

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH  
Original Application No.180/00693/2017**

**Monday, this the 10<sup>th</sup> day of September, 2018**

**CORAM:**

**Hon'ble Mr. Ashish Kalia, Judicial Member**

K.C.Bhaskaran

S/o.Late Chandu Nair, aged 88 years

Head Postmaster (HSG I) (Retd.)

'Sukrutham', Nellikkat, Balla P.O

Kanhangad – 671 531

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**Applicant**

**(By Advocate – Mr.C.S.G Nair)**

**V e r s u s**

1. Director of Accounts (Postal)  
Kerala Circle, Trivandrum – 695 001

2. Chief Postmaster General  
Kerala Circle, Trivandrum -695 033

3. Union of India  
represented by its Secretary  
Department of Pension & Pensioners' Welfare  
Loknayak Bhavan, Khan Market  
New Delhi – 110 001

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**Respondents**

**(By Advocate – Mr.Brijesh.A.S, ACGSC)**

This Original Application having been heard on 5.9.2018, the Tribunal on 10.9.2018 delivered the following:

**ORDER**

**Per: Ashish Kalia, Judicial Member -**

The relief sought by the applicant are as under:

“i. To declare that the applicant is entitled for revision of pension based on the pay band plus grade pay applicable to HSG I w.e.f 1.1.2006 i.e, to Rs.9230/-

ii. To direct the respondents to issue revised PPO to the applicant specifying the pension on the basis of 50% of the minimum of the pay in the pay band plus grade pay of Rs.18460/-i.e, Rs.9,230/- w.e.f 1.1.2006 and also the corresponding family pension and grant all consequential benefits including arrears of pension within a stipulated period.

iii. To grant such other relief or relief's that may be prayed for or that are found to be just and proper in the nature and circumstances of the case.”

2. Applicant is aggrieved by the inaction on the part of the respondents to revise his pension. The brief facts of the case are as under:

Applicant is a pensioner who retired as Head Postmaster (HSG-I) from Irinjalakuda Head Post Office on 31.12.1987. He joined the Postal Department as Clerk on 14.8.1952. He had a total service of 35 years 4 months and 17 days. At the time of retirement he was drawing pay in the pay scale of Rs.6500-10500. He was issued with PPO No.3800/LPR vide Annexure A-1. On implementation of 6<sup>th</sup> Central Pay Commission, the pay scale of Higher Selection Grade I (HSG I) was upgraded to Rs.7450-11500 and revised to PB2 with a grade pay of Rs.4600/-. As per CCS (Revised Pay) Rules, 2008, the pay scale of Postmaster (HSG I) was revised to Rs.9300-34800 with a Grade Pay of Rs.4600/- w.e.f 1.1.2006.

3. As per the fitment table annexed to CCS (RP) Rules, 2008, the minimum pay in the Pay Band of Rs.9300-34800 with a Grade Pay of Rs.4600/- is Rs.18460/-. Thus applicant submits that 50% of that amount of Rs.18460/- is to be paid as pension i.e, Rs.9230/- w.e.f 1.1.2006. A copy of fitment table annexed to CCS (RP) Rules, 2008 is available at Annexure A-2. Learned counsel for the applicant submits that the issue is covered by the order of this Tribunal in an identical O.A No.715/2012, a copy of the same is

available at Annexure A-3. It is submitted that irrespective of the qualifying service of the employee, he is entitled for 50% of the minimum of the pay in the revised pay band plus grade pay as his pension. Annexure A-3 was challenged before the Hon'ble High Court of Kerala and the same was dismissed. Respondents filed review petition before the Hon'ble Supreme Court and that was also dismissed vide Annexure A-4 order. It is also submitted that this Tribunal had allowed the same issue in O.A No.180/526/2017 also, copy of which is available at Annexure A-5.

4. The applicant had submitted a representation on 25.3.2017 for revising his pension based on the revised pay of HSG I vide Annexure A-6 and so far that representation was not considered.

5. Learned counsel for the applicant submits that **Shri.N.R.Purushothaman Pillai**, an Enforcement Officer retired from the Directorate of Enforcement, Ministry of Finance had filed O.A No.1135/2013 before this Tribunal praying for revision of his pension based on the revised pay of Enforcement Officer w.e.f 1.1.2006. The pay of the Enforcement Officer which was Rs.6500-10500 was upgraded w.e.f 21.4.2004. The O.A was allowed on 12.6.2015 directing for revision of his pension to Rs.9375/- being 50% of the revised minimum pay of Rs.18750/- w.e.f 1.1.2006.

6. This order was challenged by the respondents before the Hon'ble High Court of Kerala in OP(CAT) No.169/2015 and the same was dismissed vide

Annexure A-7. Thus, the settled position is that the revised pension of the applicant should be calculated taking into account the upgraded pre-revised pay scale of Rs.7450-11500 with a grade pay of Rs.4600/-. The Hon'ble High Court of Delhi in W.P(C) No.3035/2016 has quashed and set aside O.M dated 11.2.2009 notified by the Department of Pension and Pensioner's Welfare, concerning revision of pension of pre-2006 pensioners, wherein it has been stated that 'Therefore, the benefit of upgradation of post subsequent to their retirement would not be admissible to the pre-2006 pensioners in this regard.' and ordered that 'to the extent it states that the benefit of upgradation of posts subsequent to the retirement would not be admissible to the pre-2006 pensioners.' A copy of the same is available at Annexure A-8.

7. Notices were issued to the respondents and they put appearance and filed their reply statement.

8. In the reply statement respondents submitted that as per 6<sup>th</sup> CPC, CCS (Revised Pay) Rules, 2008, the pay scale of Higher Selection Grade I (HSG I) is Rs.7450-11500 and revised to PB2 with a grade pay of Rs.4600/-.But as per para 5 of the DOP OM F.No.38/37/08-P&PW(A) dated 11.2.2009, "the benefit of upgradation of posts subsequent to their retirement would not be admissible to the pre-2006 pensioners". Respondents further submitted that the Postal Directorate vide their letter No.26-17/13-PA(PEA) dated 10.7.2013 clarified that "the revision is to be made keeping in view the revised pay scale/Grade Pay corresponding to the pay scale from which the petitioner had retired and not the revised pay scale of the upgraded post and

endorsed the DOP&PW OM of even No. dated 11.2.2009. The applicant retired in the scale of Rs.2000-60-2300-75-3200 on 31.12.1987 and the corresponding revised scale as per 6<sup>th</sup> CPC is 9300-34800+G.P4200. As per the DOP&PW OM No.38/37/08-P&PW(A) dated 6.4.2016, the 50% of the minimum in the Pay Band + G.P i.e, Rs.16290/2 = Rs.8145/-has been authorised as his basic pension w.e.f 1.1.2006. Now, the applicant is requesting for revision of his pension as per the upgraded scale in P.B-2 with GP Rs.4600/-which is not admissible. Respondents have relied upon the order in O.A No.912/2015 by Chandigarh Bench of this Tribunal which states that there is no provision in any of the DOP&PW.O.M's for notional fixation of pay in the revised pay scale for those who had retired prior to 1.1.1996/1.1.2006. Hence, respondents submitted that the applicant's contention that his pension is to be revised to Rs.9230/- w.e.f 01.01.2006 as per the upgraded scale is not tenable.

9. The applicant has also filed rejoinder thereto and submitted that the Hon'ble High Court of Delhi has already quashed the O.M dated 11.2.2009 to the extend it states that the benefit of upgradation of posts subsequent to the retirement would not be admissible to the pre-2006 pensioner's.

10. Additional reply statement has been filed by the respondents refuting the contentions in the rejoinder and prayed for rejecting the O.A.

11. Heard the counsel for the parties Mr.C.S.G Nair and Mr.Brijesh.A.S, ACGSC and perused the documents.

12. The short question raised before this Tribunal is that whether the applicant is entitled for revision of pension based on the pay band plus grade pay applicable to HSG I w.e.f 1.1.2006 i.e, to Rs.9230/-?

13. Applicant's case in the present Original Application is identical to the applicant in O.A 180/00526/2016. This Tribunal has allowed that Original Application wherein the applicant Mr.V.Prabhakaran, Retd. Deputy Postmaster (HSG I) was a similarly situated person and retired like the applicant herein as Head Postmaster (HSG I). Both the applicants were retired prior to 01.01.2006 and seeking the benefit of para 4.2 of O.M dated 1.9.2008 which 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 per cent of the minimum of the pay in the pay band plus the grade pay corresponding to the pre-revised pay scale from which the pensioner had retired. In the case of HAG+ and above scales, this will be per cent of the minimum of the revised pay scale.”

14. As per O.M dated 1.9.2008 the benefit of pay fixation in terms of para 4.2 shall be permissible by revising the pension of pre- 1.1.2006 pensioners. Para 4.2 being the policy decision of the Government of India, the same has to be the guiding principle for determining the 6<sup>th</sup> CPC revised pension for pre-1.1.2006 pensioners. The applicant who has been retired in the year of 1987 in the pay scale of Rs.6,500-10,500/- was also entitled for 50% of the minimum of the pay in the pay band plus grade pay.

15. Therefore, this Tribunal is of the view that applicant is entitled to

revised pension in terms of paragraph 4.2 of OM dated 1.9.2008 or 50% of the minimum pay in the pay band of Rs. 9,300-34,800/- with Grade Pay of Rs. 4,600/- or as per Annexure A2 fitment table, whichever is beneficial to the applicant. The respondents shall issue revised Pension Payment Order in terms of what is stated above, within a period of two months from the date of receipt of a copy of this order. Ordered accordingly.

16. OA is disposed of with the above direction. No order as to costs.

**(ASHISH KALIA)**  
**JUDICIAL MEMBER**

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**List of Annexures**

- Annexure A-1 - True copy of the PPO No.3800/LPR
- Annexure A-2 - True copy of the fitment table annexed to CCS (RP) Rules,2008
- Annexure A-3 - True copy of the order dated 16.8.2013 in O.A No.715/2012
- Annexure A-4 - True copy of the Order in RP(C) No.2565/2015 in SLP(C) No.6567/2015 dated 28.8.2015
- Annexure A-5 - True copy of the Order in O.A No.526/2017 dated 16.3.2017
- Annexure A-6 - True copy of the representation dated 25.3.2017
- Annexure A-7 - True copy of the judgment in OP(CAT) No.169/2015
- Annexure A-8 - True copy of the judgment of the Hon'ble High Court of Delhi in Ramphal v. Union of India (WP(C) No.3035/2016) dated 3.8.2016
- Annexure R1 - A true copy of DOP OM F.No.38/37/08-P&PW(A) dated 11.2.2009
- Annexure R2 - A true copy of Directorate letter No.26-17/13-PA(PEA)dated 10.7.2013
- Annexure R3 - A true copy of the order dated 1.9.2016 passed by the Hon'ble CAT, Chandigarh Bench in O.A No.912/2015 filed by Sri.Lachhman Das & Others
- Annexure R4 - A true copy of letter No.6800/Pen/Gnl 1/3800/LPR dated 21.3.2018 issued by Accounts Officer/Pension, Office of the Director of Accounts (Postal), Kerala Circle.

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