

**Central Administrative Tribunal
Principal Bench**

OA No.1571/2013

Order Reserved on: 21.10.2016

Pronounced on: 15.12.2016.

Hon'ble Mr. Justice M.S. Sullar, Member (J)
Hon'ble Mr. K.N. Shrivastava, Member (A)

Mrs. Krishna Tiwari,
W/o Shri M.G. Tiwari,
C/o Mrs. Poonam Tomar,
B-344, Vasant Kunj Enclve,
Vasant Kunj,
New Delhi-110070.

-Applicant

(By Advocate Shri V.S. Tomar)

-Versus-

1. Chairman, Railway Board,
Railway Bhawan,
New Delhi-110001.
2. General Manager,
North Eastern Frontier Railways,
Maligaon,
Guwahati (Assam).
3. State Bank of India,
Maligaon,
Guwahati,
Assam.

-Respondents

(By Advocate Shri Shailendra Tiwary)

ORDER

Mr. K.N. Shrivastava, Member (J):

Through the medium of this Original Application (OA), filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for the following reliefs:

- “(a) quash and set aside the impugned pension order dtd 05 Jan 2011; and
- (b) direct them to issue another PPO by granting her the pension as per the method set out in para 4.9 hereinabove; and
- (c) direct them to pay interest at the rate of 10% on delayed payment of pension as per the revised PPO dtd 05 Jan 2011 from Jan 2009 till March 2013:”

2. The brief facts of the case are as under:

2.1 The applicant's husband late Sh. Madan Gopal Tiwari retired from the services of NR Railways on 31.03.1989. At the time of his retirement, he was holding the post of District Extension Educator (DDE) in the office of Chief Medical Officer, NF Railways. He was sanctioned pension and retiral benefits as per the extant rules. He also became a member of Central Health Scheme. He died on 28.04.1987. The applicant being the widow of the deceased government servant, was sanctioned family pension.

2.2 The case of the applicant is that in terms of 5th Central Pay Commission (CPC) recommendations, the pay scale of DEE was Rs.6500-10500 for which the replacement scale as per the 6th CPC recommendations is PB-2, (Rs.9300-34800)+Grade Pay Rs.4600/-. Applying the multiplication factor of 1.86 to the starting pay of Rs.6500 in the pay scale of Rs.6500-10500 as per 5th CPC, the pay of the DEE as per 6th CPC for the purpose of calculation of pension would be $Rs.6500 \times 1.86 + 4600$ (Grade Pay)=16690/-. The applicant's claim is that taking this into consideration her family pension is required to be fixed.

3. Pursuant to the notices issues, the respondents entered their appearance and filed their reply. The applicant filed her rejoinder thereafter. The respondents also filed their additional affidavit. With the completion of the pleadings, the case was taken up for hearing the arguments of the parties on 21.10.2016. Shri V.S. Tomar, learned counsel for the applicant and Shri Shailendra Tiwary, learned counsel for the respondents argued the case.

4. The respondents in their reply have stated that the applicant's husband retired from the service on 31.03.1989, i.e., before the implementation of the 5th CPC

recommendations. At the time of his retirement as DEE, the pay scale of DEE was Rs.1600-2660. Its replacement scale in the 5th CPC was Rs.5000-8000. No doubt, as per the 5th CPC the DEEs are placed in the pay scale of Rs.6500-10500. Continuing further, the respondents have stated in the reply that the replacement scale for the pay scale of Rs.5000-8000, under the 6th CPC is PB-2, Rs.9300-34800+Grade Pay Rs.4200. Taking this into consideration, vide Annexure A-1 PPO dated 15.09.2008, the family pension of the applicant had been fixed as $30\% \times \text{Rs.}9300$, i.e., minimum of the pay scale + Rs.4200 Grade Pay = Rs.13,200/- $\times 30\%$ = Rs.4050/-. The respondents have pleaded that there is no mistake committed by them in issuing the Annexure A-1 PPO.

4. We have carefully considered the arguments put-forth by the learned counsel of the parties and have also considered the pleadings and documents annexed thereto. Admittedly, the late husband of the applicant at the time of his retirement on 31.03.1989 was in the pay scale of Rs.1600-2660 and was holding the post of DEE then. His pension was fixed with reference to the said pay scale. It is also an admitted fact that the replacement scale for the pay scale of Rs.1600-2660 is Rs.5000-8000 in 5th CPC and in 6th CPC it is PB-2 (Rs.9300-

34800)+GP Rs.4200. Further, the pay scale of DEE was upgraded to Rs.5000-8000, whose placement in 6th CPC is PB-2 (Rs.9300-34800)+ GP Rs.4600. The applicant has also placed reliance on the judgments of the Hon'ble Supreme Court in the cases of **D.S. Nakara v. Union of India**, [AIR 1983 SC 130] and **Union of India & Ors. v. S.P.S. Vains & Ors.**, [(2008) 9 SCC 125].

5. We have, therefore, to consider the case of the applicant in terms of the extant policy and orders of the Central Government. Looking at the pleadings of the applicant, it appears that the applicant is seeking fixation of her family pension on the principle of 'One Grade One Pay'. Unfortunately, for the civilians staff the Government have not implemented such a policy.

6. From the perusal of the records, we find that the replacement scale of applicant's husband in 5th and 6th CPCs are 5000-8000 and PB-2, Rs.9300-34800+Rs.4200 Grade Pay respectively. As such, we find that the respondents have fixed the family pension of the applicant strictly in terms of the DoPT OM F. No.38/3708-P&PW dated 28.01.2013 (Annexure AA-3).

As such, we do not find any merit in the OA. The OA is accordingly dismissed.

7. No order as to costs.

(K.N. Shrivastava)
Member (A)

(Justice M.S. Sullar)
Member (J)

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