

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 040/00110/2018

Date of Order: This, the 19th Day of July, 2018

THE HON'BLE MOHD. HALEEM KHAN, ADMINISTRATIVE MEMBER

Sri Bhaba Adhyapak
Son of Late A. Adhyapak
Resident of T.R. Phukan Road
Jorhat Town, Jorhat, Assam
PIN: 785001.

...Applicant

By Advocates: Mr. A.Thakur, Ms. J.R.Thakur & Mr.H.Mudhi
 & Ms.U.Dutta

- Versus-

1. The Union of India
Represented by the Secretary
Government of India, Ministry of
Personal, P.G. & Pensions, Department of
Pension & Pensioners' Welfare, 3rd Floor
Lok Nayak Bhawan, Khan Market
New Delhi-110003.
2. The Secretary, Government of India
Ministry of Finance, Department of Expenditure
Central Pension Accounting Office
Trikoot-II, Bhikaji Cama Place
New Delhi-110066.
3. The Accountant General
Office of Account General Meghalaya
Shillong-793 001.

4. The Pay and Accounts Officer
Office of the Account General (A&E)
Meghalaya, Shillong-793001.

...Respondents

By Advocate: Mr.S.K.Ghosh, Addl. C.G.S.C.

O R D E R (ORAL)

MANJULA DAS, MEMBER (J):

Being aggrieved with the speaking order No.PAO/Rev/Pen/1357/805/Vol.II/586 dated 01.11.2017 passed by the Respondent No.3, the applicant has filed this OA under Section 19 of the Administrative Tribunals, Act, 1985 seeking following relief(s):-

“8.1 The impugned speaking order bearing No. PAO/Rev/Pen/1357/805/Vol.II/586 dated 01.11.2017 passed by the Respondent No.3 be declared as erroneous, illegal, unfair and arbitrary and violative of the order/directions of the Hon’ble Tribunal dated 10.08.2016 passed in O.A. No.360/2016 and the said speaking order dated 01/11/2017 be set aside and quashed.

8.2 the impugned letters issued by the respondent No3 & 4 on 19.06.2015 and 21.07.2016 be declared illegal and erroneous and contrary to the decision taken by Respondent No.1 & 2 under Office Memorandum vide OM No.38/37/08-P&PW(A) dated 30th July 2015 in compliance of the Hon’ble Central Administrative Tribunal order dated 01.11.2011.

8.3 Order/orders may kindly be made directing the respondents to issue/release revised rate of pension to the Applicant in terms of the order of Hon'ble Central Administrative Tribunal, Principal Bench, Delhi passed on 01-11-2011 in OA. No.0665/2010, OA No.306/10, OA No.3079/09, OA No.05/07 and as per OM No.368/37/08-P&PW(A) dated 30th July 2015.

8.4 Direction may kindly be issued to the Respondents to release all arrear revised rate of pension to the Applicant since the date leaving effect to the same by the Government of India under their OM No.38/37/08-P&PW(A) dated 30th July 2015.

8.5 It be declared that any act/acts done by the Respondent No.3 & 4 refusing to release revise rate of pension to the Applicant in terms of OM No.38/37/08-P&PW(A) dated 01.09.2008 an in terms of Hon'ble Central Administrative Tribunal, Principal Bench, Delhi passed on 01-11-2011 are arbitrary, malafide, contemptuous and unsustainable in law.

8.6 Cost of the application.

8.7 To pass any such order/orders as this Hon'ble Tribunal may deem fit and proper."

2. Respondents have filed the written statement denying and disputing the claim of the applicant. The applicant has chosen not to file any rejoinder.

3. I have heard Mr.A.Thakur, learned counsel for the applicant and Mr.S.K.Ghosh, learned Addl. C.G.S.C. During the course of hearing, Mr.S.K.Ghosh, learned Addl. C.G.S.C. has

drawn my attention to the speaking order dated 01.11.2017, particularly, the details of calculation of pension at para 7 of the order. The relevant portion is extracted below:-

“(a) As per para 4.1 of Govt. of India’s O.M. date = Rs.10,201/-

Pension of Shri Adhyapak was revised which arrived

(b) As per Govt. of India’s O.M. dated 28.1.2013

Pension of Shri Adhyapak was re-fixed again which was arrived

50% of minimum of Pay Band + Grade Pay = Rs.9,230/-

i.e. (PB 9300-34,800) + GP 4600)

=4650+ GP 4600 = Rs.9250

As per fitment table, it is Rs.9230/-, hence it is refixed.

Calculation of (b) above, is less than calculation of (a), hence, Rs.10,201/- has been applicable to Shri Adhyapak, Retd. DAO-I in terms of para 7 of Govt. of India, Deptt. Of Pension & Pensioners’ Welfare, New Delhi’s OM dated 28.1.2013 therein it was stated that “in case the pension consolidated pension/family pension/enhanced family pension calculated as per para 4.1 of O.M. No.38/37/08-P&PW(A) dated 1.9.2008 is higher than the pension/family pension calculated in the manner indicated above, the same (higher consolidated pension/family pension) will continue to be treated as basic pension/family pension.”

Mr.Ghosh, learned Addl. C.G.S.C. submitted that applicant's revised pension on account of 6th CPC (Rs.10,201/-) is found to be more than the amount that was arrived by taking 50% of the sum of minimum of pay in the Pay Band and Grade Pay in the corresponding pay scale from which he had retired as per fitment table i.e., Rs.9,230/-. Accordingly, learned counsel

contended that pension of the applicant revised by the respondents @ Rs.10,201/- w.e.f. 01.01.2016 is correct and in order.

4. Mr.A.Thakur, learned counsel for the applicant also accepted the submission of the learned counsel for the respondents and submitted that applicant is pressing the prayers contained in para 8.4 only. Learned counsel prayed that respondents may be directed to release the arrears from 01.01.2007 to 31.12.2015.

5. To that, Mr.S.K.Ghosh, learned Addl. C.G.S.C. proposed that let applicant may be directed to file representation before the authority for payment as arrears. The same has not been opposed by the learned counsel for the applicant.

6. Accordingly, I direct the applicant to prefer a representation before the respondents for payment of arrears within a period of fifteen days and the respondents are directed to consider the same as per law and pay the arrears to the applicant, as admissible within a period of two months thereafter.

7. The OA is disposed of accordingly. There shall be no order as to costs.

**(MANJULA DAS)
JUDICIAL MEMBER**

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