

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW**

O.A. No. 332/00521/2016

Order Reserved on: 13.08.2018.

Order Pronounced on: 27.08.2018.

The Hon'ble Mr. Devendra Chaudhry, Member (Administrative),

Charanjeet Singh Kalra, aged about 71 years, son of- Late Shri Kartar Singh Kalra, Address- Flat No. 403, H.S. Square Blunt Square, Lucknow.

....Applicant

By Advocate: Sri Praveen Kumar.

Versus

1. UNION OF INDIA, through the General Manager, Northern Railway, Baroda House, New Delhi.
2. The Divisional Railway Manager, Northern Railway, Hazratganj, Lucknow.
3. The Senior Divisional Finance Manager, Northern Railway, Hazratganj, Lucknow.

....Respondents

By Advocate: Sri Rajendra Singh.

ORDER

The Hon'ble Mr. Devendra Chaudhry, Member (Administrative)

In the present Original Application (herein after referred as OA), the Applicant has sought relief against the Respondents for revision of his pension in terms of the latest guidelines of the Government of India specifically in light of rulings of Hon'ble High Court vide judgment dated 02.09.2013 upheld by Hon'ble Apex Court vide judgment dated 13.08.2015. The Applicant is further aggrieved due to non disposal of the representations preferred by him.

2. The case of the Applicant is as under:-

That the Applicant was initially appointed on the post of Guard

‘A’ Special Grade in pay scale Rs. 5500-9000/- with effect from 01.12.1974. The Applicant retired as such after attaining the age of superannuation with effect from 30.09.2005. At the time of retirement, the Applicant was issued a PPO on 03.10.2005 by which, his pay has been shown to have been fixed at Rs. 9708/- . In the year 2006, 6th CPC was implemented. In terms thereof, pay of the Applicant was brought in pay band Rs. 9300-34800 grade pay Rs. 4200/- and accordingly, his pension was revised and fixed at Rs. 14627/- . The PPO was also issued. The Applicant has further prayed that various Courts including Apex Court have held that the pensioners who have retired before but have rendered less than 33 years but more than 20 years, will also be entitled to get full pension. The Applicant has rendered 31 years of services but he is not being paid the full pension. Therefore, he preferred a representation on 04.01.2016 and requested the authorities for correct fixation of pension granting him full pension on the basis of last pay drawn. The Respondents took no decision on the representation submitted by the Applicant on 04.01.2016. The Applicant submitted another representation on 04.07.2016 but again, no heed was paid by the respondents hence; Applicant preferred this OA.

3. According to the CA filed by the Respondents, the Applicant retired on attaining the age of superannuation w.e.f. 30.09.2005 from the Guard in scale Rs. 5500-9000 (revised to PB-2 9300-34800 GP 4200 in VI CPC w.e.f. 01.01.2006). That, the Applicant was drawing pay @ Rs. 9175/- p.m. at the time of superannuation in scale Rs. 5500-9000. Accordingly, Applicant’s pay was fixed @ Rs. 9708/- p.m. by taking into account the element of running allowance @ 55% of basic pay in accordance with rules. The PPO was issued accordingly (Annexure No.A-2 to the OA). That after implementation of VI CPC his pension was revised w.e.f 01.01.2006 in light of instructions contained in Rly. Bd.’s letter no. F(E)III/2008/PN1/12 dated 08.09.2008 (Annexure No. CR-1). That the revised pension has been fixed @ Rs. 14627/- w.e.f. 01.01.2006 in terms of PPO dated 16.11.2010. That, the Applicant is

claiming revision of pension as per judgment of Hon'ble High Court/Delhi. In this connection, Respondents have submitted that instructions had been issued for revision of pension vide PS No. 14027 & 14407 and in Applicant's case his pension was re-fixed in terms of above mentioned PS No. 14027 & 14407 as being Rs. 10463/- even while the Applicant was drawing Pension @ Rs. 14627/- and that his pension was continued to be drawn @ Rs. 14627/- in light of instructions contained in Para 7 of the PS No. 14027 which provides as under:

"7. In case the pension consolidated pension/family pension/enhanced family pension calculated as per para 4.1 of OM 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."

That, the claim of the Applicant for further revision of pension under VII CPC is under process alongwith others. Accordingly, the claim of the Applicant is not correct in light of submissions made.

4. I have heard the Learned Counsels for the parties at length and carefully analyzed the material on record.

5. The facts of the case and the existence of the rulings of the Hon'ble High Court and Apex Court (supra) are not disputed. In fact, the key issue in the matter is the revision of pension of pre-2006 pensioners and delinking of the revised pension from qualifying service of 33 years. The most crucial Government order not mentioned in the CA or OA but existing in the Department of Pension & Pensioners' Welfare, Ministry of Personnel, PG & Pensions namely O.M No. 38/37/08-P&PW(A) dated 06th April, 2016 has taken in to account various rulings of Principal Bench of Central Administrative Tribunal as well as other rulings of the Hon'ble High Court & Apex Court as it is well clear from the examination of the aforementioned O.M. It has so happened, that the Applicant has not been given the benefit of this OM which would have been also implemented in the Ministry of Railways w.r.t. all its employees. This is not denied by Respondents' Counsel. If this had been done, there would have been no grievance.

6. Hence, I am of the view that various representations made by Applicant can be justifiably disposed of directing implementation of the OM No. 38/37/08-P&PW(A) dated 06th April, 2016 of Department of Pension & Pensioners' Welfare, Ministry of Personnel, PG & pensions, Government of India as applicable to employees under the Ministry of Railways / Railway Board and its subordinate entities.

7. Accordingly, I hereby direct that the OM No. 38/37/08-P&PW(A) dated 06th April, 2016 with respect to revision of pension of pre-2006 pensioners incorporating delinking of revised pension from qualifying service of 33 years be implemented and its benefits granted to the Applicant.

8. Accordingly, the OA is allowed. There shall be no order as to costs.

**(Devendra Chaudhry)
Member (A)**

JNS

