

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH
(orders reserved on 20.11.2018).**

O.A.NO. 060/00121/2018 Date of order:-3.12.2018.

Coram: **Hon'ble Mr. Sanjeev Kaushik, Member (J)**
Hon'ble Mrs.P.Gopinath, Member (A).

Vipon Chopra, retired Scientific Officer G, Nuclear Fuel Complex, Department of Atomic Energy, Govt. of India, r/o 191-R, Model Town, Near Trikona Park, Yamuna Nagar-135 001.

.....Applicant.

(By :- Mr. Vipon Chopra, applicant in person)

Versus

1. Nuclear Fuel Complex represented by Chief Executive Nuclear Fuel Complex, ECIL Post, Hyderabad-500062.
2. Union of India represented by Secretary to Govt. of India, Department of Atomic Energy, Anushakti Bhavan, CSM Marg, Mumbai-400001.

...Respondents

(By Advocate : Mr. K.K.Thakur).

O R D E R

Sanjeev Kaushik, Member (J):

The present OA has been filed wherein the applicant is seeking the following relief(s):-

"i) Revision of pension from Rs.24295/- to Rs.25770/- for the period 1.1.2006 to 31.12.2015 by adding benefit of two special increments after normal pension fixation. Payment of corresponding arrears with interest.

ii) Revision of pension from Rs.67500/- to Rs.71650/- from Jan. 1, 2016 onwards by giving benefit of two indices in the pay matrix which corresponds to two special increments after normal notional pay fixation and payment of arrears".

2. After exchange of pleadings, the matter came up for hearing. The facts are not in dispute. What borne out from the conjunctive perusal of the pleadings, which led to filing of the present OA are that the applicant earlier approached this Tribunal by filing O.A.No.060/01091/2015 with a prayer that he be granted two special increments as pay for the purpose of HRA, DA, pension and pensionary benefits and other similarly placed persons. The said OA was disposed of vide order dated 17.11.2016 by directing the respondents to consider the representations of the applicant for grant of two special increments of pay to be considered for the purpose of HRA, DA, pension and pensionary benefits. It is also admitted by the applicant that after his persuasion, the respondents have allowed him the said benefits.

3. The present petition has been filed by the applicant with a solitary grievance that while granting him two special increments in terms of OM dated June 4, 1999, the respondents have granted him two additional increments, but the same are to be treated separately and not to be merged with the basic pay under the normal rule and the same has not been revised or the increments were not given at a higher rate on revision of pay scale. Thus, a prayer has been made to direct the respondents to revise two special increments, arising out of OM dated June 4, 1999 by treating it as part of pay and then the same be added in the revised pension after the 7th CPC.

4. The respondents have summarized their case in preliminary submissions, which read as under:-

“ 1. That this Hon’ble Tribunal has passed order dated 17.07.2018 for some clarification, in regard to which it is respectfully submitted that the applicant had retired voluntarily w.e.f. 1.6.2004. At the time of his voluntary retirement, he was drawing pay of Rs.19,100/- in the pay scale of Rs.16400-450-20000. Accordingly, his pension was fixed taking into account the last pay drawn and basic pension was fixed at Rs.14,123/- (Copy enclosed as **Annexure R-1**).

1. That an implementation of 6th CPC w.e.f 1.1.2006, his pension was revised in terms of DP&PW OM No.38/37/08-P&PW(A) dated 1.9.2008 (Copy enclosed as **Annexure R-2**) as under:-

A.	(i)Existing basic pension (ii) Dearness pension (iii) Dearness relief (24% of (i+ii)) (iv) 40% of basic pension (excluding merger of DP Rs.9415/- (v)Consolidated pension (i+ii+iii+iv)	Rs.14123 Rs. Rs.3390 Rs.3766 Rs.21279
B.	(i)50% of the minimum in the pay Band + Grade Pay (37400+8900=46300) (ii)Pro-rata pension (if QS is less than 33 yrs)	Rs.23150 Rs.-
C.	Pension as per ready reckoner Pension finally authorized w.e.f. 1.1.2006 (Pension to be allowed (A) or (B) or (C) whichever is higher subject to a minimum of Rs.3,500/- and maximum of Rs.45,000/- p.m.)	Rs.21279 Rs.23150 w.e.f. 1.1.2006

2. That based on the OM No.38/37/08-P&PW(A) dated 30.07.2015, issued by DP&W the pension was amended to Rs.24295/- w.e.f. 1.1.2006 (Copy enclosed as **Annexure R-3**).

3. That based on the order dated 17.01.2016 of this Hon’ble Tribunal passed in O.A.No. 1091/2015 filed by applicant and DAE OM No.4/4/2011-SCS/Vol. III/7809 dated 13.6.2017 regarding treating of two additional increments for the purpose of Pay, HRA, Pension & pensionary benefits, the pension as revised as under by taking into account the two additional increments (Rs.450x2=900) by adding to the last pay drawn at the time of voluntary retirement Rs.19,100/- thus making the total as Rs.20,000/- and thus his pension was revised from Rs.14,123/- to Rs.14,798/-w.e.f. 1.6.2004 to 31.12.2005 (Copy enclosed as **Annexure R-4**).

4. That on implementation of 6th CPC w.e.f. 1.1.2006 his pension was revised (Copy enclosed as **Annexure R-5**) as under:-

A.	(i)Existing basic pension (ii) Dearness pension (iii) Dearness relief (24% of (i+ii)) (iv) 40% of basic pension (excluding merger of DP Rs.9415/- (v) Consolidated pension (i+ii+iii+iv)	Rs.14798/- Rs. Rs.3552/- Rs.3766/- Rs.22116/-
B.	(i)50% of the minimum in the pay Band + Grade Pay (37400+8900=46300) (ii)Pro-rata pension (if QS is less than 33 yrs)	Rs.23150 Rs.-
C.	Pension as per ready reckoner As per OM dated 28.01.13 & 30.07.2015	Rs.24295/-
	Pension finally authorized w.e.f. 1.1.2006 (Pension to be allowed (A) or (B) or (C) whichever is higher subject to a minimum of Rs.3,500/- and maximum of Rs.45,000/- p.m.)	Rs.24295/-

5. Thus, it may be seen that there is no change in the revised on implementation of 6th CPC w.e.f. 1.1.2006 as authorized earlier and at 3 and 5 above. (Copy enclosed as **Annexure R-6**).

6. That on implementation of 6th CPC recommendations w.e.f 1.1.2006, the rates of two additional increments for SO/G grade was revised to Rs.2950/- as applicant had retired prior to implementation of 6th CPC, the same is not applicable in his case as he had retired voluntarily w.e.f. 1.6.2004. The revised rate of two additional increments will be applicable to the officials retiring after 1.1.2006. The plea that 50% of Rs.2950/- is to be added to his basic pension of Rs.25,295/- w.e.f. 1.1.2006 is not supported by any orders on the subject or rules and that the applicant is put to strict proof of his claim. His pension was already revised by taking into account the value of two additional increments (Rs.450x2=900) applicable to the grade of SO/G in the pay scale of Rs.16400-450-20000 at the time of his voluntary retirement which was added to his last pay drawn Rs.19100 + Rs.900 = Rs.20,000/-.

7. That on implementation of 6th CPC w.e.f. 1.1.2016, and in terms of DP&PW OM No.38/37/2016-P&PW(A) dated 12.05.2017 & 06.07.2017 his pension was revised (Copy enclosed as **Annexure R-7**) as under:-

Scale at the time of retirement & basic pay	Rs.16400-450-20000	Rs.19,100
Corresponding level as per 7 th CPC & Notional basic pay w.e.f. 1.1.2016	L-13A (131100-216600)	Rs.135000
A. Existing Basic Pension	Rs.24295	
B. Basic Pension x 2.57	Rs.62439	
C. 50% of notional pay- Rs.135000	Rs.67500	
Pension finally authorized w.e.f. 1.1.2016 (Pension to be allowed (A) or (B) or (C) whichever is higher subject to a minimum of Rs.9000/- and maximum of Rs.125000/-p.m.)	Rs.67,500	

A perusal of above reproduced part of the additional written statement, it is manifestly clear that the applicant took voluntary retirement with effect from 1.6.2004 and at that time, he was drawing pay @ Rs.19100/- in the pay scale of Rs.16400-450-20000 and accordingly his pension was fixed @ Rs.14123/-. After implementation of 6th CPC with effect from 1.1.2006, his pension was increased to Rs.24295/-. On the basis of the order passed by this Court in earlier round of litigation, the respondents were directed to treat two additional increments for the purpose of HRA, DA, pension and pensionary benefits. Two additional increments worked out to be Rs.450 x 2 = 900 which was added to his basic pension i.e. Rs.19100/- + Rs.900 = Rs.20000/-. This was so on 7th CPC also. In so far as the prayer of the applicant for revision of his increments, as per 6th CPC or 7th CPC are concerned, it is submitted by the

respondents that since the applicant took voluntary retirement before implementation of 6th CPC, therefore, the rates of increments cannot be revised and will remain same i.e. Rs.900/- only and his pension is to be revised in terms of Central Pay Commission recommendations.

5. We have heard the applicant, who is appearing in person and Shri K.K.Thakur, learned counsel for the respondents.

6. Applicant who is appearing in person submitted that in terms of indicated OM, when he was granted two additional increments, then on revision of pay/pension, the rates of increments are also to be automatically increased and the action of the respondents in not increasing the amount of increments is bad in law. Accordingly, he prayed that direction be issued to the respondents to revise the amount of increments and the same be added in the revised pension also.

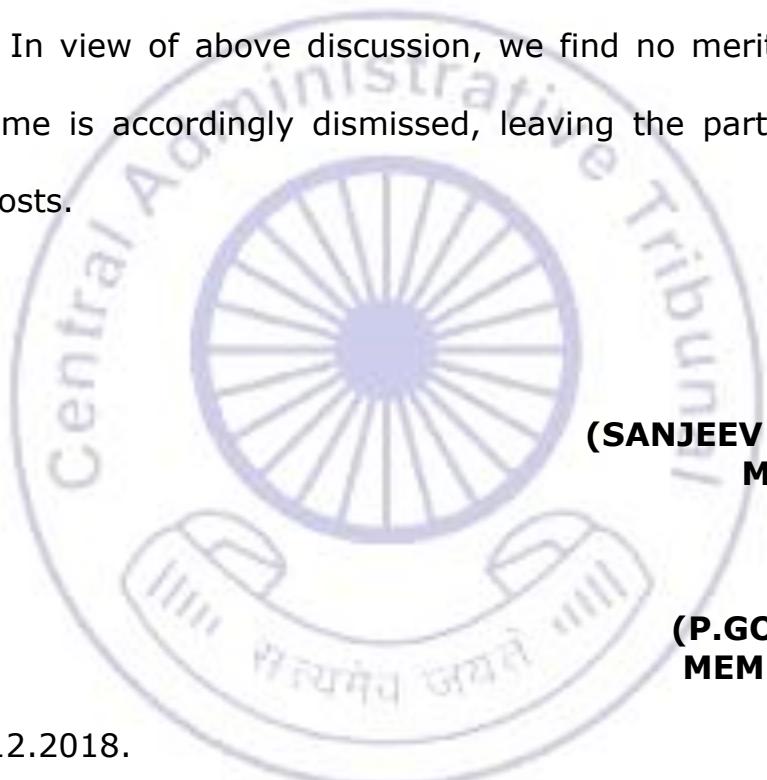
7. Learned counsel for the respondents has argued what has been stated in the written statement.

8. We have given our thoughtful consideration to the entire matter with the able assistance of learned counsel for the parties.

9. The controversy involved in the present OA revolves around OM dated 4.6.1999 issued by the Government of India, Department of Atomic Energy, where the Scientists/Engineers 'D', 'E', 'F', & 'G' were given additional increments in terms of clause

2.1. This benefit has also been accorded to the applicant by the respondents, but the plea of the applicant that the rates of increments are also to be revised cannot be accepted because he had already retired from service before implementation of 6th CPC, therefore, these increments cannot be revised because there are no instructions or OM issued by the Government of India for revising the amount of increments to a retired employee. Produced by the applicant in that relevant connection.

10. In view of above discussion, we find no merit in the OA and the same is accordingly dismissed, leaving the parties to bear their own costs.



(SANJEEV KAUSHIK)
MEMBER (J)

(P.GOPINATH)
MEMBER (A).

Dated:- 3.12.2018.

Kks

