

LATEST JUDGMENT OF CAT ERNAKULAM BENCH (Dated 23.1.2012) ON MODIFIED PARITY of PENSION, HAS QUASHED ERRONEOUS ORDERS OF DOP (P&PW)

Following is the extract of the operative part of the judgment:

"6. The Full Bench had set aside the orders dated 3.10.2008 and 11.2.2009 (Annexure R-2 and Annexure R-11). Thus the stipulation that the pension will be reduced pro-rata as contained in para 4.2 of OM dated 3.10.2008 which was the basis of fixation of pension at the reduced rate by the respondents stands already quashed. Order dated 11.2.2009 (Annexure R-11) which only reiterated the clarification contained in OM dated 3.10.2008 and earlier OM dated 1.9.2008 having also been quashed by the Full Bench, in the case of the applicant his entitlement remains intact at Rs.10500/- and the reduction communicated and executed vide Annexure A-2 and Annexure A-3 has thus become erroneous as the basis for such reduction itself is no longer available. In view of the above, this application is allowed to the following extent :-

(a) It is declared that the applicant is entitled to 50% of his minimum pay in the scale of pay of Rs.15600 and 50% of the grade pay attached to it as pension.

(b) Consequently, it is declared that Annexure A-2 and Annexure A-3 being erroneous are liable to be quashed and set aside. It is accordingly ordered.

7. Respondents, especially, respondent No.2 shall forthwith authorize respondent No.4 to reschedule the pension as earlier available to the applicant (ie. Rs.10500/- p.m). Any recovery that has been effected in the wake of issue of Annexure A-2 and Annexure A-3 orders shall be refunded to the applicant.

8. The applicant has claimed interest at the rate of 12% per annum. As the mistake committed by the respondents is not in the character of deliberate misinterpretation of the rule, showing indulgence no interest is directed to be paid by the respondents.

9. The applicant has also challenged the Amendment Rules, 2011 to the Central Civil Service (Pension) Rules. Though counsel for the applicant advanced his argument focusing upon the aforesaid relief, we are of the considered view that in view of the quashing and setting aside of Annexure A-2 and Annexure A-3 orders, no orders may be necessary to be passed in connection with the prayer at 8 (1).

10. The time limit calendared for passing of necessary orders by the respondent No.2 is one month from the date of communication of this order. The time limit scheduled for restoring the pension at Rs.10500/- is within two weeks from the date of receipt of the authority from respondent No.2 by respondent No.5. And time limit fixed for payment of arrears of pension and also refund of recovery already made is four weeks from the date of receipt of the communication from the respondent No.2 by respondent No.5 restoring the pension.

11. Under the above circumstances, there shall be no order as to costs. (Dated this the 23rd day of January 2012)

K. GEORGE JOSEPH
ADMINISTRATIVE MEMBER

Dr. K.B.S. RAJAN
JUDICIAL MEMBER