

**CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI**

ORIGINAL APPLICATION No.524/2015

Dated This The 4th day of September, 2017

CORAM: HON'BLE SHRI A.J.ROHEE, MEMBER (J)

Bimal Kumar Basak
Aged 77 years
Retired Chief General Manager
Department of Telecom
Residing At 1401, Terra,
Planet Godrej
Mahalakshmi (E)
Mumbai-400001. **... Applicant**
(In person)

Versus.

1. The Union of India
Through The Secretary
Ministry of Communication &
Information Technology
Department of Telecommunications
Sanchar Bhawan, 20- Ashoka Road
New Delhi-110001.
2. The Accounts Officer (PFP)
Department of Telecommunications
Room No.1210, Sanchar Bhavan
20-Ashoka Road,
New Delhi-110001.
3. The Deputy General PG,
Department of Telecommunications,
Room No.1210, Sanchar Bhavan
20-Ashoka Road,
New Delhi- 110001....**Respondents.**

(By Advocate Shri V.S.Masurkar)

Reserved on 17.08.2017

Pronounced on 04.09.2017

ORDER

The applicant who retired as Chief General Manager while working under respondent No.3, approached this Tribunal under section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs :-

"i. This Hon'ble Tribunal may graciously be pleased to call for the records of the case from Respondents and after examining the same quash and set aside the impugned order dated 8.12.14 with all consequential benefits.

ii. This Hon'ble Tribunal may further be pleased to hold and declare that the Applicant is entitled for interest at the rate of 18% on the delayed payment of arrears of 6th CPC.

iii. Costs of the Petition be provided for.

iv. Any other and further relief as this Hon'ble Tribunal deems fit in the circumstances of the case be granted".

2. The applicant sought voluntary retirement from the post of Chief General Manager, Western Telecom Project (WTP), Mumbai on 10.1.1996. His pension was

accordingly fixed and released as per the Vth Central Pay Commission. The VIth Central Pay Commission was made applicable to the central government employees w.e.f. 1.1.2006, on acceptance of its recommendations by the Government. The same was also made applicable to the pre 1.1.2006 retirees. In this behalf, the Government of India, Department of Pension and Pensioners Welfare issued O.M. dt. 1.9.2008 (Annexure-A-4) making the VIth Central Pay Commission recommendations applicable to pre 1.1.2006 retirees also. This was adopted by a notification dt. 26.9.2008 (Annexure-A-3) issued by the Government of India, Ministry of Communication, Department of Telecommunication, Mumbai for its application to the employees of the respondents. The applicant being pre 1.1.2006 retiree was also entitled to revised pension, in pursuance of the aforesaid notification.

3. In spite of issuance of above O.M. and Notification, the applicant's grievance is that the respondents have not taken any steps for issuance of the revised Pension Payment Order (PPO), which was, in fact issued on 17.1.2014 (Annexure-A-2). Thereafter, only the applicant received the arrears of pension on revision and other pensionary benefits in the month of March, 2014. The respondents, however, failed to sanction interest on the delayed payment of the arrears on revision of pension. The applicant, therefore, submitted a representation on 26.8.2014 (Annexure-A-5) to the Accounts Officer (PFP), Department of Telecommunication i.e. respondent No.2 with a request to authorize payment of interest for the intervening period. His request was rejected by the impugned order dt. 8.12.2015 (Annexure-A-1). His further representation against the impugned order was not attended since nothing was heard from the other end,

the applicant approached this Tribunal.

4. The relief sought are based on the following grounds, as mentioned in paragraph No.5 of the O.A. The same are reproduced here for ready reference :-

a) The impugned order dated 8.12.14 (A-1) is ex-facie illegal, unjust, unfair and void ab-initio.

b) There is a non application of mind by the Respondents on the facts of the case.

c) There is complete non application of mind on the part of the Respondents while rejecting the case of the Applicant.

d) There are precedents on the subject and it is a settled position of Law that any culpable delay in settlement and disbursement of Pensionary benefits must be visited with penalty of payment of interest.

e) The Respondents have paid the arrears to him on a piecemeal basis after a

considerable delay. He has received the aforesaid benefits on 17.4.14. The Respondents were in receipt of the Gazette Notification whereby they were directed to implement 6th Central Pay Commission's recommendation Revision of Pension and Family Pension of pre-2006 Retirees in CDA Pay Scale on 26.9.08.

f) As per the G.O.I. Office Memo No.38/37/08-P&PW(A) dated 1.9.08, para 11 therein reads as, "*It shall be the responsibility of the Head of the Department of the Ministry, Department, Office etc. from which the Government servant had retired or where he was working prior to his demise to revise the pension/Family Pension of all pensioners/Family Pensioners w.e.f. 1.01.06 in accordance with the Provisions mentioned in Para 4.1 & 4.2 above and to issue revised Pension Payment Order (PPOs)*".

It is further provided in para 10&12 that, "40% of the arrears should

positively be paid by 30.9.08 or before and the remaining 60% of the year 2009-10" In view of the above mentioned OM, he was entitled to receive 40% of arrears on or before 30.9.08. However, his revised PPO came to be sanctioned and issued only on 17.4.14 i.e. after 5 years and 6 months delay. This has resulted in financial loss and agony to the Applicant.

5. On notice, the respondents appeared and by common reply dt. 5.4.2016 resisted the O.A., in which all the adverse averments, contentions and grounds raised therein are denied. According to respondents, they are not responsible for payment of interest. Reliance was placed on para 8 of the Department of Pension and Pensioners Welfare O.M. dt. 1.9.2008 (Annexure-A-4), which reads as under :-

"All Pension disbursing Authorities including Public Sector Banks handling disbursement of pension to the Central Government pensioners are hereby authorized to pay pension/family pension to existing

pensioners/family pensioners at the consolidated rates in terms of para 4.1 above without any further authorization from the concerned Accounts Officers/Head of Office, etc. A table indicating the existing basic pension/ family pension without Dearness Pension, the basic pension/family pension with dearness pension and the revised consolidated pension/family pension is enclosed for ready reference."

6. It is also stated that since the pension disbursing authority has not taken any steps for grant of revised pension to the applicant, the respondents are not responsible for payment of interest, especially when the pension disbursing Bank has not been impleaded as party respondent. Reliance was also placed on O.M. dt. 28.1.2013 issued by the Government of India, Ministry of Personnel, Public Grievances and Pensions, department of Pension and Pensioners Welfare on the subject revision of pension of pre-2006 pensioners in which the tabular form regarding pension/family pension with pay scales from 1.1.1986,

1.1.1996 is given to facilitate fixation of revised pension. Exhibit-R-3 is also relied upon by which pension file of the applicant and some other officials were sent for revision of pension as per VIth Central Pay Commission with reference to the O.M. dt. 28.1.2013 (Exhibit-R-2). The revised PPO dt. 7.1.2014 is also filed along with the Calculation sheet issued by Accounts Officer (PFP), Department of Telecommunication, New Delhi (R-2). The applicant, is therefore, not entitled to any relief.

7. The applicant then filed rejoinder on 30.8.2016 in which all the adverse averments and contentions made in the reply are denied. It is stated that unless the revised Pension Payment Order is issued by R-2, the disbursing authority will not be in a position to pay the revised pension to the applicant.

8. On 17.8.2017, when the matter was called out for final hearing, heard the

applicant who appeared in person and the reply arguments of Shri V.S.Masurkar, learned Advocate for the respondents.

9. I have carefully gone through the pleadings of the parties and various documents relied upon by them in support of their rival contentions.

FINDINGS

10. The only controversy involved in the OA for decision of this Tribunal is whether the impugned order dt. 8.12.2014 rejecting the applicant's claim for grant of interest on the delayed payment of arrears on revision of pension is illegal, incorrect or improper on the grounds stated in the OA.

11. It is not disputed that the applicant is pre 1.1.2006 retiree. The recommendations of VIth Central Pay Commission were accepted by the Central Government and it was made applicable to its employees w.e.f. 1.1.2006. The respondents have published O.M. dt. 26.9.2008 to this

effect for making it applicable to its employees. As such, the applicant having been retired prior to 1.1.2006 as Chief General Manager while working with the respondents was entitled to revision of pension and arrears thereof w.e.f. 1.1.2006. It is also not disputed that the respondents have received the O.M. dt. 1.9.2008 issued by Government of India, Department of Pension and Pensioners Welfare in which elaborate provisions are made and procedure stated for implementation of Government decision on the recommendations of VIth Central Pay Commission in the matter of revision of pension to pre 2006 pensioners/family pensioners.

12. During the course of arguments, the learned Advocate for the respondents mainly placed reliance on paragraph 8 of the said O.M. dt. 1.9.2008 by which according to him it was the responsibility of the pension disbursing authorities to release revised

pension to the pre 2006 retirees without any further authorization on the concerned Accounts Officer. However, as per clause 11 of the said O.M. the responsibility is cast on the Head of Department to revise the pension/family pension w.e.f. 1.1.2006 in accordance with the provisions mentioned in paragraph 4.1 and 4.2 of the said O.M. For the sake of convenience and ready reference clause 11 is reproduced herein below :-

"11. It shall be the responsibility of the Head of the Department of the Ministry, Department, Office, etc. from which the Government servant had retired or where he was working prior to his demise to revise the pension/family pension of all pensioners/family pensioners with effect from 1st January, 2006 in accordance with the provisions mentioned in Para. 4.1 and 4.2 above and to issue revised Pension Payment Order (PPOs). Action to revise pension/family pension in terms of these provisions shall be initiated *suo moto* by the concerned Heads of Departments. In the case of the Defence Civilian Employees, however the procedure prescribed in this regard by the Ministry of Defence shall be followed. It is emphasized that the Pension Sanctioning Authority, in no case,

will ask the pensioner/family pensioner to surrender his/her original Pension Payment Order (PPO) for issuing revised authority. In case, however, the age of pensioner/family pensioner is not available on the PPO/office records, the same shall be obtained from the pensioner/family pensioner and indicated in the revised PPO. The authenticity of the age declared by the pensioner/family pensioner shall be verified by the pension sanctioning authority. It may also be ensured that a copy of the revised PPO should be invariably endorsed to the pensioner/ family pensioner.

13. It is thus obvious that while considering the grievance of the applicant, provisions of clause 8 and 11 are to be read together. It is needless to say that unless the revised PPO is issued by the Accounts Officer of the Department in which the retired government servant was working, the disbursing bank will not be in a position to make payment of the arrears on account of revision of pension. On issuance of revised PPO, it will not be necessary for the disbursing bank to insist for fresh authorization from the Accounts Officer

regarding disbursement of the revised pension. This is obvious from the combined reading of the provision of clause Nos.8 and 11 above.

14. It is obvious from record that the respondent No.2 has not taken any steps from 26.9.2008 till 17.1.2014 for fixation of revised pension and for issuance of revised PPO in favour of the applicant as per the OM dt. 1.9.2008. This Tribunal does not find any force in the contention of the learned Advocate for the respondents that it was the primary responsibility of the disbursing bank to fix the revised pension and make its payment, without waiting for the revised PPO. In such, circumstances of the case, it is obvious that there was delay of more than 5 years to sanction revised pension and payment of its arrears to the applicant.

15. Clause 10 of OM dt. 1.9.2008 also specifically states that 40% of the arrears

of pension will be paid in the year 2008-09 i.e. till 31.3.2009 and the remaining 60% in the year 2009-10 i.e. till 31.3.2010. It is obvious that the respondents have not taken into consideration this provision since no steps were taken for issuance of revised PPO in favour of the applicant. Consequently, 40% of arrears of pension and the remaining 60% thereof could not be paid before 31.3.2009 and 31.3.2010 respectively to the applicant. Since the outer limit fixed by the Government for payment of arrears of pension was not observed by the respondents, without assigning any cogent reasons, it is obvious that the applicant is entitled to get reasonable interest on the delayed payment. In this behalf, the impugned order simply states that since there is no time limit mentioned in the O.M. dt. 1.9.2008 as amended from time to time the claim for interest cannot be considered. This is wholly incorrect since time limit is fixed

in the O.M. dt. 1.9.2008 itself which is applicable to all government departments, as stated above, since it has not been observed without assigning any reason, the respondents are liable to pay reasonable interest to compensate the applicant.

16. From the above discussion, it is obvious that there is unexplained and inordinate delay in revision of pension and payment of its arrears to the applicant at least from the outer limit of 31.3.2010. As such, the respondents are liable to pay interest on the arrears of revised pension paid to the applicant from 1.4.2010 till 1.3.2014 when the arrears were paid.

17. The O.A. is therefore, allowed. The respondents are directed to pay interest at the rate of 9% p.a. on the arrears of revised pension paid to the applicant as per VIth Central Pay Commission for the period from 1.4.2010 to 1.3.2014. The same be calculated as above and paid to the

applicant, within a period of six weeks from the date of receipt of certified copy of this order.

18. In addition to above, the respondents are directed to pay Rs.5,000/- to the applicant towards cost of this O.A.

Mumbai
Dt. 4.9.2017

(Arvind J. Rohee)
Member (Judicial)

B.

