



DEDICATED TO THE
CAUSE OF PENSIONERS
SINCE 1991

RAILWAY SENIOR CITIZENS WELFARE SOCIETY

(Estd. 1991, Regd. No. 1881 – Under Registration of Societies Act)

H.O 32, Phase- 6, Mohali, Chandigarh -160055

Email : rscws1991@gmail.com (M: 9316131598, 836045258, 9569631598)

Website: www.rscws.com Quarterly Journal: “Pensioners’ Rail Sampark”
AFFILIATED TO BHARAT PENSIONERS’ SAMAJ (BPS)

IDENTIFIED BY DOP&PW - UNDER PENSIONERS’ PORTAL GOVT. OF INDIA
MEMBER, SCOVA (STANDING COMMITTEE FOR VOLUNTARY AGENCIES) (GOI)

N.P. Mohan, EX CE WR Chairman RSCWS 1023-Sector 15 B Chandigarh -160015 (Ph: 0172 2772875, M: 9417870544) Email: npmohan34@gmail.com	O. S. Dogra, Ex. CME NR President RSCWS E-62, GH-3, MDC-5 Panchkula-134114 (Ph: 01722556453, M: 9357556453) Email: omrama4439@gmail.com	Harchandan Singh, Ex-SSE NR Secretary General, RSCWS 32, Phase-6, Mohali-160055 (M: 9316131598, 836045258,) Email : rscws1991@gmail.com harchandan_chd32@yahoo.co.in
No. RSCWS/HO/CHD/ Memo / 2018-5		Dated: 16-10-2018

Secretary Finance,
Dept. Of Expenditure, Govt. of India,
North Block, New Delhi-110001

Sub: Revision of Pension of Pre 2006 Pensioners – Reg: Benefit of Replacement Scales / Upgraded Posts by 6th CPC for fixing of Minimum of Revised Pension of Pre-2006 Pensioners

- Ref:- i) Resolution of GOI No. 38/37/08-P&PW (A) dated 29-8-08 & OM Dated 1-9-2008,
ii) Para 5 of DOP&PW O.M. F.No. 38/37/08-P&PW (A) dated 11-2-2009
iii) DOP&PW O.M. F.No. 38/37/08-P&PW (A) dated 30-7-2015
iv) RSCWS Memorandum to Hon. MOS Personnel, PG & Pension, GOI with a Copy to you
No. RSCWS/HO/CHD/ Memo / 2018-5 dated 21-05-2018 - (Copy attached)
v) Judgment of CAT Ernakulam in OA 693-2017 dated 10.9.2018 - *K.C.Bhaskaran – Vs – Union of India & others*

Dear Sir,

1. In continuation of our Memorandum dated 21-5-2018 (cited above), we, once again, seek justice from you for the large number of affected Pre-2006 Pensioners who had unjustly been denied the benefit of upgraded posts for fixation of their Revised Pension after 6th CPC.
2. The denial of benefit of upgraded posts for fixation of Revised Pension w.e.f. 1-1-2006, vide Para 5 of the DOP&PW OM dated 11-2-2009 cited above, has been repeatedly held to be illegal and set aside in numerous cases decided by the various Benches of CAT, High Courts and Supreme Court – as cited by us in our previous Memorandums (copy of which is attached herewith for ready reference).
3. The benefit of replacement scale of Rs.7450-11500 (Grade Pay Rs.4600 in PB 9300-34800) in place of Scale Rs.6500-10500, has been given to all Petitioners in each of these cases as per directions of the Courts in those cases.
4. In its latest orders, CAT Ernakulam in OA 693-2017 dated 10.9.2018 (cited above), has held as under:

“13. _____ 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:-

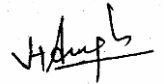
“4.2. The fixation of pension will be subject to the provision that the revised pension, in no case, shall be lower than fifty per cent of the minimum of the pay in the pay band plus the grade pay corresponding to the pre-revised pay scale from which the pensioner had retired. In the case of HAG+ and 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 6th 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.”

5. a) In the above cited case decided by CAT Ernakulam in OA 693-2017 dated 10.9.2018, has referred to several judgments of various courts in all of which similar orders had been passed by the Courts in similar cases.
- b) As per law of natural justice as repeatedly upheld by the Apex Court, the wisdom of the directions of the Courts – especially on policy matters – should be applied to all similarly placed employees & pensioners instead of forcing them into repetitive litigation.
6. Delhi High Court in *W.P.(C) 8012/2013* had held that *“policy decision of the Government in the OM dated September 01, 2008 to fix pension for all categories of pensioners did not classify post of pre January 01, 2006 retirees and all were entitled to pension as per a common formula”*
7. It is, therefore, requested that Pre-2006 Pensioners be given the benefit of re-placement in Pay Band and Grade Pay of the post from which they retired so that minimum pension be not lower than 50% of the pay in the revised pay band plus the grade pay corresponding to the post from which the pensioner retired – as per *DOPPW OM dated 30-7-2015*.

Yours faithfully,



(Harchandan Singh)
Secretary General, RSCWS

Copy for information & favourable consideration to:

- **Secretary, AR PG & Pension, Patel Bhawan, Parliament Street, New Delhi -110001**



RAILWAY SENIOR CITIZENS WELFARE SOCIETY

(Estd. 1991, Regd. No. 1881 – Under Registration of Societies Act)

H.O 32, Phase- 6, Mohali, Chandigarh -160055

Email : rscws1991@gmail.com (M: 9316131598, 836045258, 9569631598)

Website: www.rscws.com Quarterly Journal: “Pensioners’ Rail Sampark”

AFFILIATED TO BHARAT PENSIONERS’ SAMAJ (BPS)

IDENTIFIED BY DOP&PW - UNDER PENSIONERS’ PORTAL GOVT. OF INDIA
MEMBER, SCOVA (STANDING COMMITTEE FOR VOLUNTARY AGENCIES) (GOI)

DEDICATED TO THE
CAUSE OF PENSIONERS
SINCE 1991

N.P. Mohan, EX CE WR Chairman RSCWS 1023-Sector 15 B Chandigarh -160015 (Ph: 0172 2772875, M: 9417870544) Email: npmohan34@gmail.com	O. S. Dogra, Ex. CME NR President RSCWS E-62, GH-3, MDC-5 Panchkula-134114 (Ph: 01722556453, M: 9357556453) Email: omrama4439@gmail.com	Harchandan Singh, Ex-SSE NR Secretary General, RSCWS 32, Phase-6, Mohali-160055 (M: 9316131598, 836045258,) Email : rscws1991@gmail.com harchandan_chd32@yahoo.co.in
No. RSCWS/HO/CHD/ Memo / 2018-5		Dated: 21-05-2018

Hon. MOS Personnel, PG & Pension, GOI,
North Block, New Delhi-110001

Subject: Revision of Pension of Pre 2006 Pensioners – Reg: Benefit of Upgraded/Merged Posts by 6th CPC for fixing of Minimum of Revised pension of Pre-2006 Pensioners

Reference:- i) Resolution of GOI No. 38/37/08-P&PW (A) dated 29-8-2008 & OM Dated 1-9-2008,
ii) Para 5 of DOP&PW O.M. F.No. 38/37/08-P&PW (A) dated 11-2-2009
- (which has been quashed by various Courts but not withdrawn by the DOP&PW)
iii) DOP&PW O.M. F.No. 38/37/08-P&PW (A) dated 30-7-2015

Dear Sir,

We seek your benign intervention in the following matter of serious injustice with a section of Pre-2006 Central Government Pensioners:

1. Sixth Pay Commission had merged and upgraded some posts keeping in view their duties & responsibilities. The recommendations of the Sixth CPC were accepted by the Government vide Resolution of the Government Notified on 29-8-2008 and orders were issued thereon vide DOPT & DOPPW vide OMs dated 1-9-2008.

2. DOP&PW subsequently modified these orders vide O.M. File No. 38/37/08-P&PW (A) dated 11-2-2009 and ordered that the benefit of upgrading of posts by Sixth Pay Commission shall not be given for the fixation of Revised Pension of Pre-2006 Pensioners.

3. Above cited orders of DOP&PW (dated 11-2-2009) had been quashed by the various Courts including the Apex Court, which *inter-alia* directed that “The fixation (of Pension) ... will be subject to the provision that the revised pension, in no case, shall be lower than 50% of the sum of the minimum of the pay in the pay band and the grade pay thereon corresponding to the pre-revised pay scale from which the pensioner had retired.” DOP&PW issued the orders thereon vide OM dated 1-9-2008.

4. DOP&PW vide OM No.38/37/08-P&PW(A) Dated 30th July, 2015, in compliance with the judicial pronouncements, had decided that the pension/family pension of all pre-2006 pensioners/family pensioners may be revised in accordance with this Department's OM No.38/37/08-P&PW(A) dated 28.1.2013 with effect from 1.1.2006.

5. Para 5 of DOPPW OM dated 11-2-2009 had specifically been quashed by various Courts – including the High Court of New Delhi in WP(C) 3035/2016 dated 3-8-2016 in Ram Phal-vs-Union of India & Ors and CAT Bangalore in CP 237/2015 in OA 231/2013 (Parthasarthy-Vs-Union of India).

6. High Court of Kerala at Ernakulam had held as under in OP (CAT).No. 169 of 2015 (Z) in its judgment dated 18th January, 2016 **UNION OF INDIA vs N.R. PURUSHOTHAMAN PILLAI:**

“The resultant position that emerges from the pronouncement of the Central Administrative Tribunal as well as the different High Courts and the Apex Court is that, computation of pension in the matter of implementation of the 6th Pay Commission Report has to be at 50% of the pay scale with respect to the scale of pay applicable to the post in question and not to the corresponding scale of pay to the one at which the incumbent has retired.”

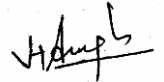
7. **Regrettably the benefit of upgrading of posts was still not given to the Pre-2006 Pensioners in spite of the above cited judgments of various Courts.** The benefit of the Court judgments on this had been restricted only to the Petitioners and not to other similarly placed Pre-2006 Pensioners.

8. This is totally discriminatory and violates Article 14 of the Constitution as well as under the settled law that the decisions taken in one specific case either by the Judiciary or the Govt. should be applied to all other similar cases without forcing the other employees or pensioners to approach the court of law for an identical remedy or relief.

9. Delhi High Court in *W.P.(C) 8012/2013* had held that ***“policy decision of the Government in the OM dated September 01, 2008 to fix pension for all categories of pensioners did not classify post of pre January 01, 2006 retirees and all were entitled to pension as per a common formula.”***

10. It is, therefore, requested that Pre-2006 Pensioners be given the benefit of upgraded Pay Band and Grade Pay of the post from which they retired so that minimum pension be not lower than 50% of the pay in the revised pay band plus the grade pay corresponding to the post from which the pensioner retired – as per DOPPW OM dated 30-7-2015.

Yours faithfully,



**(Harchandan Singh)
Secretary General, RSCWS**

Copy for information & favourable consideration to:

1. **Secretary, Personnel AR/ PG & Pension, Patel Bhawan, New Delhi-110001**
2. **Joint Secretary, Department of Pensions & Pensioners' Welfare,
3rd Floor, Lok Nayak Bhawan, Khan Market, New Delhi-110003**
3. **Shri Harjit Singh, Director, Department of Pensions & Pensioners' Welfare,
3rd Floor, Lok Nayak Bhawan, Khan Market, New Delhi-110003**