

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 180/00052/2017

Wednesday, this the 12th day of September, 2018

CORAM:

Hon'ble Mr. E.K. Bharat Bhushan, Administrative Member

1. K.G. Manoharan,
Retd. Deputy Postmaster (HSG-I), Alappuzha HPO,
Residing at G.P. Bhavan, Komalapuram,
Avalukunnu – 688 006.
2. R. Monian,
Retd. Deputy Postmaster (HSG-I), Alappuzha HPO,
Residing at Mithila Vadakkal,
Sanathanapuram, Alappuzha – 688 003.
3. N. Bhaskaran Pillai,
Retd. Deputy Postmaster (HSG-I), Cherthala HPO,
Residing at Bhaskaram,
Pazhaveedu, Alappuzha – 688 009.
4. P. Leelavathy Ammal,
Retd. Postmaster (HSG-I), Ponnani HPO,
Residing at Anantharamapuram,
Sanathanam Ward, Alappuzha – 688 001.
5. K. Balakrishnan,
Retd. Postmaster (HSG-I), Adur HPO,
Residing at Anoop Nivas, Pannivizha,
Adur – 691 523.
6. N. Sarojini Amma,
Retd. Sub Postmaster (HSG-I), Mayithara Market,
Residing at CMC 14, Maruthurvattom,
Cherthala – 688 524.
7. A.S. Ramachandran,
Retd. Deputy Postmaster (HSG-I), Alappuzha HPO,
Residing at Sankaramanikyam, CMC 10,
Cherthala – 688 524.
8. R. Sankara Warriar,
Retd. Postmaster (HSG-I), Aluva HPO,
Residing at Thekke Warriar, Thakazhy – 688 562.

9. T.K. Raghavan Nair,
Retd. Postmaster (HSG-I), Alappuzha HPO,
Residing at Puthenpurackal House,
Karooor, Ambalapuzha – 688 561.
 10. C.J. Raja,
Retd. Postmaster (HSG-I), Alappuzha HPO,
Residing at Nazim Manzil, Lajanath Ward,
Alappuzha – 688 001.
 11. R. Ramaswamy,
Retd. Postmaster (HSG-I), Neyyattinkara HPO,
Residing at T.C. 23/64, Ragom, Nandavanam Street,
Valiyasalai, Thiruvananthapuram – 695 036.
 12. K. Ahalia Bai,
(W/o. Mohanlal Pai, Retd. Postmaster (HSG-I) Alappuzha),
Residing at Revathi, Anpuram, Alappuzha – 688 011.
 13. Geetha Narayanan,
(W/o. V. Narayanan, Retd. Asst. Accounts Officer,
P&T Audit, Thiruvananthapuram),
Residing at Sree Kripa, Tirumala Bhagom – 688 540.
 14. B. Chandrika Devi Amma,
(W/o. P. Chandrasekharan Pillai,
Retd. Superintendent of Post Offices,
Irinjalakkuda Division),
Residing at Sai Jyothi, Koonayil,
Paravur – 691 301.
- **Applicants**

(By Advocate : Mr. B. Unnikrishna Kaimal)

V e r s u s

1. Union of India, represented by the Secretary to Government of India,
Department of Pension and Pensioners Welfare,
Ministry of Personnel, PG & Pensions,
Lok Nayak Bhavan, Khan Market, New Delhi – 110 003.
2. Secretary to Government of India,
Ministry of Communications (Department of Posts),
New Delhi – 110 001.
3. The Chief Postmaster General,
Kerala Circle, Thiruvananthapuram – 695 033.

4. Director of Postal Accounts,
Kerala Circle, Thiruvananthapuram – 695 001.
5. Director of P&T Audit Office,
Thiruvananthapuram – 695 033.
6. Superintendent of Post Offices,
Alappuzha Division, Alappuzha – 688 012. **Respondents**

(By Advocate : Mr. A.S. Brijesh, ACGSC)

This application having been heard on 30.08.2018 the Tribunal on 12.9.2018 delivered the following:

ORDER

Hon'ble Mr. E.K. Bharat Bhushan, Administrative Member –

The short issue to be considered in this case is whether the applicants who are pre-2006 pensioners are entitled to the benefit of upgradation of posts subsequent to their retirement.

2. The brief facts of the case are that applicants 1 to 11 have retired prior to 1.1.2006 while working as Postmasters/Deputy Postmaster in Higher Selection Grade-I. Applicants 12 to 14 are widows of pre-2006 pensioners. The husband of applicant No. 12 retired as Postmaster (Higher Selection Grade-I), husband of applicant No. 13 retired as Assistant Accounts Officer, P&T Audit and husband of applicant No. 14 retired as Superintendent from the Department of Posts. The applicants 1 to 11 and husbands of applicants 12 to 14 retired from the pay scale of Rs. 6,500-10,500/-.

3. As per Annexe A1 CCS (RP) Rules, 2008 the posts of Higher Selection Gr.-I in the pre-revised scale of pay of Rs. 6,500-10,500/- has

been upgraded and revised to Rs. 7,450-11,500/- and the corresponding pay band and the Grade Pay is Rs. 9,300-34,800/- plus Rs. 4,600/-. The Superintendent of Posts in the pre-revised scale of pay of Rs. 6,500-10,500/- has been upgraded and revised to Rs. 7,500-12,000/- and the corresponding pay band and Grade pay is Rs. 9,300-34,800/- plus Rs. 4,800/-. The posts of Assistant Account/Audit Officer in the pre-revised scale of Rs. 7,450-11,500/- has been upgraded and revised as Rs. 7,500-12,000/- and the corresponding pay and and Grade pay is Rs. 9,300-34,800/- plus Rs. 4,800/-.

4. The applicants contend that as per Annexe A2 the fixation of pension will be subject to the provision that the revised pension in no case shall be lower than 50% of the sum of minimum of the pay in the pay band and the Grade Pay thereon corresponding to the pre-revised scale from which the pensioner had retired. However, the respondents vide Annexure A4 OM clarified that the benefit of upgradation of posts subsequent to the retirement would not be admissible to the pre-2006 pensioners. The said clarification was challenged before the Principal Bench and the issue has been considered by the Full Bench. The Tribunal disposed of the OA holding that the revised pension should not be less than admissible on the minimum of the pay of the post held by the retiree at the time of retirement as revised by the 6th CPC. The Tribunal set aside Annexure A4 OM and directed to refix the pension of all pre-2006 retirees w.e.f. 1.1.2006 based on Annexure A2 resolution. The respondents challenged the decision before the Hon'ble High Court of Delhi which was dismissed. Later the SLP filed

was also dismissed by the Hon'ble Supreme Court.

5. The applicants pray that the benefit of Annexure A5 order passed by the Principal Bench may also be extended to the applicants as well. They pray for the following relief:

“i) issue an order directing the 1st and 2nd respondents to revise the minimum pension and family pension of the applicants based on the upgraded posts held by them prior to retirement which are subsequently upgraded with corresponding pay scales as per the revised Pay Rules issued consequent to the 6th Pay Commission Report.

ii) issue an order directing the 4th and 5th respondents to draw and disburse arrears based on the above revision with effect from 1.1.2006.

and

iii) such other order or direction as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.”

6. A detailed reply statement has been filed by the respondents contesting the claim of the applicants. They submitted that as per paragraph 4.2 of Annexe R1 OM dated 1.9.2008 the revised pension in no case shall be lower than fifty percent of minimum of the pay in the pay band and Grade Pay corresponding to pre-revised scale from which the pensioner had retired. On implementation of the recommendations of the VIth CPC the pre-revised pay scale of Rs. 6,500-10,500/- has been upgraded to Rs. 7,450-11,500/- and replaced with the revised pay structure of Grade Pay of Rs. 4,600/- in the pay band PB2 Rs. 9,300-34,800/-. However, this is applicable only to those employees who were in service as on 1.1.2006 and not to the applicants herein. The respondents have relied upon a judgment of this Tribunal in OA No. 180/157/2014 holding that the claim of the applicant therein is unsustainable. As per paragraph 5 of Annexure A4 the benefit of

upgradation of posts subsequent to retirement would not be admissible to the pre-2006 pensioners.

7. A rejoinder has been filed by the applicants relying on the decision of this Bench of the Tribunal in OA No. 180/526/2016 wherein the Tribunal while disposing of the OA held that the applicant therein is entitled to a revised pension in terms of paragraph 4.2 of OM dated 1.9.2008 or 50% of the minimum pay in the pay band of Rs. 9,300-34,800/- with Grade Pay of Rs. 4,600/- or as per Annexe A4 fitment table, whichever is beneficial to the applicant. Accordingly, the respondents were directed to issue revised Pension Payment Order within a period of two months of the receipt of a copy of the order.

8. An additional reply statement has been filed by the respondents reiterating their stand taken in the reply statement.

9. Heard Mr. B. Unnikrishna Kaimal, learned counsel appearing for the applicants and learned ACGSC appearing for the respondents. Perused the records. The parties have submitted their respective arguments notes as well. I have also gone through the same.

10. The controversy involved in this matter has already been dealt with by this Tribunal in OA No. 180/526/2016. The relevant paragraphs of the order dated 16.3.2017 in OA No. 180/156/2016 are as under:

“5. Heard Mr. C.S.G. Nair, learned counsel appearing for the applicant

and Mr. K. Kesavankutty, learned ACGSC appearing for the respondents. Perused the record.

6. The applicant is claiming revised pension based on the pay band and Grade Pay applicable to HSG-1 with effect from 1.1.2006. Annexure A2 clearly shows that the applicant was granted LSG with effect from 1.3.1983, HSG-II w.e.f. 19.6.1990 and HSG with effect from 19.4.1996. All these grades were given to the applicant as per the directions of this Tribunal in the order dated 4.1.2001 in OA No. 851/1998, the benefit of which was received by the applicant only after his superannuation on 30.9.1996. Therefore, undoubtedly, the revised pension of the applicant has to be based on the pay scale of HSG-I that was applicable as on the date of his superannuation on 30.9.1996.

7. Applicant states that on implementation of the VIth CPC the pay scale of HSG-1 was upgraded to Rs. 7,450-10,500/- in PB-2 with a Grade Pay of Rs. 4,600/- (vide Annexure A3 RP Rules, 2008). It has to be noted that as per the Government of India resolution dated 29.8.2008 on the recommendations of the VIth CPC the pension of the pensioners was fixed as 50% of the minimum of the pay in the pay band plus Grade Pay corresponding to the pay scale from which the pensioner has retired. Based on the Government of India resolution dated 29.8.2008 respondent No. 3 issued OM dated 1.9.2008. Paragraph 4.2 of OM dated 1.9.2008 reads:

“4.2. The fixation of pension will be subject to the provision that the revised pension, in no case, shall be lower than fifty per cent of the minimum of the pay in the pay band plus the grade pay corresponding to the pre-revised pay scale from which the pensioner had retired. In the case of HAG+ and above scales, this will be per cent of the minimum of the revised pay scale.”

8. As the aforequoted instructions in OM dated 1.9.2008 remains in tact without any executive or judicial interference, the pension sanctioning authorities are bound to follow the aforesaid paragraph 4.2 of the aforesaid OM while revising the pension of the pre-1-1-2006 pensioners. Since para 4.2 being the policy decision of the Government of India, the same has to be the guiding principle for determining the VIth CPC revised pension of pre-1.1.2006 pensioners. In the case of the applicant, as observed earlier the pay scales from which he had retired has to be reckoned on the basis of the pay scale of HSG-I prevailing at the time of his retirement. Referring to Annexure A4 fitment table annexed to CCS (RP) Rules, 2008 applicant points out that the VIth CPC revised pay scale of Postmaster HSG-I is Rs. 9,300-34,800/- with Grade Pay of Rs. 4,600/- with effect from 1.1.2006. Therefor, even though the applicant retired from service in the pay scale of Rs. 6,500-10,500/-, as he was given the HSG-I grade after his retirement by virtue of a court decision, the pay scale applicable to HSG-I at the time of his retirement should be his pay pre- revised pay in terms of paragraph 4.2 of OM dated 1.9.2008. Since the corresponding revised pay of Deputy Postmaster HSG-I after the VIth CPC was Rs. 9,300-34,800/- with Grade Pay of Rs. 4,600/- with effect from 1.1.2006, his pension has to be fixed as 50% of the minimum pay in the pay band of Rs. 9,300-34,800/- plus Grade Pay of Rs. 4,600/- or as per the minimum pay in the pay band of Rs. 9,300-34,800/- plus Grade Pay of Rs. 4,600/- as per the fitment table, which ever is more beneficial to the pensioner.

9. Therefore, this Tribunal is of the view that applicant is entitled to a revised pension in terms of paragraph 4.2 of OM dated 1.9.2008 or 50% of

the minimum pay in the pay band of Rs. 9,300-34,800/- with Grade Pay of Rs. 4,600/- or as per Annexure A4 fitment table, whichever is beneficial to the applicant. The respondents shall issue revised Pension Payment Order in terms of what is stated above, within a period of two months from the date of receipt of a copy of this order. Ordered accordingly.

10. OA is disposed of with the above direction. No order as to costs.”

11. Therefore, this Tribunal is of the view that the decision so taken by this Tribunal in OA No. in OA No. 180/526/2016 dated 16.3.2017 shall follow in the present case as well.

12. Accordingly, the Original Application is disposed of holding that the applicants are entitled to a revised pension in terms of paragraph 4.2 of OM dated 1.9.2008 or 50% of the minimum pay in the pay band of Rs. 9,300-34,800/- with Grade Pay of Rs. 4,600/- (in case of applicants 1 to 12) & Rs. 4,800/- (in the case of applicants 13 & 14) or as per Annexure A4 fitment table, whichever is beneficial to the applicants. Accordingly, the respondents are directed to issue revised Pension Payment Order in terms of what is stated above within a period of two months from the date of receipt of a copy of this order. No costs.

(E.K. BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

“SA”

Original Application No. 180/00052/2017

APPLICANT'S ANNEXURES

- Annexure A1-** True Extract of relevant pages of the Swamy's CCS (Revised Pay) Rules, 2008.
- Annexure A2-** True copy of the Government Resolution GIMF No. 38/37/08-P&PW(A) dated 29.08.2008 together with the Annexure thereon.
- Annexure A3-** True copy of the OM F. No. 38/37/08-P&PW(A) dated 01.09.2008 issued by the 1st respondent.
- Annexure A4-** True copy of the OM. F. No. 38/37/08-P&PW(A) dated 11.02.2009 issued by the 1st respondent.
- Annexure A5-** True copy of the order dated 01.11.2011 of the Hon'ble CAT, Principal Bench, New Delhi in OA No. 655/10 and 3 other connected cases.
- Annexure A6-** True copy of the order F. No. 38/37/08-P&PW(A) dated 28.01.2013 issued by the 1st respondent along with the extract of the relevant pages of the Annexure thereon.
- Annexure A7-** True copy of the OM No. 38/37/08-P&PW(A) dated 30.07.2015 issued by the 1st respondent.
- Annexure A8-** True copy of order No. 38/37/08-P&PW(A) dated 06.04.2016 issued by the 1st respondent.
- Annexure A9-** True copy of the representation dated 11.05.2016 submitted by the 1st applicant to the Superintendent of Post Offices, Alappuzha Division.
- Annexure A9(a)-** True copy of the communication No. C/Revn/Misc dated 03.06.2016 of the Superintendent of Post Offices, Alappuzha.
- Annexure A10-** True copy of the appeal dated 24.06.2016 filed by the 1st applicant before the Director of Postal Services, Central Region, Kochi – 20.
- Annexure A10(a)-** True copy of the communication No. C/Revn/Misc dated 15.12.2016 of the Superintendent of Post Office, Alappuzha.
- Annexure A11-** True copy of the representation dated 09.05.2016 submitted by the 5th applicant to the Superintendent of

Post Offices, Pathanamthitta Division.

- Annexure A12-** True copy of the letter dated 20.10.2016 of the Director of Postal Services (HQ) office of the Postmaster General, Thiruvananthapuram to the 4th respondent.
- Annexure A13-** True copy of the order dated 08.12.2016 issued by the 4th Respondent.
- Annexure A14-** True copy of the communication dated 08.12.2016 of the 4th Respondent.
- Annexure A15-** True copy of the representation dated 11.05.2016 submitted by the 12th applicant to the Superintendent of Post Offices, Alappuzha.
- Annexure A16-** True copy of the appeal dated 24.06.2016 submitted by the 12th applicant to the Director of Postal Services, Central Region, Kochi.
- Annexure A17-** True copy of the representation dated 18.07.2016 submitted by the 13th applicant to the 6th Respondent.
- Annexure A18-** True copy of the appeal dated 21.10.2016 submitted by the 13th applicant before the Director of Postal Services, Central Region.
- Annexure A18(a)-** True copy of the communication No. 962/Admn/BAI/C-260 dated 08.12.2016 of the 5th Respondent.
- Annexure A19-** True copy of the representation dated 26.09.2016 submitted by the 14th applicant to the 4th Respondent.
- Annexure A19(a)-** True copy of the letter No. 3669/Pen/GNLI/Misc/2016-17 dated 10.11.2016 of the 4th respondent.
- Annexure A19(b)-** True copy of the Revision Authority of Pre-2006 pension/family pension No. PEN-1/C. No. /PP0 No. 5184/LPS/Tvm dated 19.07.2016 issued by the 4th respondent.
- Annexure A20-** True copy of the judgment dated 29.01.2015 of the Hon'ble High Court of Punjab and Haryana in CWP No. 8563/2014 and two other connected cases.
- Annexure A21-** True copy of the Ministry of Railway letter No. PCII/2013/CTC-1/14 dated 01.02.2016.

Annexure A22- True copy of the judgment dated 07.05.2015 of the Hon'ble High Court of Delhi in WP(C) No. 8012/13 and WP (C) No. 8056/13.

Annexure A23- True copy of the Chart.

Annexure A24- True copy of the order dated 16.03.2017 of this Hon'ble Tribunal in OA No. 526/2016.

RESPONDENTS' ANNEXURES

Annexure R1- True copy of the relevant pages of the OM No. 38/37/08-P&PW(A) dated 01.09.2008 of the Ministry of Personnel, Public Grievances and Pensions.

Annexure R2- True copy of the OM No. 38/37/08-P&PW(A) pt II dated 03.10.2008 of the Ministry of Personnel, Public Grievances and Pension, Department of Pension and Pensioner's Welfare.

Annexure R3- True copy of the OM dated 14.10.2008.

Annexure R4- True copy of the OM dated 20.08.2009.

Annexure R5- True copy of the OM dated 28.01.2013.

Annexure R6- True copy of the OM dated 13.02.2013.

Annexure R7- True copy of the Directorate letter dated 10.07.2013.

Annexure R8- True copy of the order in OA 157/2014 dated 29.09.2014.

Annexure R9- True copy of the order in OA 912/2015 dated 01.09.2016.

Annexure R10- True copy of the letter No 7456/Pen/Gnl dated 03.01.2014.

Annexure R11- True copy of the Department of Expenditure I.D Note No. 1(9)EV/2015 dated 04.12.2015.

Annexure R12- True copy of the Department of Expenditure I.D Note No. 20/EV/2016 dated 22.01.2016.

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