

Give anomaly arrears to pensioners from 2006: Delhi HC

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In a decision that would cheer up all categories of Central Government pensioners, the Delhi High Court has ruled that the arrears of the corrected anomaly under the Sixth Pay Commission be granted with effect from January 1, 2006, and not from the prospective date of September 24, 2012.

The Sixth Pay Commission had introduced broad pay bands, replacing individual scales, and had provided that pension of employees who retired prior to 2006 shall not be less than 50 per cent of the minimum pay in the pay band plus grade pay corresponding to the scale held by them at the time of retirement as introduced with effect from January 1, 2006.

The said recommendation was accepted and implemented. However, the government later stated that the "minimum pay" would imply the minimum pay of the pay band itself and not the minimum pay within the pay band corresponding to the fitment of the scale held prior to the 2006. The pay commission categorised employees into four pay bands and each pay band contained different pay scales for different ranks.

The government move resulted in minuscule difference in pension of various ranks since all ranks in a pay band were brought down to the minimum of the pay band rather than the minimum of the relevant rank pay scale.

The pension of civilian grades of junior time scale, senior time scale and junior administrative grade and of military ranks of Lieutenant, Captain and Major were released on the same minimum of Rs 15,600, leading to discontent among pensioners.

The Full Bench of the Central Administrative Tribunal (CAT), however, came to the conclusion that pensions were to be based on the minimum of the pay scale within the pay band separately calculated for each rank and not the minimum of the pay band itself. Accordingly, it quashed the clarification issued by the government and granted relief from January 2006. The CAT's decision, however, was challenged by the government before the Delhi High Court.

The government also acceded to the formula as was being demanded by pensioners and interpreted by CAT and issued implementation instructions to the effect in January 2013. However, rather than granting arrears from January 2006, it granted arrears from September 24, 2012. The Delhi High Court has, however, upheld the CAT decision and held once the mistake was admitted by the government, it could not be applied prospectively.

Chandigarh-based lawyer Navdeep Singh says the judgment is in line with well established principles that once an anomaly is sought to be rectified, it needs to be corrected from the date of its inception and not any future artificially created date.