000
Ph.226037.

No. PAO/AR/Pen/5-12/98-99/572

Date. 8.2.99

To

Senior Accounts Officer,
Central Pension Accounting Office
Ministry of Finance,
Trikoot-II Complex,
Bikaji Cama Place
New Delhi-110066.

Sub: SSA for Revision of Pension in respect of Sri Tukheswar Chetia holder of PPO No.234989706853.

Sir,

I am to state that intimation has been received from the pensioner regarding non-receipt of Special Seal Authority for revision of pension issued from this office under No. PAO/Pen/Revi/234989706853 A-1 dated 26th August, 98. In this connection it may be stated that the aforesaid special seal authority was forwarded to your office under registered cover bearing No.5245 dated 26th Aug.98 of Laitumkhrah post office, Shillong-3.

In view of above, necessary action may be initiated to issue "Non receipt/Lost certificate" of the said authority so as to enable this office to issue a "Duplicate" SSA.

An early action shall be appreciated.

Yours faithfully

Sr. Accounts Officer.

Attested

Wons
Advocate

DEPARTMENT OF TELECOMMUNICATIONS
Inland Telegram

Service Indication Re. Presented for transmission sent part. dt.
subject to Indian Telegraph
Act & Rules....

To

The Pay & Accounts Officer
Central Pension Accounting Office
Ministry of Finance
Govt. of India
Trikoot-II Complex, Bhikaji Cama Place, New Delhi-110066.

Non receipt of revised pension (.) ref PAO letter
No.PAO/AR/Pen/5-12/98-99/628 of 10 Feb.99 Comma No.PAO/AR/Pen/ 5-
12/98-99/628 of 23 Mar 99 (.) reply still awaited (.) expedite
(.) SAD only (.) You are requested to take personal attention on
the subject and relief me from financial crisis earliest.

Tukheswar Chetia
01 Jun 99.

Attested

l. S. Chetia
Advocate.

CENTRAL PENSION ACCOUNTING OFFICE
MINISTRY OF FINANCE, GOVERNMENT OF INDIA
TRIKOOT-II COMPLEX, (BEHIND HOTEL HYATT REGENCY)
BHAKTIVANNA PLACE, NEW DELHI - 110 066.
(SPECIAL SEAL AUTHORITY FOR REVISION)

234989706853 / 292034 / A1

Date : 31/01/2000

THE MANAGER
STATE BANK OF INDIA
SHILLONG MAIN BRANCH
DISTT. EAST KHASI HILL
MEGHALAYA
PIN-793001

VISION OF PENSION OF SHRI/SMT/KUM.
LEADER OF PPO NUMBER
BRANCH
COUNT NUMBER

SHRI TUKHESWAR CHETIA
234989706853
DHANKHETT BR, SHILLONG, MEGHALAYA.

An amendment letter No PAO/AR/PEN/5-12/99-2000/498 in respect of PPO mentioned above is forwarded herewith in original. The modification may be carried out in the halves of the ppo and payment arranged as under :

Revised Pension (Per Month)

REVISED BASIC PENSION	Rs. 3,538 - W.E. From 01/08/1997 (Rupees three thousand five hundred thirty eight only)
REVISED PENSION COMMUTED	Rs. 1,415 (Rupees one thousand four hundred fifteen only)
REVISED REDUCED PENSION	Rs. 2,123 W.E. From SEE NOTE I (Rupees two thousand one hundred twenty three only)
AMOUNT OF DIFFERENTIAL COMMUTATION PAYABLE	Rs. 1,29,536 (Rupees one lac twenty nine thousand five hundred thirty six only)
ADDITIONAL DEATH/RETIREMENT GRATUITY PAYABLE	Rs. 57,156 (Rupees fifty seven thousand one hundred fifty six only)

REVISED FAMILY PENSION AT ENHANCED RATE	Rs. 3,538	FROM	TO UPTO AGE OF 65 YEARS
AT NORMAL RATE	Rs. 2,123	FROM	TO TILL DEATH/REMARRIAGE

te :

- i) Reduced Pension as per col. 3 will take effect from the date differential commuted value is credited into the pensioner's account by the bank.
- ii) Pension/Provisional Pension, DA Relief etc, if paid may be adjusted suitably.
- iii) Dearness relief to be allowed as admissible from time to time.
- v) FP at enhanced rate is payable w.e.f. date following the death of pensioner for 7 years or upto the date shown above, whichever is earlier.

COPY TO :

SHRI TUKHESWAR CHETIA
MILL-FAMEY COTTAGE, MALKI (NONG SHILLANG EAST),
SHILLONG, MEGHALAYA

SD/-
PAY AND ACCOUNTS OFFICER

R 68

Attested
L. D. S.
Advocate

Registered

भारत सरकार
 वित्त मन्त्रालय, व्यव विभाग
 केन्द्रीय पेंशन लेखा कार्यालय
 त्रिकूट-II, भीकाजी कामा पैलेस
 नई दिल्ली-110066
 फोन - 6174596, 6174456, 6174438



GOVERNMENT OF INDIA
 MINISTRY OF FINANCE
 DEPARTMENT OF EXPENDITURE
 CENTRAL PENSION ACCOUNTING OFFICE
 TRIKOOT-II, BHIAJI CAMA PLACE,
 NEW DELHI-110066
 PHONES : 6174596, 6174456, 6174438

क्रमांक.....CPAO/A-3/1999-2000/Court Case/ P-21/

दिनांक/Dated..... 7.7.2000

To

Sh. Siddhartha Sharma
 Advocate
 M.A.Road, Rehabari
 Guwahati-781008.

Sir,

With reference to your legal notice dted 7.6.2000 addressed to the Director General (Assam Rifles), Shillong & a copy endorsed to this office regarding payment of interest for delayed payment & compensation in respect of your client Sh. Tukheswar Chetia, holder of PPO No.234989706853.

It is stated that as per direction of the Hon'ble CAT issued under Judgement Order CAT/GHY/JUDL/4252 dt. 19.11.99 pension at revised rates, differential amount of commuted value of pension and differential amount of retirement gratuity has already been authorised on the basis of received from PAO (Assam Rifles) vide this office Special Seal Authority No.234989706853/292034/A1 dt, 31.1.2000. Although Hon'ble CAT disposed the application with no order to cost and there was no delay on the part of this office. You are requested to contact DG (Assam Rifles), Shillong for any other benefits tenable to Sh. Tukheswar Chetia remained pending with them.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'R. Chatterjee'.

Sr. Accounts Officer

Attested
 [Signature]
 Advocate.

| COPY |

No. F.7/1/93-P&BW (F)
GOVERNMENT OF INDIA

Department of Pension & Pensioners Welfare

3rd Flcor, Lok Nayak Bhawan
Khan Market, New Delhi - 110003.

dated 25th August, 1994.

OFFICE MEMORANDUM

SUBJECT :- Enhancement of rate of interest payable on delayed payment of D.C.R.G. AND RATE OF INTEREST ~~CHARGEABLE~~ chargeable on refund of pensionary benefits already drawn, in connection with counting of past service under CCS (Pension) Rules, 1972 and Department of Pension & Pensioners' Welfare O.M. No. 28/10/84-PU dated 29-8-1984 as amended from time to time.

The Government have had under consideration, the question of enhancing the rate of interest payable to a Government servant on delayed payment of Death-Cum-Retirement Gratuity where delay occurs on account of administrative lapse or for reasons beyond the control of Government servant concerned. In supersession of this Department's O.I. No. 7/3/84-PU dated 28th July, 1984, the President is now pleased to decide that where the payment of D.C.R.G. has been delayed beyond 3(three) months from the date of retirement, an interest at the rate applicable to GPF deposits (a present 12 per cent per annum, compounded annually) will be paid to retired/dependents of deceased Government servant.

2. The Administrative Ministries are requested to ensure that in all cases where interest has to be paid on Death-Cum-Retirement Gratuity, because of administrative delay, action should be taken to fix responsibility and disciplinary action should be taken against the officer responsible for the delay.

3. The President is also pleased to decide that wherever the employees are required to refund the pensionary benefits received by them for the service already rendered by them under the Central or state Government or autonomous bodies in order to avail of the benefit of counting of past services for pension purposes in terms of the provisions of Rules 17 to 20 of CCS (Pension) Rules, 1972 and Department of Pension & Pensioners' Welfare's O.M. No. 28/10/84-PU dated the 29th August, 1984 as amended from time to time, the rate of interest will be the rate applicable on GPF accumulations from time to time, for the period from the date of receipt of pensionary benefits to date of their refund to the Government/ autonomous Body.

..... 2

Arrested
H. Das
Advocate.

4. In cases where after the issue of the orders by the competent authority on the basis of option exercised by an employee for counting of past service for pensionary purposes, if an individual does not deposit the pensionary benefits already received by him within one months of the receipt of communication from the Government/Autonomous Body, a penal interest @ 1 per cent per annum will be charged in addition to normal rate of interest mentioned above.

5. (a) The rate of interest mentioned in para 1 above will be applicable in all cases where the D.C.R.G. has not been paid as on date of issue of this O.M.

(b) The rate of interest mentioned in para 3 above will be applicable in cases of Government servant/employees of Autonomous Bodies where pensionary benefits already drawn have not been refunded to Government/Autonomous Body, as on date of issue of this O.M.

6. All existing instructions relating to interest rate payable by the Government or the employees, as the case may be, will be ~~ex~~ cease to operate w.e.f. the date of issue of this O.M.

7. All the Ministries/Departments are requested to advise the attached/subordinate offices/autonomous/statutory bodies under their Administrative control and to settle cases in accordance with the provision of this office Memorandum.

8. In so far as persons serving in the Indian Audit and Accounts Department are concerned, these orders issue after consultation with the Comptroller & Auditor General of India.

Sd/-x-x-x-x-
(S C BATRA)

DY. SECRETARY TO THE GOVERNMENT OF INDIA

To

All Ministries/Departments of Govt. of India
(With usual number of spare copies).

| COPY |

Arrested
Advocate

3

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

O.A NO 186 OF 2001

Shri Tukshewar Chetia

Vs

Union of India and Others

Written Statement submitted by the Respondents.

The respondents beg to submit the Written Statement as follows: -

1. That with reference to statement made in Para 1, this deponent begs to state that the applicant filed an application OA No 335/99 before the Hon'ble CAT with prayer for the payment of revised rate of pension pursuant to commencement of 5th central pay commission recommendation wef 01 Aug 97 with arrears together with interest @ 18% p.a wef Sep 1997. The Hon'ble CAT vide order dated 13 Oct 1999 disposed of the application with a direction that the "applicant may also submit fresh representation giving details to the appropriate authority of the respondents within 15 days from today. The respondents shall

Tukshewar Chetia
31/10/02
= 31/10/02
All. Case; CAT
Addl.

communicate a speaking order to the applicant within 60 days from today".

Pension at revised rates, differential amount of commuted value of pension and retirement gratuity has been authorized by the respondents vide Govt of India, Ministry of Finance – Department Expenditure, Central pension Accounting Office, New Delhi letter No CPAO/A-3/1999-2000/Court Case/P-21 dated 07 Jul 2000 attached as Annexure 7 of the application.

As the Hon'ble CAT disposed of the application with no order as to cost of the suit and there was no delay on the part of the pension paying authority, therefore no payment of interest for delayed payment of revised pension came for consideration of the Hon'ble CAT while passing the order dated 13 Oct 99. Accordingly, the respondent No 3 as per annexure 7 of the application informed the applicant through his advocate.

2. That with reference to averments made in Para 2 of the O.A this deponent no comments to offer regarding period of limitation for filing the application. However, the applicant may be put to strictest proof thereof.

3. That with reference to averments made in Paras 3, this deponent has no comments as the matter relates to jurisdiction of the Administrative Tribunal.

4. That with reference to averments made in Para 4(1), this deponent begs to state that it is denied that the respondents were delaying the process of settlement of applicants' pensionary dues including the revised rate of pension. It is stated that as a result of implementation of recommendation of the 5th CPC, all the pre-1996 cases of pension/family pension have to be revised by the respondent department strictly adhering to the Govt of India guidelines on payment of revised pensionary benefits.

In the instant case, IPS of the applicant was prepared on revision of his pay duly verified by the audit authority and to shall have to complete other mandatory formalities before processing the revised papers for payment of revised pension. The revised pension was made vide an order dated 31 Jan 2000. The applicant subsequently made an application for payment of interest on the delayed payment of revised pensionary benefits which was discarded by the Hon'ble CAT while disposing OA No 335/99 vide order dated 13 Oct 1999 due to lacks merit.

5. That with reference to averments made in Para 4.2, the deponent begs to offer no comments as the matters stated herein are in the personal knowledge of the applicant.

6. That with reference to averments made in Paras 4.3 the deponent begs to offer no comments being a matter of record. It is denied that there non-application of mind in calculating the pension of the applicant. The date of superannuation of the applicant was 31 Jul 1997 and accordingly his pension papers as per statutory pension rules was processed six to eight months prior to his date of retirement. Implementation of 5th CPC fixation of pay and payment of arrears was circulated by the Govt of India vide officer memorandum F No 50(2)/97/IC-1 dated 14 Oct 1997.

**A True copy of OM dated 14 Oct 1997 is attached
as Annexure ¹l of this written statement.**

On receipt of the same OM huge number of cases were required to re-opened for revision and payment of arrears etc and thereby processing of pensionary benefits on revised scale of pay. Therefore, the contention of the applicant is just imaginary and devoid of real facts and normal

procedure although the applicant served in a Central Govt Department more than 34 years.

7. That with reference to averments made in Para 4.5 and 4.6, the deponent admit the averments being a matter of record.

8. That with reference to averments made in Para 4.7, the respondents denies the concluding lines of the Para as the applicant cannot suffer tremendous financial hardship for non-receipt of 18% interest for delayed payment of revised pension as he has already drawing pension and other dues on retirement.

9. That with reference to averments made in Para 4.8, the respondents beg to offer no comments being a matter of record.

10. That with reference to averments made in Para 4.9, the deponent begs to submit that Govt departments are functioning on the time to time guidelines given by the respective Ministries and laid down Acts and Rules which a citizen cannot challenge as the applicant is challenging which is contrary to his normal conduct basing on which President of India is paying pension to the applicant. The authority subject to fulfillment of certain procedures has sanctioned revised pension by the concern Department. The applicants' revised pension was paid inspite of voluminous document work long channel between the respondents official location which increased the work load due to the implementation of 5th CPC, of course some delay under circumstances which is bonafide and natural cannot be ruled out. That the applicant is a pensioner and decisions and sanctions have to be taken from various officers and especially if it is a matter of any payment which has to be withdrawn from

State Exchequer then very careful and detailed channel have to be adopted.

11. That with reference to averments made in Para 4.10, the deponent denies the averments being misguiding and only to gain a case in favour of the applicant, the applicant is misrepresenting his financial position as a pension cannot suffer from tremendous financial hardship in want of interest on delayed payment of revised pension. That there were instruction dated 12 Mar 1998 from controller of accounts not to pay the arrears on revised pension without pre-check; hence applicants case was dealt with normal procedure observing all the guidelines of the audit authority/pension paying authority. Therefore, the contention of the petitioner is only to misguide the Hon'ble Tribunal.

12. That with reference to averments made in Para 4.11 to 4.15, the deponent begs to offer no comments being a matter of record. However, the petitioner may be put to strictest proof thereof.

13. That with reference to averments made in Para 4.16 the deponent begs to submit that There is a provision for payment of interest on the delay payment of gratuity beyond three months from the date of retirement under Govt of India decision (2) below of Rule 68 of CCS (Pension) rules, 72 if delay attributable to administrative lapses, but the present legal notice relating to the delay payment of arrears of payment on accounts of revision of pension/gratuity/commutation and not original retirement benefits, which were paid timely before the date of retirement. Moreover, it would be evident from the verdict of the Hon'ble CAT by way of filing OA No 335/99 as mentioned in the Legal Notice, who has ordered for release of payment of retirement benefits only and did not consider for payment of

interest for lack of merits. And if the alleged interest on delay payment of arrears of pension/gratuity/commutation of the instant case applicant is conceded then other will follow the suit causing a heavy extra expenditure will have to be incurred by the Exchequer on one hand, and on the other hand, the normal routine works of the pension Branch to settle pension cases of a average of 250 numbers of personnel retired in every month will be hampered

14. That with reference to averments made in Para 4.17 and 4.18 the deponent begs to offer no comments being prayer of the applicant before the Hon'ble Tribunal.

15. That with reference to averments made in Para 5.1 to 5.5 on ground for relief the deponent begs to submit that none of the relief as prayed for are tenable before the eye of law and no Constitutional mandates are violated by not admitting interest on delayed payment of revised pension to the applicant.

16. That with reference to averments made in Para 6 and 7 the deponent has no comments to offer.

17. That with reference to averments made in Para 8 of the application, the deponent begs to submit that no relief can be extended being devoid of any merit.

VERIFICATION

I Major Sandeep Kumar, age 34 years, Son of Shri JP Sharma, working as Joint Assistant Director (Legal) in the Office of the Directorate General Assam Rifles being authorised to hereby verify and declare that the statements made in this written statement are true to my knowledge, information and belief and I have not suppressed any material fact.

And I sign this verification on this 30 day of April, 2002.



Deponent

मार्यादा दिलेशक (विधि)
Joint Assistant Director (Legal)

क्षात्रियदेश, लोक गवर्नर एसेस्स राइफल्स
Directorate General Assam Rifles
गिलांग - 793011
Shillong - 793011

F.No.50(2)/97/IC-I
Government of India/Bharat Sarkar
Ministry of Finance/Vitta Mantralaya
Department of Expenditure/Vyaya Vibhag
Fifth Commission Implementation Cell

New Delhi, the 14th Oct 97

OFFICE OF THE CHIEF

Subject: Implementation of Fifth Central Pay Commission
Recommendations-Fixation of Pay and Payment of
Arrears Instructions regarding.

The undersigned is directed to refer to the Central Civil Services (Revised Pay) Rules, 1997 modified vide GSR No. 569(E) dated 16.10.1997 and to state that in terms of Rule 7 of these Rules, Government servants are required to exercise their option for payment of their pay in the revised scales of pay in the format prescribed in the Second Schedule to the Rules.

The sequence of action to be taken on receipt of the order will be as follows :-

(1) On fixation of pay in revised scales of pay applicable, pay and allowances for the month of Oct 97 may be drawn and paid on the basis of the revised scales of pay and the applicable allowances thereon after deduction of enhanced subscription to the Central Provident Fund with reference to the revised pay.

Bills may be drawn separately in respect of the arrears of pay and allowances for the period from January 1, 1996 to September 30, 1997. In, ~~cases~~ where the aggregate arrears computed after deduction of subscription at enhanced rates with reference to the revised pay works out to Rs. 5000/- or less, these may be paid entirely in cash in a lumpsum. If however, the arrears workout to more than Rs. 5000/- these may be paid in cash in two instalments. The first instalment being restricted to Rs. 5000/- plus 50% of the balance amount. Orders in regard to the payment of the second instalment will be issued separately.

Similar sequential action as indicated above may be taken for the authorisation of the revised pay and allowances of those employees whose options might be received later.

Contd. 2..

3. With a view to expediting the authorisation and disbursement of arrears, it has been decided that the arrear claims may be paid without pre-check of the fixation of pay in the revised scales of pay. The facility to disburse arrears without pre-check of fixation of pay will not, however, be available in respect of the Government servants who have relinquished service on account of dismissed, resignation, discharge, retirement etc, after the date of implementation of the Pay Commission's recommendations but before the separation and drawal of the arrear claims as well as in respect of those employees who had exercised their option for the drawal of pay in the revised scales.

4. In order to ensure correct and systematic fixation of pay in the revised scales of pay, a proforma for the purpose (Statement of Fixation of Pay) is enclosed (Annexe-I). The statement should be prepared in triplicate and one copy thereof should be pasted in the Service Book of the Government Servant concerned and another copy made available to the concerned Accounting Authorities (Chief Controller of Account/Controller of Account/Accounts Officer) for post check. Attention is also invited in this connection to the Government decision contained at S.I.R. 2(4) of the Part 'A' of the Resolution No. 50(1)/TC-97 dated Sept 30, 1997 regarding the adjustment of the instalments of Dearness Allowance paid between July 1, 1996 and June 30, 1997. Further, while commuting and authorising the arrears the third instalment of Interim relief paid w.e.f. April 1, 1996 will also be adjusted.

5. The requirement of pre-check of pay fixation having been dispensed with, it is not unlikely that the arrears due in some cases may be commuted incorrectly leading to overpayment that might have to be recovered subsequently. The Drawing and Disbursing Officers should, therefore, make it clear to the employees under their administrative control, while disbursing the arrears, that the payments are being made subject to adjustment of amounts that may be due to them subsequently should any discrepancy be noticed later. For this purpose, an undertaking may also be obtained in writing from every employee at the time of disbursement of the arrears/pay and allowances for Oct 1997 to the effect that any excess payment that may be found to have been made as a result of incorrect fixation of pay in the revised scales will be refunded by him to Government either by adjustment of future payments or otherwise. A specimen form of the undertaking is also enclosed (Annexe-II).

In authorising the arrears, Income Tax as due may be deducted and credited to Government in accordance with the instructions on the subject.

6. On receipt of the necessary options, action for drawal and disbursement of arrears should be completed immediately.

7. Hindi version will follow.

Sd/- xxx

(R. SUNDER RAJAN)

Joint Secretary to the Govt of India
All Ministries/Departments of the Government of India and
other as in standard list.

TO