


RAILWAYS SENIOR CITIZENS WELFARE SOCIETY

CHANDIGARH, PANCHKULA & MOHALI

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No. RSCWS/ Memo-PM/2013-1		Dated: 8-5-2013

Dr. Manmohan Singh,
Hon. Prime Minister of India,
Government of India,
South Block, New Delhi

Subject:- Appeal for Implementation of Judgement of Delhi High Court in WT 1535-2012 –
- Upholding CAT Judgement in OA 655-2010 and
- “Quashing” DOP OM dated 3-10-2008 & 14-10-2008.

Reference: i) MOP (DOP & PW) Office Memorandum F.No. 38/37/08-P&PW (A), dated 1-9-2008
– Reg: revision of pension of pre-2006 pensioners and Family Pensioners.
ii) Ministry of Personnel (DOP&PW) O.M. F.No. 38/37/08-P&PW(A)pt.1 dated 3.10. 2008 –
Reg: Clarifications for implementing the provisions of Para 4.2 of O.M. cited above.

Respected Sir,

1. We seek your benign intervention in a matter of extreme importance - wherein Pre-2006 Pensioners have been made to suffer over the past several years only on account of an illegal and unjust “Clarificatory” order issued by the DOP&PW (vide OM dated 3-10-2008) – mis-interpreting the decision of the Union Cabinet on Sixth Pay Commission recommendations vide GOI Resolution published vide MOP (DOP&PW) No 38/37/08-P&PW (A) dated 29-8-2008.

2. a) The said order of DOP(P&PW) dated 3-10-2008, has since been quashed by as many as 11 (Eleven) different Benches of CAT as well as by Punjab & Haryana High Court (in 40 Cases filed by different Applicants) - as per details in Annexure I submitted herewith.

2. b) Full Bench of Central Administrative Tribunal (CAT) Principal Bench New Delhi, had held as under in OA 655-2010 decided on 1-11-2011,

30. In view of what has been stated above, we are of the view that the clarificatory OM dated 3.10.2008 and further OM dated 14.10.2008 (which is also based upon clarificatory OM dated 3.10.2008) and OM dated 11.02.2009, whereby representation was rejected by common order, are required to be quashed and set aside, which we accordingly do. Respondents are directed to re-fix the pension of all pre-2006 retirees w.e.f. 1.1.2006, based on the resolution dated 29.08.2008 and in the light of our observations made above. Let the respondents re-fix the pension and pay the arrears thereof within a period of 3 months from the date of receipt of a copy of this order. OAs are allowed in the aforesaid terms, with no order as to interest and costs.”

3. Petition of the Government of India (against the judgement of CAT New Delhi in OA 655 – 2010), has been “Dismissed” by a Division Bench of Delhi High Court in WP 1535 – 2012 vide its judgement Dated 29-4-2013, where in Delhi High Court has upheld the said judgement of CAT

and has concurred with the Judgement of the Punjab and Haryana High Court in *W.P.(C) No.19641/2009 R.K.Aggarwal & Ors. Vs. State of Haryana & Ors.* and has held as under:

“8. We are in complete agreement with the reasoning of the Division Bench of the Punjab & Haryana High Court and adopt the same and do not burden ourselves any further. We conclude by noting that as regards the substance of the view taken by the Tribunal, even the Central Government accepts its correctness, but insists to make the same applicable prospectively.

9. The writ petitions are dismissed. The decision of the Full Bench of the Tribunal is upheld but without any order as to costs.”

4. With the above cited verdict of Delhi High Court, it is very clear that the pension has to be re-fixed in accordance with Resolution dated 29-8-2008 w.e.f. 1-1-2006 as per the directive of CAT.

5. MOP(DOP&PW) vide its OM No F.No.38/37/08-P&PW(A) dt 28.01.2013, had already accepted the above principle prospectively from 24-9-2012, and ordered as under:

“2. ----- pension of pre-2006 pensioners as revised w.e.f. 1.1.2006 in terms of para 4.1 or para 4.2 of the aforesaid OM dated 1.9.2008, as amended from time to time, would be further stepped up to 50% of the sum of minimum of pay in the pay band and the grade pay corresponding to the pre-revised pay scale from which the pensioner had retired, as arrived at with reference to the fitment tables annexed to the Ministry of Finance, Department of Expenditure OM No.1/1/2008-IC dated 30th August, 2008.”

“9. These orders will take effect from the date of approval by the Government, i.e. 24.9.2012.”

6. Keeping in view the various judgements of CAT & High Courts cited above, subjecting the aged Senior Citizens to any further litigation in the evening of their life is not only a wasteful expenditure of Govt and harassment to pensioners but also in blatant violation of the National Litigation Policy.

7. It is, therefore, requested that the minimum Pension of Pre 2006 Pensioners as fixed in OM dated 28-1-2013 be made effective from 1-1-2006 and suitable directive may please be issued for payment of arrears at the earliest as per judgment of Full Bench of Principal Bench CAT (Central Administrative Tribunal) as upheld by Delhi High Court,.

Yours faithfully,

Encl: One Annexure

(Harchandan Singh),
Secretary General, RSCWS.

Copy for kind & favourable consideration to:

1. Hon. MOS for Personnel, PG & Pensions, North Block, New Delhi.
2. Hon. MOS for Finance Expenditure, North Block, New Delhi.
3. Secretary, Finance Expenditure, North Block, New Delhi.
4. Secretary, Department of Public Grievances, Adm. Reforms & Pensions, 5th Floor, Patel Bhavan, Parliament Street, New Delhi - 110001
5. Ms. Tripti P. Ghosh, Director, Department of Pension & Pensioners' Welfare, Room No.320, 3rd Floor, Lok Nayak Bhavan, Khan Market New Delhi

ANEXURE – I**LIST OF COURT CASES WITH JUDGEMENTS ON MODIFIED PARITY FROM 1-1-2006
FOR Pre-2006 PENSIONERS**

S.No.	Court/Tribunal	Petition & Year	First Petitioner	No. of Cases / Petitions	Date of Judgement	Remarks
1	AFT- PB Delhi	OA 139/2009	Col. PK Kapur	1	30/06/2010	
2	AFT- PB Delhi	OA 24/2010	Lt.Comm Avtar Singh	2	14/09/2010	
3	AFT-Chandigarh	OA-277/2010	Romesh Chand	9	01/11/2010	
4	AFT-Chandigarh	OA-257/2010	Jagdish Chandar	6	25/11/2010	
5	CAT-PB Delhi	OA-655/2010	Central Govt SAG (S-29) Pensioners	4	01/11/2011	
6	CAT-Ernakulam	OA-843/2010	S29&S 26 SP Pillai	1	24/11/2011	
7	AFT - PB-Delhi	OA- 106/2009	Wg.Comdr. VS Tomar	3	07/12/2011	
8	AFT - Hyderabad	OA- 568/2010	S 29 Dr.Kotra	3	30/12/2011	
9	CAT-PB Delhi	OA-201/2010	ML Gulati	1	29/02/2012	
10	CAT-PB Delhi	OA- 126/2011	Wg.Comdr.	2	16/08/2012	
11	Pb & Hy High Court	CWP 19641/2009	RKAggarwal &Ors	8	21/12/2012	
12	Uttrakhand HC	WP(S/S) 584/2012	ASI (M) Vinod Singh & Ors	7	15-3 2013	Revision of Pension ordered from 1-1-2006
13	Delhi High Court	WP (C) 1535/2012	UOI vs CG SAG (S 29) Pensioners	4	29/04/2013	Petition dismissed against CAT Judgement in OA 655-2010