



RAILWAY SENIOR CITIZENS WELFARE SOCIETY

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AFFILIATED TO BHARAT PENSIONERS SAMAJ (BPS)

IDENTIFIED BY DOP&PW GOVT. OF INDIA - UNDER PENSIONERS' PORTAL

MEMBER, SCOVA (STANDING COMMITTEE FOR VOLUNTARY AGENCIES) (GOI)

DEDICATED TO THE
CAUSE OF PENSIONERS
SINCE 1991

No. RSCWS/HO/CHD/Memo/2019-2

Dated: 10-1-2019

Sh. K. V. Eapen, Secretary, AR PG & Pension, Govt. of India,
Patel Bhawan, Parliament Street, New Delhi-110001.

Dear Sir,

Subject: Revision of pension w.e.f. 1.1.2006 of Pre-2006 pensioners who retired from the 5th CPC scale of Rs.6500-10500

Reference: i) DOP&PW GOI OM No. 3833112-P&PW (A) Dated 4-1-2019

ii) DOP&PW OM No.38/37/08-P&PW(A) dated 1.9.2008, 28-1-2013 & 30-7-2015

iii) MOF DOE OM No.1/1/2008-IC dated 13.11.2009

iv) Judgement dated 18-6-2018 in OA.No.170/00730/2017 of CAT/Bangalore

1. The revised pension has unjustly been fixed at Rs.8345 vide Para 7 of DOP&PW OM dated 4-1-2019 w.e.f. 1.1.2006, whereas the same should have been fixed as Rs.9230 in terms of para 4.2 of OM dated 1.9.2008, for the pre-2006 pensioners who retired from the pay scale of Rs.6500-10500/- in the 5th CPC or equivalent pay scales in the earlier Pay Commissions @ 50% of the minimum Revised Pay of Rs.18460 in the replacement Scale of Rs.7450-11500 with corresponding Pay Band of Rs.9300-34800 plus Grade Pay of Rs.4600.

2. a) Revised pay scale in 6th CPC for the 5th CPC scale of Rs.6500-10500 was Rs.7450-11500 with corresponding Pay Band of Rs.9300-34800 and Grade Pay of Rs.4600 as per Para 3 of MOF DOE OM dated 13.11.2009.

b) While calculating the revised minimum Pension for Pre-2006 Pensioners who retired from 5th CPC scale of Rs.6500-11500 (or its equivalent in earlier CPCs) only the Grade Pay of Rs.4600 & Minimum Pay of Rs.6500 has been considered instead of considering the minimum Revised Pay of the replacement scale of Rs.7450-11500 in Pay Band plus the grade Pay of Rs.4600, thus totally ignoring the orders for replacement scale of Rs.7450-11500.

3) a) This is totally unjustified and against Para 4.2 of DOP&PW OM dated 1-9-2008 which has been partially adopted and cited in abstract merely to tailor make the results.

b) Para 4.2 of DOP&PW OM dated 1.9.2008, reads as under:

"4.2 The fixation of pension will be subject to the provision that the revised pension, in no case, shall be lower than fifty percent of the pay in the revised pay band plus the grade pay corresponding to the pre-revised pay scale from which the pensioner retired. In case of HAG + and above, this will be fifty percent of the minimum of the revised pay scale."

4. Pre-2006 Pensioners have been denied the benefit of the following orders issued vide Para 3 of MOF DOE OM No.1/1/2008-IC dated 13.11.2009, which reads as follows:

"3. It has now been decided that the posts which were in the pre-revised scale of Rs.6500-10500 as on 1.1.2006 and which were granted the normal replacement pay structure of grade pay of Rs.4200 in the pay band PB-2, will be granted grade pay of Rs.4600 in the pay band PB-2 corresponding to the pre-revised scale of Rs.7450-11500 w.e.f. 1.1.2006. Further, in terms of provisions of CCS(RP) Rules, 2008, in case a post already existed in the pre-revised scale of Rs.6500-10500 it should be merged with the post in the scale of Rs.7450-11500."

5. a) The benefit of this up-gradation was allowed to those in service with effect from 01-01-2006 and to those who retired after 01-01-2006. But the benefit of this up-gradation was not extended to the pre-2006 pensioners. Thus, creating discrimination between the Pre & Post-2006 Pensioners - in violation of settled law by the Apex Court in D. K. Nakara's case as well as in Major Genl. Bains Case.

6. This led to multiple litigations by the affected pensioners in various Courts wherein clear verdicts were given against this discrimination. But the benefit of all the judgements on this issue was confined by the Department concerned, to the Petitioners only thus depriving the same to other similarly placed pensioners thereby creating another class between a homogenous class of Pensioners.

7. The Pensioners' Associations, including the RSCWS & BPS, have all through been requesting the GOI for a general order extending the benefit to similarly placed pensioners as per law of natural justice. But the belated orders issued vide DOP&PW's OM dated 4-1-2019, cited above, granting the minimum Pension of Rs.8345 instead of Rs.9230 is a total violation of Articles 14, 16 & 39 of the Constitution, verdicts of various courts on this issue as well as the Government's orders issued vide DoP&PW's OMs dated 1-9-2008 & 30-7-2015 – extending the benefit of Para 4.1 to all pre-2006 Pensioners – as cited above.

8. Keeping in view the orders of MOF dated 13-11-2009, CAT Bangalore in OA.No.170/00730/2017 in penultimate para of its judgement dated 18-6-2018, reproduced below, has held that the concerned Pensioners who retired from the pre-revised scale of Rs.6500-10500, were entitled to a minimum Pension of Rs.9230 from 1-1-2006.

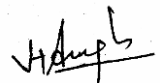
“11. The OM dtd.13.11.2009 had clearly stipulated that the posts which were in the pre-revised pay scale of Rs.6500-10500 as on 1.1.2006 and which were granted the normal replacement pay structure of grade pay of Rs.4200 will be granted grade pay of Rs.4600 corresponding to the pre-revised scale of Rs.7450-11500 with effect from 01.01.2006. This makes evidently clear that the applicants were to be considered against the pay scale of Rs.7450-11500 with grade pay of Rs.4600. The revised pay and pension has to be calculated on that basis and that comes to Rs.9230. The manner of computing the pension by the respondents is therefore completely wrong and bereft of any logic. Therefore, we hold that the order of August 2017 at Annexure-A12 is completely erroneous and unjustified and the same stands quashed. The respondents are directed to grant revised pension of Rs.9230/- to the applicant w.e.f. 01.01.2006 along with consequential benefits within a period of one(1) month from the date of receipt of copy of this order.”

9. CAT Ernakulam, in its judgement dated 23-10-2018 in OA No. 180/01071/2017 concurred with the above cited judgement of CAT Bangalore.

10. It is, therefore, requested that the minimum revised pension may please be fixed as Rs.9230 w.e.f. 1-1-2006 for the pre-2006 pensioners who retired from the pay scale of Rs.6500-10500/- in the 5th CPC or equivalent pay scales in the earlier Pay Commissions.

Thanking you in anticipation. With kind regards,

Yours truly,



(Harchandan Singh),
Secretary General, RSCWS.

Copy for information & favourable consideration to:

1. Shri Sanjiv Narain Mathur, Joint Secretary, DOP&PW,
3rd Floor, Lok Nayak Bhawan, Khan Market, New Delhi-110003
2. Shri Harjit Singh, Director, DOP&PW,
3rd Floor, Lok Nayak Bhawan, Khan Market, New Delhi-110003