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MEMBER, SCOVA (Standing Committee for Voluntary Agencies) (GOI)

Affiliated to Bharat Pensioners' Samaj (BPS)

No. RSCWS/HO/CHD /2019-9

Dated: 18-2-2019

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

Subject: Revision of Pension of Pre-1996 Pensioners w.e.f. 1-1-2006 - Regarding: Minimum Revised Pension of Pensioners who retired from posts in 4th CPC Pay Scale of Rs.1400-2300 which were placed in replacement scale of Rs.5000-8000/PB-2 Rs.9300-34800 + GP Rs.4200.

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

Dear Sir,

1. We draw your kind attention to the unjust suffering of thousands of Pre-1996 Pensioners who retired from posts in 4th CPC Pay Scale of Rs.1400-2300 who have unjustly been denied the benefit of replacement scale of Rs.5000-8000/PB-2 Rs.9300-34800 + GP Rs.4200 in fixation of their minimum revised Pension from 1-1-2006.

2. Various courts in their judgements on this issue, have held that the Revised Minimum Pension has to be fixed at 50% of the pay with respect to the scale of pay applicable to the post in question and not to the corresponding scale of pay at which the incumbent has retired. Kind attention is invited towards some of the judgments of the Apex Court, High Courts and various Benches of CAT:

2. a) Apex Court in the case of Major General (Retd) SPS Vains in SLP (CIVIL) NO. 12357 of 2006 decided on 9-9-2008, has re-established the finality of the judgment of the Constitutional Bench in D.S. Nakara vs UOI (1983) 1 SCC 305 - wherein creation of different classification of homogeneous group of Pensioners was held to be violative of Article 14 of the Constitution of India.

2. b) CAT Ernakulam in its judgement in OA 180/00200/2014 dated 16 July, 2015 had held that "Any modification of the Cabinet resolution by a subsequent administrative order is ultra vires. Accordingly, the O.As are allowed. The respondents are directed to issue revised Pension Payment Orders to the applicants in the O.As specifying that pension of pre-2006 retirees will be calculated on the basis of 50% of the minimum of the pay band plus grade pay corresponding to the pre-revised pay scale of the respective post held at the time of retirement, proportionate to the length of his service and fix higher of the two as pension with effect from 1.1.2006 and corresponding family pension and grant all consequential benefits including arrears."

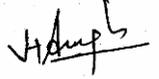
2. c) CAT Ernakulam in its judgement dated 13-7-2012 in O.A. No 33/2012 had quash and set aside impugned order and directed the respondent to refix the pensionary benefits of the applicant from 1.1.2006 as if he was drawing the pre-revised V CPC scale of pay Rs.5000-8000 and grant arrears thereof.

2. d) In its final judgment dated 16-12-2016, the Hon'ble High Court of Kerala, in WPC No. 34171/2016, WPC No. 22153/2016 and WPC No. 21477/2016, has held that the "computation of pension in the matter of implementation of the 6th pay commission report has to be at 50% of the pay 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."

2. e) All these judgements have been implemented and the Petitioners have been given the benefit of the same as cited above. Denying the same to other similarly placed pensioners is discriminatory and violative of Article 14 of the Constitution.

3. It is, therefore, requested that the Minimum Revised Pension for Pre-1996 Pensioners retired from posts in scale Rs.1400-2300, be fixed at Rs.6750 from 1-1-2006 with proportionate Family Pension, in case of posts which were placed in replacement scale of Rs.5000-8000/PB-2 Rs.9300-34800 + GP Rs.4200 at 50% of the revised pay with respect to the scale of pay as applicable to the post from which the incumbent Pensioner had retired and not corresponding to the normal scale of pay at which the Pensioner had retired.

Yours truly,



(Harchandan Singh),
Secretary General, RSCWS.

Copy for information & necessary action to:

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