

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No.543/2016

Monday, this the 17th day of December, 2018

Hon'ble Mr. K.N. Shrivastava, Member (A)

Gangabux
Driver (Retd.) age 78 years
s/o Shri Bhurjimal
r/o RZ-224, C-2, Block
Gali No.5,
Mahavir Enclave, Near Power House
Palam, New Delhi

..Applicant

(Mr. A K Trivedi, Advocate)

Versus

1. Union of India through its Chairman
Railway Board, Rail Bhawan
New Delhi
2. The Divisional Railway Manager
North West Railways, Ajmer Division
Ajmer (Rajasthan)
3. The FA & CAO
North West Railways
Jaipur (Rajasthan)

..Respondents

(Mr. Satpal Singh, Advocate)

O R D E R (ORAL)

The applicant joined Railway Department as a Diesel Assistant on 11.02.1960. He secured his regular promotions and finally reached to the post of Driver (Goods). He took voluntary retirement on 12.10.1993. At the time of his retirement, the applicant was in the pay scale of ₹1350-2200 (4th Central Pay Commission (CPC)). The said pay scale got replaced by the new pay scale of ₹4500-7000 under 5th

CPC and further replaced by PB-I - ₹5200-20200 with Grade Pay of ₹2800/- under 6th CPC.

2. Apparently, as per the recommendations of 5th CPC, the pay scale of the post of Driver (Goods) was upgraded to ₹5500-9000. Furthermore, certain pay scales were merged as per the 5th CPC recommendations and consequently, the pay scale of Driver (Goods) of ₹5000-9000 got merged with the pay scale of ₹6500-10500 (S-12) whose replacement scale under the 6th CPC became PB-2 - ₹9300-34800 with Grade Pay of ₹4200/-.

3. After the implementation of 6th CPC recommendations w.e.f. 01.01.2006, the respondents issued Pension Payment Order (PPO) dated 02.03.2010 (Annexure A-2) to the applicant wherein his designation was indicated as Diesel Assistant and his revised pension was fixed at ₹8186/- considering his 5th CPC pay scale of ₹5500-9000 and its replacement scale under the 6th CPC as PB-2 - ₹9300-34800 with Grade Pay of ₹4200/-.

4. The respondents, however, later realized that the designation of the applicant as Diesel Assistant has been incorrectly mentioned in Annexure A-2 PPO and accordingly, decided to issue a new PPO dated 27.08.2015 (p.12) wherein his designation has been correctly indicated as Driver. However, this PPO indicates that the applicant's pay scale in the 5th CPC was ₹4500-7000 whose replacement scale under the 6th CPC is PB-I - ₹5200-20200 with Grade Pay of ₹2800/-,

but his pension has been retained at ₹8186/- in accordance with earlier Annexure A-2 PPO dated 02.03.2010.

5. The respondents, in their reply, have stated that the applicant is entitled for fixation of his pension in terms of replacement scale in which he retired from service and that he cannot be given benefits of upgradation of pay scale for the post of Driver (Goods) in the 5th CPC. The respondents have written Annexure R-2 letter to the applicant dated 05.09.2016, in which, besides reiterating their contention, have also stated that as per the Railway Board directions, it has been decided not to tamper with his pension, which has already been fixed at ₹8186/- under 6th CPC. As such, the applicant is not financially put to any disadvantage by virtue of new PPO dated 27.08.2015.

6. Heard learned counsel for the parties.

7. Mr. A K Trivedi, learned counsel for applicant fairly submitted that at present the applicant is not adversely affected in terms of reduction of his pension by the impugned PPO dated 27.08.2015. He, however, apprehended that in the next PPO to be issued by the respondents under the 7th CPC, it is likely that the applicant's pension may get adversely affected due to PPO dated 27.08.2015.

8. Mr. Satpal Singh, learned counsel for respondents, however, submitted that the applicant is entitled for pension strictly in terms of replacement scale and not in terms of the upgraded pay scale for the post of Driver (Goods). He said that the applicant's pension already

fixed at ₹8186/- under the 6th CPC is not being interfered with as per the Railway Board instructions.

9. I have considered the arguments of learned counsel for the parties and perused the records.

10. The applicant continues to get pension commensurate with the pay scale of PB-2 - ₹9300-34800 with Grade Pay of ₹4200/- (6th CPC) at ₹8186/- per month. Even though the respondents have stated that the applicant is not entitled for getting enhanced pension in terms of the upgraded pay scale for the post of Driver (Goods) under 5th CPC, but yet they have decided not to interfere with the pension already fixed to the applicant under the 6th CPC. As such, there is no cause of action at present.

11. The apprehension of the applicant that his pension under the 7th CPC may get adversely affected will have to be dealt with at the appropriate time, for which the applicant would be having both administrative and legal remedies.

12. With the above observations, the O.A. is disposed of.

There shall be no order as to costs.

(K.N. Shrivastava)
Member (A)

December 17, 2018
/sunil/