

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00947/2017

Dated this Wednesday, the 9th day of January, 2019.

CORAM:

Hon'ble Mr. Ashish Kalia, Judicial Member

R. Gopalakrishnan Nair, aged 84 years
(Pensioner)
S/o Late K.R. Ramakrishna Pillai
Kaaradakkethil House,
Kuttamperoor P.O.
Alappuzha, Kerala 689 623.
(Chief Clerk o/o Divisional Operating
Supdt. S/R. Trivandrum (Retd) **Applicant**
(By Advocate – Mr. Ayyappan Sankar)

V e r s u s

- 1 Union of India, represented by General Manager,
Southern Railway,
Park Town,
Chennai 600 003.
2. General Manager,
Southern Railway,
Park Town,
Chennai 600 003.
3. Senior Divisional Finance Manager,
Office of the Senior Divisional Finance Manager,
Southern Railway,
Thiruvananthapuram. **Respondents**
(By Advocate – Mr.C.B.Sreekumar)

This Original Application having been heard on 09.01.2019, the Tribunal on the same day delivered the following:

ORDER (ORAL)

The present O.A. is filed seeking following reliefs:

- (a) Issue appropriate orders directing the 2nd respondent to consider Annexure A10 and take a just and reasonable decision thereon for the rectification of mistakes in Annexure A2 revised pension payment advice appreciating all relevant factors highlighted in Annexure A10 as also in Annexure A8, expeditiously without any further delay and within such time

- as may be directed by this Tribunal.
- (b) Issue appropriate orders directing the 3rd respondent to consider Annexure A8 and take a decision thereon expeditiously without any further delay.
 - (c) Issue appropriate orders directing the respondents to sanction minimum pension of Rs.7215/- from 01.01.2006 to 31.12.2015, interest on arrears from September, 2009 and minimum pension of Rs. 18542.55 from 01.01.2006 and interest on arrears to the applicant and disburse the arrears forthwith.
 - (d) Issue appropriate orders directing the respondents to sanction compensation for arbitrarily assessing pension on a reduced scale and non-rectification of the mistake for long periods despite repeated requests and representations.
 - (e) Issue appropriate orders directing the 3rd respondent to issue revised pension payment advice clearly and correctly showing: -
 - a) Post from which the pensioner retired.
 - b) Scale of pay at the time of retirement.
 - c) Increments received in the post form which the pensioner retired.
 - d) Minimum pension from 01.01.1996 as Rs.2750/- and corresponding scale of pay to determine minimum pension from 01.01.1996 as Rs.5500-9000.
 - e) Minimum pension from 01.01.2006 as Rs.7215/- and corresponding minimum pay and grade pay to determine minimum pension from 01.01.2006, as Rs. 14430/- (Rs.5500 1.86 + 4200).
 - f) Minimum pension from 01.01.2006.
 - g) Any other entries which may be required for future references.
 - (f) Grant such other reliefs which this Tribunal deems just and proper to be granted for the ends of justice.

2. The brief facts of the case are that applicant is a pensioner retired from service in Southern Railway as "Chief Clerk" on 31.1.1991, after completing more than 32 years of service. Applicant's pension is wrongly assessed in Annexure A2 revised pension payment advice for Pre-2006 retirees, resulting considerable reduction of pension and related benefits. Annexure A6 request for rectification of the mistake submitted directly by hand before the 3rd respondent is mechanically rejected on the date of its submission itself.

3. It is submitted by the applicant that he had submitted a detailed representation which is at Annexure A.8 which has not been considered so far and Annexure A8 representation submitted to Respondent No.2 is also not considered and replied to. It is submitted that non consideration of Annexure A8 representation by 3rd respondent and Annexure A10 by 2nd respondent, despite lapse of long period in respect of rectification of mistake in Pension Payment Advice of a pensioner aged above 84 years in arbitrary, oppressive, tainted and results grave miscarriage of justice. Hence aggrieved by the inaction of the respondents,

the present O.A. is filed for redressal of his grievance.

4. Notices were issued. Respondents put up their appearance through the Central Govt. Standing Counsel Mr. C.B. Sreekumar and also filed detailed written reply contesting the O.A.

5. The respondents have raised the ground of delay and laches by submitting that after the V CPC revision, the applicant had drawn pension and never challenged the same at any time before any court of law. As a consequence of VI CPC recommendations, Railway acted based on the previous pension and scale and a new PPO was issued. As the Applicant accepted the pension revised during 2000 without any objection, he can now not challenge the same according to the respondents. They have prayed for dismissal of the O.A.

7. After hearing both sides, this Tribunal is of the view that the Hon'ble Apex Court has laid down various judgements holding that the law of limitation is not applicable to where there is a recurring cause of action like salary and pension etc. Under the circumstances, in the interest of justice, a direction is to be issued to the respondents to dispose of Annexure A8 and Annexure A10 representations. Accordingly respondents are directed to dispose of pending Annexure A8 and Annexure A10 representations within a period of sixty days and communicate the decision by a speaking order. If the applicant is still aggrieved, he is at liberty to approach the appropriate forum for redressal of his grievance, if he is so advised, in accordance with law.

8. With the above direction, the O.A. is disposed of. No order as to costs.

(ASHISH KALIA)
JUDICIAL MEMBER

sj*

Annexures
(Applicant's)

Annexure A1	-	True photocopy of Pension Payment Order dated 1.2.1991.
Annexure A2	-	True photocopy of the Revised Pension Payment Advice for Pre 2006 retirees issued on 8.9.2012.
Annexure A3	-	True photocopy of the application under Right to Information Act dated 12.2.2013.
Annexure A4	-	True photocopy of reply dated 21.3.2013 to Annexure A3 under Right to Information Act.
Annexure A5	-	True photocopy of PB Circular No. 65/94 issued along with Annexure A4 reply.
Annexure A6	-	True photocopy of the representation dated 6.2.2013 submitted before Senior Divisional Finance Manager.
Annexure A7	-	True photocopy of the order dated 6.2.2013 rejecting Annexure A.6
Annexure A8	-	True photocopy of the representation dated 11.3.2013 submitted before Senior Divisional Finance Manager.
Annexure A9	-	True photocopy of the notification RBE No.1381/1997 dated 16.10.1997 issued by Government of India, Ministry of Railways.
Annexure A10	-	True photocopy of representation submitted before 2 nd respondent aggrieved by Annexure A7 and non consideration of Annexure A8.
Annexure A11	-	True photocopy of communication No. P/500/TVC/P/0604202278 dated 28.07.2000.
Annexure A12	-	True photocopy of Bank statement for the period from January 2006 to February 2016.
Annexure A13	-	True photocopy of Office Memorandum F.No.38/37/08 – P&PW(A) dated 28.1.2013.
Annexure A14	-	True photocopy of the Office Memorandum No.38/37/08- P&PW(A) dated 30.07.2015.
Annexure A15	-	True photocopy of Judgment dated 18.01.2016 of the Hon'ble High Court of Kerala in OP (CAT) No. 169/2015.
Annexure A16	-	True photocopy of R.T.I. Application dated 10.02.2018 made by Pramod Kumar K.G. before the Central Public Information Officer – RTI Act, Southern Railway, Chennai.
Annexure A17		True photocopy of reply to Annexure A16.
Annexure A18	-	True photocopy of order dated 03.04.2018 of this Hon'ble Tribunal in O.A.No.569/2014.
Annexure A19.	-	True photocopy of Ready Reckoner for the pre-revised merged pay scale of 6500-10500.
Annexure A20.	-	True photocopy of relevant portion of VIth Central Pay Commission recommendation pertaining to various posts in Ministry of Railways.

Respondents' Annexures

- Annexure R1: True copy of Railway Board circular. RBE 138/1997
- Annexure R2: True copy of Railway Board circular RBE 160/2001 dated 20.8.2001.
- Annexure R3. True copy of Railway Board circular RBE 24/2010 dated 2.2.2010.
- Annexure R4 Annexure 1 Office Memorandum of Ministry of Personnel, Public Grievances and pension dated 14.10.2008.
- Annexure R5. Calculation sheet of VII CPC Revision.
