

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

ORIGINAL APPLICATION NO.060/00275/2014

**Order Reserved on 09.01.2015
Pronounced on 19.1.2015**

CORAM: **HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)**
HON'BLE DR. BRAHM A. AGRAWAL, MEMBER (J)

Murti Devi wife of Late Sh. Surat Singh, Sheela Devi, Rajwanti, Asha Rani: daughters of Gulab Singh son of Late Sh. Surat Singh, House No.14, Ward No.29, Gautam Nagar, Model Town, Panipat, Distt. Panipat.

... Applicants

Versus

1. Union of India through its Secretary, Ministry of Communication, Government of India, New Delhi.
2. The Chief Post Master General, Haryana Circle, Ambala.
3. The Superintendent RMS, Haryana Division, Ambala.
4. The Director of Accounts (Postal) Ambala.

... Respondents

Present: Sh. R.P. Mehra, counsel for the applicants.
Sh. Sanjiv Dahiya, counsel for the respondents.

ORDER

BY HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)

1. This O.A. has been filed under Section 19 of the Administrative Tribunals Act, 1985, seeking the following relief:

- "8 (i) To compute the pension w.e.f. 1.1.2006 by multiplying Gross Pension of Rs.4887/- by 1.86 and again 4887/- by 24% and at 9090+1173 at 10,263/- per month till 14.8.2013.
- (ii) To allow arrears of pension and dearness relief at 12% rate of interest subject, however, to OA No.980-HR-2013 till 14.8.2013." *As —*

2. It has been stated in the O.A. that late Sh. Surat Singh husband of the applicant retired as Sorting Assistant on 30.4.2005. He was allowed a gross pension of Rs.4887/- per month under PPO No.AB-3650-B which was later on revised to Rs.7364/-p.m. w.e.f. 1.1.2006 per Pension Scheme. At the time of retirement, the husband of the applicant was receiving a Basic Pay of 6650/- plus 3325/- as Dearness Pay of 6650/- fetches 12370/- and Grade Pay of 4200/- PB 2 running in to 9300-34800. Total of both comes to 16570/- and its half comes to 8285 which was to be made available as per spirit of Pension Scheme under Para 4.2 to be made effective w.e.f. 1.1.2006. Since the respondents computed the same at 7364/- per month, the husband of the applicant filed O.A. No.980/HR/2013 in this Tribunal which is pending for disposal. During the pendency of that O.A., the husband of the applicant expired on 14.8.2013 and the same is being pursued by the applicant.

3. Subsequently, the applicant came to know that even if OA No.980/HR/2013 is decided in favour of the applicant, the respondents would still be paying less in as much as Para 12 of the Govt. Resolution dated 29.8.2008 envisaged more of pension as under 4887/- when multiplied by a factor of 1.8 fetches Rs.9090 and Rs.4887 when multiplied by 24% brings Rs.1173. total of both comes to 10,263/- which is available pension as on 1.1.2006 which is more than 8285/- of the

As —

applicable stage. Legal notice dated 5.1.2014 (Annexure A-1) was served upon the respondents and reply thereto is appended as Annexure A-2.

4. It is further stated that the recommendations of Sixth Central Pay Commission are contained in resolution dated 29.8.2008 (Annexure A-3) and the relevant Para 12 of the resolution both with recommendation and acceptance or not acceptance is as under:

Recommendation of the Commission:

Para 12: All past pensioners should be allowed fitment benefit equal to 40% of the pension excluding the 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 fitment benefit being allowed in case of existing employees. The fixation of 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 pay in the pay band and the grade pay thereon corresponding to the pre revised pay scales from which the pensioner retired.

Decision of the Government

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.

The decision of the Government thus leaves no scope of doubt at all. As per this Gross Pension of 4887/- when multiplied by 1.86 fetches 9090/-

Al

and 4887/- when multiplied by 24% bring 1173/-. Total of both comes to 10263/- which may be available pension as on 1/2006 to late Sh. Surat Singh against which only 7364/- has been computed. Hence this O.A.

5. In the counter reply filed on behalf of the respondents, preliminary objection has been taken that as per Govt. of India (Allocation of Business) Rules issued vide letter dated 14.01.1961, formulation of policy and coordination of matters relating to retirement benefits to Central Government employees (Civil, Defence and Railway Pensioners) come under the jurisdiction of Department of Pension and Pensioners Welfare, Ministry of Personnel, Public Grievances and Pension (Annexure R-1). The applicant had not impleaded the Ministry of Personnel, Public Grievances and Pension and hence the O.A. was not maintainable as the concerned Ministry has not been made a party in the matter. It has also been stated that the pension of the husband of the applicant had been revised in accordance with Government of India OM dated 01.09.2008 (Annexure R-2), which has been issued in pursuance of Government's decisions in Resolution dated 29.08.2008 (Annexure A-3). Resolution dated 01.09.2008 does not empower the revision of pension of pre-2006 pensioners/family pensioners. It is only OM dated 1.9.2008 through which revision of pension was sanctioned. If the applicant still feels aggrieved in the issue of OM dated 01.09.2008 vis a vis the resolution dated 29.08.2008, she ought to have challenged the OM dated

As —

01.09.2008. The OA is thus not maintainable for want of impugning the provision on account of which she has alleged wrong fixation of pension. She should also have impleaded Ministry of Personnel, Public Grievances and Pensions, which issued that OM.

6. It has further been stated that as per OM dated 01.09.2008 (Annexure R-2), the revised pension of Sh. Surat Singh comes out to be Rs.7364/- as detailed below:

Basic Pension as on 01.01.2006	=Rs.3258
Dearness Pension as on 01.01.2006	=Rs.1629 (50% of B.P.)
Dearness Relief of 24% as on 01.01.2006	=Rs.1173 (24% of B.P.+D.P.)
Fitment benefit	=Rs.1304 (40% of B.P.)
Total	= Rs.7364/-

Even otherwise as per table annexed with OM dated 01.09.2008 (Annexure R-3), revised consolidated pension of the husband of the applicant comes out to be Rs.7364/-.

7. Besides, later the Department of Pension and Pensioner's Welfare issued OM dated 28.01.2013, which states inter alia that "in pursuance of Govt. decision on the recommendations of Sixth Central Pay Commission, orders were issued for revision of pension/family pensioners vide Department's OM No.38/37/08-P&PW(A) dated 01.09.2008, as amended from time to time". A revised concordance table of the pre-2006 and post 2006 pay scales/pay bands indicating the pension/family

Ab —

pension (at ordinary rates) payable is enclosed to facilitate payment of revised pension/family pension. These orders take effect from the date of approval by Govt. i.e. 24.09.2012. There will be no change in the amount of revised pension/family pension paid during the period 01.01.2006 and 23.09.2012 and, therefore, no arrears will be payable on account of these orders for that period. If the pension of the applicant was to be revised as per the latest instructions of Nodal Ministry i.e. in accordance with OM dated 28.01.2013, admissible pension would be Rs.6750/- as per table annexed with OM dated 28.01.2013 but the pensioner is already drawing Rs.7364/-. Hence there is no merit in this O.A.

8. Arguments advanced by learned counsel for the parties were heard when learned counsel for the applicant reiterated the content of the O.A.

9.. Sh. Sanjiv Dahiya, learned counsel for the respondents stated that the counter reply filed by him be read and that he adopted the arguments advanced by Sh. A.L. Vohra in O.A. No060/00271/2014.

10. We have given our thoughtful consideration to the matter. It appears that pension admissible to the applicant has been fixed in accordance with OM dated 1.9.2008. This OM has not been impugned through the O.A. nor has any defect been pointed out in the same in the course of arguments. Pension revision authorities have been conveyed

M —

guidelines for implementation of Government's decision on the recommendations of Sixth Central Pay Commission regarding revision of pension of pre-2006 pensioners/family pensioners through OM dated 1.9.2008. Fitment tables are also attached with these guidelines. The pension of the applicant has been fixed as per the fitment table and nothing more is due to her. In this view of the matter, the O.A. is rejected. No costs.

(DR. BRAHM A. AGRAWAL)
MEMBER (J)

Place: Chandigarh.

Dated: 19.1.2015

*KR**

(RAJWANT SANDHU)
MEMBER (A)