

**CENTRAL ADMINISTRATIVE TRIBUNAL  
MADRAS BENCH**

**OA.No.454/2017**

**Dated Tuesday, the 26<sup>th</sup> day of March, 2019**

**PRESENT**

**Hon'ble Mr.R.Ramanujam, Administrative Member**

R.Ramabadran,  
S/o. (late) T.Ramakrishnan,  
37-E-11, Laxmanan Nagar,  
3<sup>rd</sup> Street, Solavandan Road,  
Tirumangalam, Madurai District  
625 706

...Applicant

By Advocate M/s.R.Malaichamy

Vs.

1.Union of India, Rep., by the  
Director General, ESI Corporation-  
Head Office, CIG Road,  
New Delhi 110 002.

2.The Director (Finance),  
ESI Corporation-  
Head Office, Panchdeep Bhawan,  
CIG Road, New Delhi 110 002.

3.The Financial Commissioner,  
ESI Corporation-  
Head Office, Panchdeep Bhawan,  
CIG Road, New Delhi 110 002.

4.The Deputy Director (Admin),  
Regional Office-Goa,  
ESI Corporation-EDC,Plot No.23,  
Patto-Panaji-Goa 403 001.

5.The Deputy Director I/c,  
Sub-Regional Office,  
ESI Corporation,  
2<sup>nd</sup> West Street,  
KK Nagar, Madurai 625 020.

6.The Deputy Director (Finance),  
ESI Corporation, Sub-Regional Office,  
2<sup>nd</sup> West Street, KK Nagar,  
Madurai 625 020.

7.The Deputy Director, Accounts IV,  
ESI Corporation-  
Head Office, Panchdeep Bhawan,  
CIG Road, New Delhi 110 002.

...Respondents

By Advocate Mr.C.V.Ramachandramurthy

**ORDER**

**Pronounced by Hon'ble Mr.R.Ramanujam, Member(A)**

Heard. The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:

“(i)To call for the records of the 7<sup>th</sup> respondent pertaining to his order which is made in No.A-40/13/408/2005-A/Cs.IV dated 08.12.2016 and the order of the 4<sup>th</sup> respondent made in No.32-A-20/40/1/03-Estt. (P.F.117) dated 27.01.2017 and set aside the same; consequent to,

(ii)Direct the respondents to restore the order of the 4<sup>th</sup> respondent made in PPO No.32-A-20/40/1/03-Estt-PF (11) dated 12.12.2016 by extending the benefit of judgment of the Principal Bench of this Hon'ble Tribunal made in OA No.655 of 2010, OA No.937 of 2010 and OA No.1165 of 2011 further;

(iii)Direct the respondents to pay the interest to the arrears of pension amount at the rate of 12% per annum w.e.f 01.01.2006 and

(iv) To pass such further orders as this Hon'ble Tribunal may deem fit and proper.”

2. The case of the applicant is that he is a pre-2006 pensioner having taken voluntary retirement w.e.f 18.11.2004 after a service of 22 years and 5 months to which five years qualifying service was to be added for the purpose of determining the pension. As per the rules prevailing then, he was granted pro-rata pension based on his last pay drawn of Rs.13,225 per month. His pension was fixed at

Rs.8173 comprising of Rs.5449 as basic pension and Rs.2724 as Dearness pension worked out on pro-rata basis.

3. The VI Pay Commission's recommendations were implemented w.e.f 01.01.2006 following which the applicant's pro-rata pension was revised to Rs.12315 w.e.f 01.01.2006 by PPO dated 18.04.2013. After a number of orders by courts that there could be no discrimination between pre and post 2006 retirees, the Government of India, Department of Pension & Pensioners Welfare issued instructions under OM dated 06.04.2016 for revising the pension of pre-2006 pensioners.

4. The applicant submitted a number of representations to the authorities seeking revision of his pro-rata pension of Rs.12315 upwards to full pension at Rs.15000 w.e.f. 01.01.2006 in the light of the relevant judgments by courts in similar cases. Accordingly, the applicant's pension was revised to Rs.15000 and a revised PPO dated 12.12.2016 was issued. However, subsequently the revised PPO was cancelled by a communication of the Deputy Director (Admin), ESIC, Regional office, Goa dated 27.01.2017 without giving any opportunity to the applicant. This was done on the pretext that the applicant was allegedly receiving pension at higher than 50% of the minimum of the revised pay band and the grade

pay thereon.

5. It is the contention of the applicant that the corresponding pay and grade pay in the VI Pay Commission equivalent of the last pay drawn by the applicant of Rs.13225 was Rs.24600+GP Rs.5400 i.e., Rs.30000. 50% of this amount worked out to Rs.15000. It appears that while withdrawing the order refixing his pension at Rs.15000 the respondents considered his entitlement as per 50% of the basic pay of the corresponding scale as Rs.10500 which meant that the respondents had taken some pay scale which carried a minimum pay of Rs.21000 whereas the minimum pay in the new pay band ought to have been Rs.24600.

6. Learned counsel for the applicant would submit that the post from which the applicant had retired had been upgraded after the recommendations of the VI Pay Commission and the benefit thereof had not been granted to the applicant. He seeks to rely on the orders passed by the Ernakulam Bench of this Tribunal in OA 693/2017 dated 10.09.2018 and the Bangalore Bench of this Tribunal in OA 731/2017 dated 19.06.2018 in this regard.

7. Learned counsel for the respondents would, however, submit that as per the Annexure A-21 communication dated 08.12.2016, the applicant's revised pension had been fixed w.e.f 01.01.2006 at

Rs.12315 as per Government of India orders. 50% of the pay band and GP of the pay scale from which the applicant had retired worked out to Rs.10500 only and the applicant had been allowed higher of the two entitlements.

8. On perusal, it is seen that the applicant had claimed that the corresponding pay scale in the VI Pay Commission of the pay scale from which he retired had been upgraded and accordingly he was entitled to a higher pension in the light of the judicial precedents highlighted by him. The applicant has referred to a number of orders of the Principal Bench of this OA, the Hon'ble High Court of Delhi and the Hon'ble Supreme Court. The applicant has also relied on two recent orders of the Ernakulam and Bangalore Bench of the Tribunal in the relevant OAs cited supra. However, neither the impugned order nor the reply filed by the respondents throws any light on how the basic pension of the applicant on the principle of 50% of the basic pay of the new pay scale was arrived at as Rs.10500 in stead of Rs.15000 as claimed by the applicant.

9. It is stated in the reply of the respondents that the VI CPC pay scale of Rs.8000-13500 was revised to Rs.15600+5400 w.e.f 01.01.2006 for serving employees only and not for the pensioners. It has not been explained how such discrimination would be

justified in the light of the court orders relied upon by the applicant in similar cases. Although the court orders relied upon by the applicant were not with respect to the pay scale of Rs.15600+5400, the principle could not be different for upgradation of different pay scales after 01.01.2006 as per VI CPC recommendations.

10. In the above facts and circumstances, I am of the view that the applicant has made out a case for consideration of his claim on the basis of the parity between pre and post 2006 retirees in the matter of pension based on the relevant court orders. Accordingly, I deem it appropriate to set aside Annexure A-21 communication of the respondents dated 08.12.2016 by which the applicant's claim for higher basic pension had been declined and direct the competent authority to reconsider the applicant's claim based on the ratio of the judgments, orders of the courts relied upon by the applicant and pass a fresh, reasoned and speaking order within a period of two months from the date of receipt of a copy of this order.

11. OA is allowed as above.

**M.T.**

**(R.RAMANUJAM)**  
**MEMBER (A)**  
**26.03.2019**