

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No.290/00070/2017

RESERVED ON: 11.10.2018

Jodhpur, this the 29th October, 2018

CORAM

Hon'ble Smt Hina P. Shah, Judicial Member

Jetha Ram Suthar S/o Magha Ram Suthar, Aged about 79 years, R/o Mohalla – Purani Ginani, Near Ghantel House, Bikaner. (Office Address:- Retired from service on 31.08.1996 as Asstt. Director, Postal Services, on Superannuation)

.....Applicant

By Advocate : Mr S.P. Singh.

Versus

1. Union of India through the Secretary, Government of India, Ministry of Communication, Department of Post, Dak Tar Bhawan, New Delhi.
2. The Secretary, Ministry of Personnel, Public Grievances & Pensions, Dept. of Pension & Pensioners' Welfare, Lok Nayak Bhawan, New Delhi-110003.
3. The Chief Post Master General, Rajasthan Circle, Jaipur – 302 007.
4. The Post Master General, Western Region, Rajasthan, Jodhpur.
5. Director of Accounts (Postal), Jhalana Dungri, Jaipur-302004.
6. Superintendent of Post Offices, Bikaner Division, Bikaner.

.....Respondents

By Advocate : Mr. K.S. Yadav.

ORDER

The present Original Application has been filed U/s 19 of the Administrative Tribunals Act, 1985 seeking following reliefs:

- (i) That the fixation of pension Rs 9645/- in pursuance of letter dated 21.10.2016 and letter dated 20.11.2014 deserves to be quashed and set aside and the pension of Rs 10,540/- to be fixed and consequential benefits may be granted in accordance with law.
- (ii) That the para -9 of the letter dated 28.01.2013 (Annex. A/3) deserves to be quashed and set aside and the respondents may kindly be directed to grant arrears during the period 01.01.2006 and 23.09.2012 with interest @ 18%.
- (iii) That PPO No. SP1541-(N) dated 23.10.2013 may kindly be revised and pension of Rs 10,540/- may kindly be fixed in accordance with 6th CPC and consequential benefits may kindly be granted.
- (iv) That any other direction or orders may be passed in favour of the applicant, which may be deemed just and proper under the facts and circumstances of this case in the interest of justice.
- (v) That the costs of this application may be awarded to the applicant.

2. The present Original Application has been argued alongwith OA No. 290/00071/17 having similar rationale for seeking relief prayed for with regard to revision of pension. The arguments advanced and judgments relied upon in support of contentions by the learned counsel for the parties were also similar. Therefore, the present OA is covered by the outcome of issues involved in OA No. 290/00071/17.

3. The conclusions drawn in OA No. 290/00071/17 after discussing the issues in order dated 26.10.2018 passed in the said OA are summed up below :

- (a) Qualifying service of 33 years for revision of pension of pre-2006 retiree has already been delinked vide DoPT OM dated 06.04.2016 taking into consideration judgments passed by Hon'ble Courts.
- (b) In view of judgment of Hon'ble Delhi High Court in WP (C) 3035/2016 (Ram Phal Vs Union of India & Ors) and judgment dated 18.01.2016 of Hon'ble Kerala High Court at Ernakulam in OP (CAT) No. 169 of 2015, it should be ensured that pension should not be less than 50% of minimum of pay scale attached to the posts (Upgraded) from which pensioner had retired, as per para 4.2 of OM dated 01.09.2008.
- (c) Pre-2006 pensioner is not entitled for retrospective pay fixation (notional) for revision of his pension in 6th CPC in terms of para 4.2 of the OM dated 01.09.2008. Para 4.2 only give protection to pre-2006 pensioner that his revised pension should not be less than 50% of minimum of pay-scale.

3. In the present case, admittedly, the applicant superannuated w.e.f. 31.08.1996 from the post of Asstt. Director of Post Offices from the pay scale of Rs 7500-250-12000 (5th CPC pay scale) which has been revised to Pay Band-2 9300-34800 + Grade Pay 4800/- in 6th CPC. The grievance of the applicant herein is that his pension has not been revised by refixing his pay notionally (retrospectively) and then arriving at revised pension as per OM dated 01.09.2008, thereby he is entitled to get revised pension of Rs 10,540/- p.m. in 6th CPC, i.e. w.e.f. 01.01.2006. However, the respondents revised the pension of the applicant i.e. to Rs 9,645/- w.e.f. 01.01.2006 on the grounds communicated vide impugned order dated 21.10.2016 (A/1). Aggrieved of the same, applicant

prays in the present OA that his pension may be revised to Rs 10,540/- instead of Rs 9,645/- by fixing his pay notionally.

4. Applying the conclusion drawn in the similar case vide order dated 26.10.2018 passed in OA No. 290/00070/17, I find that applicant is getting revised pension of Rs 9,645/- (6th CPC) which is more than the protection provided under para 4.2 of OM dated 01.09.2008 (Annex. A/8), as well as law laid down by the Hon'ble Courts in this regard, i.e. pension should not be less than 50% of minimum of pay scale of the post from which he had retired (Rs 9,375/- in applicant's case). Accordingly, in view of order dated 26.10.2018 passed in OA No. 290/00071/17, applicant is not entitled for revised pension of Rs 10,540/- by notionally fixing his pay . Hence, I find no infirmity in impugned order dated 21.10.2016 (Annex. A/1).

5. Keeping in view order dated 26.10.2018 passed in OA No. 290/00071/17, impugned order dated 21.10.2016 (Annex. A/1) warrants no interference from this Tribunal and accordingly, the present OA is dismissed. No costs.

**[Hina P. Shah]
Judicial Member**

Ss/-