

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH**

ORIGINAL APPLICATION NO.170/00074/2018

DATED THIS THE 14th DAY OF FEBRUARY, 2019

HON'BLE DR.K.B.SURESH, JUDICIAL MEMBER

HON'BLE SHRI C.V.SANKAR, ADMINISTRATIVE MEMBER

Sri. I.R.Prakash
S/o. Late Sri.I.S.Raghavachar
Aged about 75 years
R/at, No.14, 'ABHIMAN'
5th Cross, Girinagar 1st Phase
Bengaluru-560085.

....Applicant

(Party-in-Person)

Vs.

1. The Union of India

Represented by its Secretary
Department of Pension and Pensioner's Welfare
Ministry of Personnel Public Grievances and Pensions
Lok Nayak Bhawan, Khan Market
New Delhi-110 003.

2. The Secretary

Department of Expenditure
Ministry of Finance, North Block
New Delhi-110 001.

3. Controller of Communication Accounts

Department of Telecommunications, Karnataka Circle
1st Floor Amenity Block, CMX Compound
Palace Road
Bengaluru-560001.

...Respondents

(By Advocate Sri K.Dilip Kumar)

O R D E R

(PER HON'BLE SHRI C.V.SANKAR, MEMBER (ADMN))

According to the applicant, he entered the service of the Indian Posts and Telegraphs Department as Section Officer (Civil) on 10.4.1964. He was promoted as Assistant Engineer(Civil) on 10.12.1969. Thereafter he was

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2. He submits that the 7th Central Pay Commission, instead of fixing the pension of old pensioners based on the increment method, has recommended revision of pension of pre-2016 pensioners by notionally fixing pay from CPC to CPC as an alternative option for arriving at the pension as on 1.1.2016 in order to avoid delay in searching for records to find out the number of increments drawn by the pensioner in the retiring scale of pay to determine the notional pay as on 1.1.2016. This, according to him, has resulted in detriment to the group of pre-2016 pensioners to which he also belongs. He submits that pension payment cannot be a subject matter of statistics and averages but only be governed by specific rules pronounced by the Government and Law. As per item 11 (iii) of resolution dtd.4.8.2016 of 7th CPC, pensioners may be given the choice of choosing whichever formulation is beneficial to them. Respondent No.3 has revised his pension w.e.f. 1.1.2016 by sanctioning only the minimum pension stated in the Matrix stipulated by the 7th CPC vide revised PPO dtd.3.1.2018(Annexure-A9) thereby his basic pension was reduced by about 11%. Aggrieved by the same, the applicant has filed the present OA praying for revising his pension as per the recommendations of 7th CPC accepted by the Govt. of India as per Option 1 increment based method of notional pay fixation stated in the pay matrix given in the report and also to quash and set aside all the impugned orders of respondents 1,2 & 3 and also Annexure-A9 order to pave the way for a smooth re-revision of pension in an acceptable time bound manner failing which interest has to be paid on the arrears of pension at the current market rates together with costs.

3. Per contra, the respondents submitted in their reply statement that the 7th CPC after consulting with various pensioners' associations and the JCM(staff side) who have given general agreement, has recommended for Pay Fixation Method over the Increment Method as the Pay Fixation Method is more scientific with minimal anomalies and is more beneficial to larger number of pensioners compared to increment method which may result in anomalies giving undue/unintended benefit to pensioners who incidentally served for a longer period in the retiring scale without being promoted to a higher grade and due to higher number of increments in the last post. Keeping in view of the human effort required, it would be extremely difficult to determine the number of increments earned on the last post for calculating the revised pension of pre-2016 pensioners. Many times, the pension of the applicant was fixed at lower stage as per the extant pay commissions' recommendations but the same was subsequently revised to higher stage on the basis of the Govt.'s decision as conveyed by the Dept. Of Pension & Pensioners Welfare. Subsequent to 7th CPC, his pension was revised to Rs.33,850 w.e.f. 1.1.2016. Thus, as per Government's decision, the applicant has enormously benefitted in the past. The Union Cabinet, in its meeting held on 29.6.2016 accepted the above recommendation with some modifications and ordes for revision of pension of pre-2016 pensioners by multiplyig the pre-revised pension by a factor of 2.57 were issued on 4.8.2016(Annexure-A1) and the Banks were advised to make the payment of revised pension without waiting for the Penison Payment Authority. A proposal for revision of pension of pre-2016 pensioners as per the recommendation of the committee was approved by the Cabinet in its meeting held on 3.5.2017. Accordingly, order for revision of pension by pay fixation method were issued on 12.5.2017(Annexure-A5). In order to expedite pension revision cases of pre-2016 pensioners,

OA.No.170/00074/2018/CAT/Bangalore Bench concordance tables were drawn out and circulated to all Ministries/Departments on 6.7.2017(Annexure-A6). The Department fed these concordance tables into the ' Bhavishya' software and also developed a tool which was made available to all the Heads of Departments to process individuals' pension revision cases instantaneously. This method is implementable in all cases. The increment method recommended by the 7th CPC for revision of pension of pre-2016 pensioners was difficult to implement. The applicant should therefore accept the decision of the Government regarding implementation of the recommendations of the 7th CPC since the Cabinet has also approved the same. Hence, the OA being devoid of merit is liable to be dismissed.

4. The applicant has filed rejoinder wherein he submits that his pension fixed at Rs.33850/- stated by the respondents as per the 7th CPC recommendation is totally illegal and unconstitutional. The respondents have imposed a third option suggested by the Committee by notionally fixing pay from CPC to CPC. This option was never recommended by the 7th CPC, but was forced on the past pensioners unilaterally. In implementing this option all the concurrent rules were totally ignored. As per the corresponding level in the pay matrix evolved by the 7th CPC in the pay scale 15600-39100, GP Rs.6600, gives a notional pay of Rs.74000/-. 50% of this should be his basic pension i.e. Rs.37000. Thus, the respondents have illegally reduced his basic pension by Rs.3150. The concordance tables worked out by the respondents gives the same notional pay to a fresh entrant into the scale and an official who has drawn 3 to 4 increments in it. This shows the arbitrariness of the process of pension fixing. He cannot be punished for want of records of some other pensioners. Hence, the stand taken by the respondents is illegal, illogical and contrary to the fundamental right to have the proper pension.

5. We have heard both the parties and perused the records in detail. It is true that the 7th Pay Commission made the following recommendation for revision of pension of pre-2016 civil pensioners:

(i) All the civilian personnel including CAPF who retired prior to 1.1.2016 (expected date of implementation of the Seventh CPC recommendations) shall first be fixed in the Pay Matrix being recommended by this Commission, on the basis of the Pay Band and Grade Pay at which they retired, at the minimum of the corresponding level in the matrix. This amount shall be raised, to arrive at the notional pay of the retiree, by adding the number of increments he/she had earned in that while in service, at the rate of three percent. Fifty percent of the total amount so arrived at shall be the revised pension.

(ii) The second calculation to be carried out is as follows:

The pension, as had been fixed at the time of implementation of the VI CPC recommendations, shall be multiplied by 2.57 to arrive at an alternate value for the revised pension

(iii) Pensioners may be given the option of choosing whichever formulation is beneficial to them.

However, the Union Cabinet, in its meeting held on 29.6.2016 accepted the above recommendation with the following modifications:

- Both options recommended by the 7th CPC as regards pension revision be accepted subject to feasibility of their implementation.
- Revision of pension using the second option based on fitment factor of 2.57 be implemented immediately; and
- The first option may be made applicable if its implementation is found feasible after examination by the proposed Committee.

As per the decision of the Cabinet, a committee was set up to recommend the further course of action under the Chairmanship of Secretary, Department of Pension & Pensioners' Welfare. The Committee finally recommended as follows:

"Notional pay of all civilian personnel, including CAPF, who retired prior to 01.01.2016 shall be fixed in the pay matrix recommended by the Seventh CPC in the level corresponding to the pay in the pay scale/pay band and grade pay at which they retired. This will be done by Notional pay fixation under each intervening Pay Commission, based on the formula for revision of pay. Fifty percent of the notional pay as on 01.01.2016 so arrived at shall be the revised pension as per formulation 1. Pension has already been revised in terms of the Formulation 2 recommended by the Seventh CPC. Higher of the two formulations may be granted as the revised pension with effect from 01.01.2016."

6. The final orders in this regard were issued by the Govt. of India vide

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Annexure-A5. While we sympathise with the applicant's contentions that as per the original recommendations of the 7th CPC, he would have got benefited by an additional Rs.3150/- from 01.01.2016 and that he should not be penalised for want of records and difficulties etc., of some other pensioners and that the same notional pay would be given to a fresh entrant into the scale and an official like him who had drawn several increments etc., we are unable to pass any order in his favour. We also have to accept the respondents' point that all along, all the pensioners including the applicant have benefited by the final orders of GOI. Since the orders of Govt. of India finally issued as per Annexure-A5 applied to all the pensioners before 2016, a separate order cannot be issued in the case of the applicant alone. The OA is dismissed. No costs.

(C.V.SANKAR)
MEMBER (A)

(DR.K.B.SURESH)
MEMBER (J)

/ps/

Annexures referred to by the applicant in OA.No.170/00074/2018

Annexure A1: G.O.I.O.M., F.No.38/37/2016 P&PW(A)(II) Dt. 04.08.2016,
Implementation of Gov.'s decision etc.

Annexure A2: GOI Resolution, New Delhi, Dt.4.8.2016

Annexure A3: Paras 1.12, 1.13, 1.14 (Highlighted)

Annexure A4: Pay Matrix (civilian Employees) 7th CPC

Annexure A5: O.M.No.38/37/2016-P&PW(A) Min. Of P.PG & Pensions, New Delhi
dt.12.5.2017

Annexure A6: O.M.No.38/37/2016-P&PW(A) Min. Of P.PG & Pensions, New Delhi
dt.6.7.2017

Annexure A7: No.4/23/2017-P&PW(D) Min. Of P.PG & Pensions, New Delhi
dt.7.8.2017

Annexure A8: 7th CPC Bunching Benefit-clarification issued by Finance Ministry

Annexure A9: Revised Pension payment order

Annexure A10: Chairman 7th CPC Quotation (highlighted)

Annexure A11: Details of Remedies Exhausted-1 (Grievance)

Annexure A12: Details of Remedies Exhausted-2 (Grievance on pensioners Portal)
registered on 23.6.2017

Annexure A13: Details of Remedies Exhausted-3 E-Mail Message dt.2.11.2017 to
CCA Karnataka Telecom circle

Annexure A14: Details of Remedies Exhausted-4 RTI Query addressed to CPIO
Karnataka Circle on 11.12.2017

Annexure A15: Details of Remedies Exhausted-5 E-mail addressed to CCA and
Appellate Authority dt.10.1.2018

Annexure A16: Details of Remedies Exhausted-6 Detailed grievance addressed to
CCA and Appellate Authority Karnataka Telecom circle and the
Routine reply thereof

Annexures with reply statement:

Annexure-R1: Copy of provisional pension

Annexure-R2: 4th CPC revised PPO dtd.11.11.1987

Annexure-R3: 5th CPC revised PPO dtd.14.7.1998

Annexure-R4: Re-revised PPO dtd.17.12.1998

Annexure-R5: 6th CPC revised PPO dtd.11.11.2010

Annexure-R6: Copy of letter dtd. 13.12.2013

Annexure-R7: Copy of DOP&PW OM dtd.28.1.2013

Annexures with rejoinder:

-NIL-
