

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**...
Order reserved on: 16.02.2016

1. ORIGINAL APPLICATION NO. 060/01092/2014
2. ORIGINAL APPLICATION NO. 060/01093/2014

Chandigarh, this the 19 day of February, 2016...
CORAM: HON'BLE MR. JUSTICE L.N. MITTAL, MEMBER (J)
HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)
...**1. O.A. No. 060/01092/2014**

M.L. Bhanot , aged 75 years (Sr. Citizen), Assistant Accounts Officer
(retired), resident of House NO. 1271, Sector 37-B, Chandigarh.

....APPLICANT

BY ADVOCATE: SHRI R.P. SHARMA

VERSUS

1. Union of India through the Secretary, Government of India,
Ministry of Defence, (Finance), South Block, New Delhi-110001.
2. Principal Controller of Defence Account (Pension), Draupdi Ghat,
Allahabad-211014
3. Principal Controller of Defence Account (Western Command),
Chandigarh 160017.

....RESPONDENTS

BY ADVOCATE: SHRI RAM LAL GUPTA

2. O.A. No. 060/01093/2014

Tarsem Singh, aged 75 years (Sr. Citizen), Senior Auditor (retired)
resident of House NO. 4144, Sector 56, Chandigarh.

....APPLICANT

BY ADVOCATE: SHRI R.P. SHARMA

VERSUS

1. Union of India through the Secretary, Government of India,
Ministry of Defence, (Finance), South Block, New Delhi-110001.



2. Principal Controller of Defence Account (Pension), Draupdi Ghat, Allahabad-211014
3. Principal Controller of Defence Account (Western Command), Chandigarh 160017.

....RESPONDENTS

BY ADVOCATE: SHRI VINOD K. ARYA

ORDER

HON'BLE MR. JUSTICE L.N. MITTAL, MEMBER(J):-

By this common order, we are disposing of two O.As i.e. O.A. No. 060/01092/2014 titled M.L. Bhanot Vs. Union of India & Ors. and O.A. No. 060/01093/2014 titled Tarsem Singh Vs. Union of India & Ors., because similar issues are involved in both the cases. Facts are being taken from the O.A. filed by M.L. Bhanot.

2. The applicant retired on 31.01.1997 as Assistant Accounts Officer (AAO) from the office of respondent no. 2- Principal Controller of Defence Accounts (PCDA). His pension was fixed at Rs. 4198/- keeping in view his average basic pay of Rs. 8395/- in the pay scale of Rs. 7450-11500/-. Pursuant to recommendations of 6th Central Pay Commission (CPC), the Central Govt. adopted resolution dated 29.08.2008 (Annexure R-1) accepting the recommendations of the 6th CPC with some modifications. O.M. dated 01.09.2008 (Annexure A-2) was accordingly issued for revising pension of Pre-2006 Pensioners/Family Pensioners etc.

3. Case of the applicant is that the minimum pension of Pre-2006 retirees is to be fixed at 50% of the corresponding Pay Band and Grade Pay (GP) by applying multiple 1.86 and by giving fitment weightage of 40%. The applicant has also alleged that he was entitled

to GP of Rs. 4800/-, but has been given GP Rs. 4600/- while revising and refixing his pension. However, the applicant claims revised pension at higher stage. He has given two methods of calculation of his revised pension in paragraph 4(viii) of the O.A. as under:

(A) Basic Pension	4198
DP	2099
Total	6297
Multiplication 1.86%	11712
Dearness Relief (D.R.) 24%	1512
Total	13224
Pension fixed w.e.f. 1.1.2006	Rs. 9489
Difference i.e. Pension Less Fixed	Rs. 3735

(B) Notional Basic Pay	Rs. 8575
Multiplier 1.86	Rs. 15950
Grade Pay	Rs. 4800
Total	20750
50%	Rs. 10375
Pension fixed w.e.f. 1.1.2006	Rs. 9489
Difference i.e. Pension Less Fixed	Rs. 886

The applicant has thus claimed higher pension as calculated above. His legal notice dated 23.05.2014 (Annexure A-5) in this regard has been rejected by the respondents vide reply dated 07.07.2014 (Annexure A-1). The applicant has filed this O.A. claiming the following relief:

- "i) The Hon'ble Tribunal may be pleased to direct the Respondents to first fix pay of the applicant in the



admissible pay band and the grade pay and then to recompute the pension of the applicant w.e.f. 1.1.2006 as already prayed for hereinabove with a further direction to release the arrears so accrued there on w.e.f. 1.1.2006."

4. Respondents in their written statement contended that revised pension of the applicant w.e.f. 01.01.2006 has been rightly fixed at Rs. 9489/- according to resolution dated 29.08.2008 Annexure R-1, O.M. dated 01.09.2008 Annexure R-2, O.M. dated 14.10.2008 (Annexure R-3) and O.M. dated 28.01.2013 (Annexure R-4) and Tables annexed with the said O.Ms. It has been alleged that by calculating the revised pension of the applicant by different methods, highest of Rs. 9489/- has been given to the applicant.

5. The applicant filed rejoinder wherein he controverted the stand of the respondents and reiterated his own version. It was also alleged that O.Ms dated 03.10.2008 and 14.10.2008 are not in consonance with resolution dated 29.08.2008 and were, therefore, quashed by the Full Bench of Principal Bench of the Tribunal vide judgment dated 01.11.2011 in O.A. No. 655/2010 titled 'Central Govt. Pensioners Association & Others Vs. Union of India & Others' and has been relied on by D.B. of Hon'ble Punjab and Haryana High Court in 2014(1) RSJ 127 in CWP No. 19641/2012 titled R.K. Aggarwal and Ors. Vs. State of Haryana and Others. The aforesaid judgment of Principal Bench of the Tribunal has been upheld by Hon'ble Delhi High Court in 2014(1) RSJ 310 Union of India & Another Vs. Central Govt. Sag & Others, and SLP and Curative Petition stand dismissed by the Hon'ble Supreme Court.

6. We have heard counsel for the parties and perused the case file.



7. Counsel for the applicant relying on judgment of Principal Bench of the Tribunal in the case of Central Govt. Pensioners Association (Supra) and judgment of Punjab and Haryana High Court in R.K. Aggarwal (Supra) contended that the O.Ms. dated 03.10.2008 and 14.10.2008 stand quashed, being not in consonance with resolution dated 29.08.2008. There is no quarrel with this legal proposition. Consequently, respondents cannot rely on O.M. dated 14.10.2008 (Annexure R-3).

8. Counsel for the applicant contended that as first step the applicant has to be brought to the Pay Band and GP as per 6th CPC corresponding to the pre-revised pay scale of the applicant from which he had retired and then the revised pension should not be lower than 50% of the minimum of the pay in the revised pay band and GP.

There is also no quarrel with this proposition.

9. Counsel for the applicant then referred to Para 12 of the resolution dated 29.08.2008 (Annexure R-1) which is reproduced as under:-

S. No.	Recommendation	Decision of Government
12.	All past pensioners should be allowed fitment benefit equal to 40% of the pension excluding the effect of merger of 50% dearness allowance/dearness relief as pension (in respect of pensioners retiring on or after 1/4/2004) and dearness pension (for other pensioners) respectively. The increase will be allowed by subsuming the effect of conversion of 50% of dearness relief/dearness allowance as dearness pension/dearness pay. Consequently, dearness relief at the rate of 74% on pension (excluding the effect of merger has been taken for the purposes of computing revised pension as on 1/1/2006. This is consistent with the	Accepted with the modification that fixation of pension shall be based on a multiplication factor of 1.86, i.e. basic pension + Dearness Pension (wherever applicable)+ dearness relief of 24% as on 1.1.2006, instead of 1.74.

	fitment benefit being allowed in case of the existing employees. The fixation of revised pension, will be subject to the provision that the revised pension, in no case, shall be lower than fifty percent 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 (5.1.47)	
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Counsel for the applicant contended that calculated in this manner, the revised pension of the applicant would come to Rs. 13224/- as per calculations (A) extracted hereinbefore. It was submitted that even according to method (B), the revised pension of the applicant comes to Rs. 10,375/-. It was also argued that in view of note 2(x)(c) of resolution dated 29.08.2008 (Annexure A-4), GP of the applicant as AAO had to be Rs. 4800/- in Pay Band 2, but the respondents have taken the GP as Rs. 4600/-. Counsel for applicant also alleged that the applicant is entitled to higher pension than 50% of the minimum of revised PB and GP.



10. On the other hand, counsel for respondents contended that admittedly the applicant retired in the pay scale of Rs. 7450-225-11500/- in Pay Scale S-13. His pre-revised basic pension was Rs. 4198/-. According to paragraph 4.1 of OM. Dated 01.09.2008 (Annexure R-2), fitment weightage of 40% of the existing pension was to be given. It was submitted that revised pension of the applicant has thus been calculated rightly according to the said paragraph as under:

i)	Basic Pension	Rs. 4198 (as per Corr PPO No. C/CORR/10476/2009)
ii)	Dearness Pension	Rs. 2099(50% of Basic Pension)

iii)	Dearness Relief	Rs. 1512 (24% of Basic Pension+ Dearness Pension)
iv)	Weightage	Rs. 1680 (40% of Basic Pension)
	Total	Rs. 9489

It was also submitted that revised Pay Band 2 of Rs. 9300-34800/- with GP of Rs. 4600/- corresponding to applicant's pre-revised pay scale of Rs. 7450-225-11500/- would be applicable and the minimum pay in the said Pay Band and GP would come to Rs. 9300+4600=13900/- and minimum pension at 50% thereof would come to Rs. 6950/- which is far less than the revised pension of the applicant fixed at Rs.9489/-. Reference was also made to table annexed with O.M. dated 28.01.2013 (Annexure R-4). According to this table also, revised pension of the applicant comes to Rs. 9230/- being 50% of initial starting pay in Pay Band of Rs. 9300-225-34800/- at Rs. 13,860/- and by adding GP of Rs. 4600/- (13860+4600/- =18460; 50% of it = 9230), which is also less than the revised pension of the applicant fixed at Rs. 9489/-. Reference was also made to table annexed with O.M. dated 14.10.2008 (Annexure R-3), but the same cannot be taken into consideration as the said O.M. stands quashed, being not in consonance with resolution dated 29.08.2008 (Annexure R-1).



11. We have carefully considered the matter. Revised Pension of the applicant has been rightly calculated at Rs. 9489/- in accordance with paragraph 12 (extracted above) of resolution Annexure R-1 and paragraph 4.1. of O.M. dated 01.09.2008 (Annexure R-2). Said paragraph of Annexure R-1 is reproduced herein under:

"4.1 The pension/family pension of existing pre-2006 pensioners/family pensioners will be consolidated with effect from 1.1.2006 by adding together:-

- i. The existing pension/family pension.
- ii. Dearness Pension, where applicable.
- iii. Dearness Relief upto AICPI (IW) average index 536 (Base Year 1982=100) i.e.@ 24% of Basic Pension/Basic family pension plus dearness pension as admissible vide this Department's O.M. No. 42/2/2006-P&PW(G) dated 5.4.2006.
- iv. Fitment weightage @ 40% of the existing pension/family pension.

Where the existing pension in (i) above includes the effect of merger of 50% of dearness relief w.e.f. 1.4.2004, the existing pension for the purpose of fitment weightage will be re-calculated after excluding the merged dearness relief of 50% from the pension.

The amount so arrived at will be regarded as consolidated pension/family pension with effect from 1.1.2006."

Calculation of revised pension of the applicant as given in the written statement as extracted hereinabove, has thus been rightly done at Rs. 9489/- as per above provisions. As per aforesaid paragraph 4.1, all the four ingredients have been added i.e. existing basic pension, dearness pension, dearness relief of 24% of basic pension and dearness pension, and 40% fitment weightage of existing basic pension. The pension if calculated to be 50% of the minimum of the revised Pay Band and GP would come to be far less than the revised pension of 9489/- of the applicant fixed by the respondents. Even if GP is taken to be Rs. 4800/-, 50% of the minimum of the revised PB and GP would come to Rs. 7050/- only. Even as per table annexed with O.M. dated 28.01.2013 (Annexure R-4), the revised pension comes to Rs. 9230/- taking GP of Rs. 4600/-. Even if GP of Rs. 4800/- is taken, the revised



pension according to said table comes to Rs. 9375/-. Thus examined from any angle, revised pension of the applicant has been fixed at the highest as per fitment formula and various O.Ms. on the subject.

12. There is fallacy in both the methods of calculation given by the applicant in paragraph 4 (viii) of the O.A. as extracted hereinabove. In method (A), the applicant has applied multiplier of 1.86 to the total of basic pension and dearness pension. However, this is not as per paragraph 12 of resolution Annexure R-1. According to this paragraph, multiplier of 1.86 has to be applied to the basic pension and the resultant amount would be equal to the total of existing basic pension, dearness pension (wherever applicable) and dearness relief of 24%. In the instant case, the total of the applicant's basic pension (Rs. 4198), dearness pension (Rs. 2099) and dearness relief of 24% of existing basic pension and dearness pension (Rs. 1512) comes to Rs. 7809/- which is also the amount if existing basic pension of Rs. 4198 is multiplied by 1.86. To this amount of Rs. 7809/- has to be added fitment weightage of 40% of the existing basic pension i.e. $4198 \times 40 \div 100 = 1680$. Thus the total revised pension comes to $7809 + 1680 =$ Rs. 9489/- as rightly fixed by the respondents.



13. In calculation method (B) given by the applicant, he has applied multiplier of 1.86 to his notional basic pre-revised pay of Rs. 8575/-. This has nowhere ~~has~~ been provided in any O.M. or resolution dated 29.08.2008. The said method is completely off the mark.

14. For the reasons aforesaid, we find that revised pension of the applicant has been rightly fixed at Rs. 9489/- as per resolution dated

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(OA No 060/01092/2014 &
O.A.. No. 060/01093/2014)

29.8.2008 (Annexure R-1) and Para 4.1 of O.M. dated 01.09.2008
(M.L. Bhanot)
(Annexure R-2). The applicant is, therefore, not entitled to any relief in
this O.A. Applicant Tarsem Singh also stands on the same footing
(although with different figures of unrevised and revised pension etc.).
He is also, therefore, not entitled to any relief in his O.A.

15. Accordingly, both the O.As are dismissed with no order as to
costs.

(JUSTICE L.N. MITTAL)
MEMBER (J)

(RAJWANT SANDHU)
MEMBER (A)

Dated: 19.02.2016

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अनुभाग अधिकारी (न्या.) / Section Officer (J.A.)
केन्द्रीय प्रशासनिक न्यायालय
Central Administrative Tribunal
चण्डीगढ़ पीठ / Chandigarh Bench
चण्डीगढ़ / Chandigarh

24/2/16