

## **ITEM-2 PROPOSED BY RSCWS FOR AGENDA OF SCOVA FEB-2018**

**Subject: Revision of Pension of Pre 2006 Pensioners – Reg.: Benefit of Upgraded / Merger of Posts by 6<sup>th</sup> CPC for fixing of Minimum of Revised pension of Pre-2006 Pensioners – Application of Court Judgments to all similarly placed cases in Policy Cases**

1. Benefit of upgrading posts as per recommendations of Sixth Pay Commission, has been unjustly denied for the fixation of the Revised Pension of all the affected Pre-2006 Pensioners even at the minimum level of the Upgraded / Merged Scales, vide DOP&PW O.M. F. No. 38/37/08-P&PW (A) dated 3-10-08, 14-10-08 & 11-2-09.

2. All the above cited orders of DOP&PW have been quashed by the various Courts. All SLPs of the Government in this regard, against the judgements of various Benches of CAT and High Courts, have conclusively been rejected by the Apex Court.

3. DOP&PW vide OM dated 30-7-2015 had directed for fixation of Pension of all Pre-2006 Pensioners & Family Pensioners as per Resolution dated 29-8-2008 for Revision of Pension of Pre-2006 Pensioners to 50% of minimum of the Pay in the Pay Band plus Grade Pay of the corresponding Pre-revised scale w.e.f. 1-1-2006 as per Orders of the Supreme Court.

4. a) Benefit of upgrading of Posts denied to Pre-2006 Pensioners has not still been given for fixation of Revised (Minimum) Pension of Pre-2006 Pensioners in spite of specific orders in this regard in numerous cases - including Judgement of CAT Bangalore in OA 231 & 253/2012 Parthasarthy-vs-UOI and Karnataka High Court in WP No.5522 & 55223/2013 UOI-Vs-Parthasarthy; CAT Hyderabad OA No 021/0040/2017 dt 7/12/2017 S. Veerabhadriah Vs UOI. Delhi High Court has held as under in W.P.(C) 3035/2016, RAM PHAL-Vs- UOI & ORS

*“27. Resultantly, the present petition is allowed. The order dated February 10, 2016 is quashed and OM dated February 11, 2009 to the extent it states that the benefit of upgradation of post subsequent to the retirement would not be admissible to the pre-2006 pensioners is quashed and a mandamus is issued to the respondents directing them to fix the pension of the petitioner in sum of 9375/- per month as given in the fitment table appended to the Government of India, Ministry of Personnel, Public Grievance and Pension, Department of Pensioners Welfare Office Memorandum F.No. 38/40/12-P&PW (A) dated 28.01.2013 with effect from January 01, 2006. The petitioner would also be entitled to arrears of the pension as would be refixed by the respondents.”*

5. a) Government has confined the application of judgments to the Petitioners in the above said cases and in other similar cases on this issue. This is totally in violation of Article 14 & 16 of the Constitution and the settled law by the Supreme Court of India.

b) 5<sup>th</sup> CPC in Para 126.5 of its Report had recommended that “...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 to approach the court of law for an identical remedy or relief.. We clarify that this decision will apply only in cases where a principle or common issue of general nature applicable to a group or category of govt. employees is concerned and not in matters relating to a specific grievance or anomaly of an individual employee”.

6. It is, therefore, requested that Pre-2006 Pensioners be given the benefit of upgrading / Merger of Pay Scales of the post from which they retired so that, minimum pension be not lower than 50% of the sum of the pay in the revised Pay Band plus the Grade Pay corresponding to the post from which the pensioner had retired.