

Central Administrative Tribunal
Principal Bench: New Delhi

OA No.1884/2016

Reserved on: 14.05.2018
Pronounced on: 16.05.2018

Hon'ble Mr. Uday Kumar Varma, Member (A)

Ms. Kanta Bhatia, Aged 70 years (Sr. Citizen),
Retd. Chief Supervisor Telephones (CST)
Mahanagar Telephone Nigam Limited (MTNL)
D/o Late Shri Bhagat Ram
R/o F-24, Venus Apartment, Sec.9,
Plot No.43, Rohini, Delhi – 110 085. ...Applicant
(By Advocate: Shri Suresh Sharma)

Versus

1. Secretary,
Ministry of Communication & Technology,
Department of Telecommunication,
Sanchar Bhawan, Parliament Street,
New Delhi – 110 001.
 2. Chairman and Managing Director,
Mahanagar Telephone Nigam Limited (MTNL)
Jeevan Bharti Building, Parliament Street,
New Delhi – 110 001.
 3. Principal Controller of Communication
Accounts (Pt.CCA), Delhi Region,
Department of Telecommunication, DOT Bldg.,
Prasad Nagar, New Delhi-110 005. ...Respondents
- (By Advocates: Dr. Ch. Shamshuddin Khan & Sh.Krishan
Garg for Ms. Sriparna Chatterjee)

O R D E R

The instant OA has been filed by the applicant under
Section 19 of the Administrative Tribunals Act, 1985
seeking the following main reliefs:-

- a) *Declare as illegal and arbitrary the action of respondents in rejecting revision of her pension to Rs.13,763/- instead of Rs.6089/- with effect from 01.05.2006, and quash the impugned non-speaking order issued vide letter No.2-3/PC-14276/PPO-5789/2016/Pen dated 07.04.2016.*

- b) To direct the respondents to revise the pension of the applicant consequent upon her superannuation from MTNL after taking into account the revision of her original pension done vide PPO No.2-3/PC-14276/PRPPO-5789/LD/04/Pen consequent upon implementation of the recommendations of the sixth Pay Commission vide Department of Personnel & Training.

2. The brief facts of the case are that the applicant joined the Department of Telecommunication, Government of India as Telephone Operator on 14.12.1965. She was transferred by respondent no.1 from Department of Telecommunication to Mahanagar Telephone Nigam Limited (MTNL) on permanent absorption basis w.e.f. 01.11.1998 vide DoT OM dated 29.10.1998 read with DoT letter dated 11.01.1999 and MTNL letter dated 27.11.1998 and an option was also obtained from her on 27.10.1999 for pensionary benefits and settlement of earned leave. Accordingly, the applicant was deemed retired from DoT w.e.f. 31.10.1998 (AN) on pro rata pension basis with no Dearness Relief (DR) being admissible vide PPO No.23/PC-14276/PRPPO/5789/LD/04/Pen with following payments:-

<i>Average emoluments for pension</i>	Rs.6,545/-
<i>Emolumnts for family pension</i>	Rs.6,650/-
<i>Emoluments for Retirement Gratuity</i>	Rs.8,113/-
<i>Amount of retirement gratuity</i>	Rs.1,33865/-
<i>Pro rata monthly pension</i>	Rs.3,273/-

3. It is contended by the applicant that before her retirement, she was promoted to the post of Senior Telephone Operator in the pre-revised scale of pay of

Rs.550-9000 after having undergone 4 weeks Senior TOA Induction Training from 04.10.1999 to 15.10.1999 vide MTNL letter dated 29.10.1999. She was further promoted to the post of Section Supervisor (Operative) vide MTNL order dated 20.01.2003 in the pre-revised scale of pay of Rs.8575-245-12250 but this promotion has been totally ignored by the respondents for fixation of pension at the time of her retirement from MTNL.

4. The applicant submits that as per terms and conditions of absorption in MTNL, she was required to be paid DR @ 24% on the amount of pension at the time of her retirement from MTNL on 30.04.2006 after merging 50% DP. Accordingly, after retirement, the respondent no.3 issued instructions to the Pension disbursing Bank vide their letter dated 12.09.2006 to make the payment of pension to the applicant in the following terms w.e.f. 01.05.2006:-

<i>Basic Pension</i>	<i>Rs.3273/-</i>
<i>50% DP</i>	<i>Rs.1637/-</i>
<i>Total</i>	<i>Rs.4910/-</i>
<i>24% D.R.</i>	<i>Rs.1179/-</i>
<i>Total pension</i>	<i>Rs.6089/-</i>

5. Thereafter, pension of the applicant, consequent upon the 6th CPC recommendations, was fixed at Rs.7399/-. The applicant submits that as her original pension was revised

to Rs.7399/- per month from Rs.3273/- consequent upon implementation of the recommendation of 6th CPC, the respondents were required to amend their letter dated 12.09.2006 by recalculating the payment of DR & DP on the revised pension of Rs.7399/- that comes to Rs.13,763/- payable w.e.f. 01.05.2006. However, the respondents acted in arbitrary manner and denied the benefits of pay/pension fixation on the basis of the recommendations of 6th CPC. It is further submitted that she brought to the notice of the respondents that once her pension has been revised retrospectively on the basis of the recommendations of the sixth CPC, the same ought to have been taken into account for the purpose of payment of DR & DP to her at the time of her subsequent superannuation from MTNL and she could not be deprived of this legitimate benefit. The applicant, on asking her by previous parent department, filled in a proforma prescribed for the purpose of revision of pension on 17.06.2013, but no action was taken by the respondents thereon, hence, she herself recalculated the pension, which reads as under:-

<i>Basic pension</i>	<i>Rs.7399/-</i>
<i>50% DP</i>	<i>Rs.3700/-</i>
<i>Total</i>	<i>Rs.11099/-</i>
<i>24% DR</i>	<i>Rs.2664/-</i>
<i>Total pension</i>	<i>Rs.13,763/-</i>
<i>Payable w.e.f. 01.05.2006</i>	

The applicant submits that the respondents did not examine the issue of revision of her pension properly and rejected the claim out-rightly by passing a non-speaking order dated 07.04.2016 impugned in this OA.

6. The respondent no.2 has filed the counter affidavit denying the averments of the applicant. It is also stated that the respondent no.2 is a proforma party and no claim pertaining to revision of pension would either lie against it. It is further submitted that re-calculation of payment can only be done after the pension is revised by the respondent no.1 which has admittedly been declined by the respondent no.1.

7. The respondent no.1 has also filed its reply stating that consequent upon her absorption in MTNL w.e.f. 01.11.1998, the applicant opted for pro rata pension, which was fixed @ Rs.3273/- but no DR on pension was admissible as she was re-employed. However, after retirement from MTNL, the applicant was eligible for DR w.e.f. 01.05.2006 and accordingly her total pension w.e.f. 1.5.2006 including DP & DR came to fixed at Rs.6089/- but the basic pension remained the same i.e. Rs.3273/-. It is submitted that consequent upon implementation of the 6th CPC, applicant's pension was rightly revised to

Rs.7399/- w.e.f. 01.01.2006 based on the basic pension of Rs.3273/- in accordance with the DOP&T OM dated 01.09.2008 as amended from time to time. Hence, the contention of the applicant that DP & DR to be added to the revised basic pension also is misleading and misconceived and, therefore, the instant OA deserves to be dismissed.

8. The applicant has filed the rejoinder reiterating the averments made in the OA.

9. I have heard the learned counsel for the parties and perused the record.

10. The only question to be adjudicated in this case is whether the DR & DP are payable while revising the pension of the applicant. In this regard, it is seen that consequent upon 6th CPC recommendations, the revision of pension of pre-2006 pensioners/family pensioners etc. are to be done as per the DOP&T OM dated 01.09.2008.

Relevant paragraph of the aforesaid OM reads as under:-

“4.1 The pension/family pension of existing pre-2006 pensioners/family pensioners will be consolidated with effect from 01.01.2006 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 fitness 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."

As can be seen, the respondents revised the pension of the applicant by consolidating the existing pension, DP, DR and by extending fitment weightage @ 40% of the exiting pension w.e.f. 01.01.2006, details of which are as under:-

(A) Existing basic pension (inclusive of commuted portion) (excluding the effect of merger of 50% of dearness relief)	Rs.3273/-
(B) Dearness pension	Rs.1637/-
(C) Dearness Relief upto CPI 550 (Base Year 1982=100 i.e. 24% of B.P. as Drawn	Rs.1179/-
(D) 40% of the basic pension As at (A) above	Rs.1310/-
(E) Consolidated pension (A+B+C+D)	Rs.7399/-

11. From perusal of last paragraph of para 4.1 of DOP&T OM dated 01.09.2008 it is clear that the amount so arrived at i.e. Rs.7399/- in the present case will be regarded as consolidated pension w.e.f. 01.01.2006 and not the basic pension. Hence, the contention of the applicant that consequent upon 6th CPC recommendation, DR & DP would

have been added at her basic revised pension of Rs.7399/- is not acceptable as the revised pension of Rs.7399/- is not the revised basic pension rather it is a consolidated pension inclusive of DP & DR. Therefore, the applicant cannot have the DP & DR included in the revised pension once the pension is revised as per DOP&T OM dated 01.09.2008 by consolidating the pension.

12. In view of the above discussion, I am of the clear view that the claim of the applicant qua revision of her pension after 6th CPC recommendation has been rightly considered and the pension has been rightly revised w.e.f. 01.01.2006 and, therefore, it needs no interference. The instant OA is accordingly dismissed being misconceived. No costs.

(Uday Kumar Varma)
Member (A)

/AhujA/