

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH :: AT HYDERABAD**

OA/020/099/2020

**Reserved on: 25.11.2022
Pronounced on: 06.01.2023**

Hon'ble Mr. Sudhi Ranjan Mishra, Judicial Member



Y. Papa Rao, S/o. late Sri Rama Murthy,
Aged about 56 years, Occ: Sub Postmaster (Retd.),
O/o. Gatyada-PO, Vizianagaram Division,
R/o. F. No. 204, Harshini Apartments-Subbi Veedi,
Tayarapu Valasa, Visakhapatnam Dist.

.....Applicant

(By Advocate: Mr. K. Phani Raj)

Vs.

1. Govt. of India, Rep. by
The Director General of Posts,
Department of Posts, Ministry of Communications,
Dak Bhavan, New Delhi.
2. The Chief Post Master General,
AP Circle, Krishnalanka, Vijayawada-520013.
3. The Director of Postal Accounts,
AP Circle, Vijayawada.
4. The Superintendent of Post Offices,
Vizianagaram Division, Vizianagaram.

....Respondents

(By Advocate: Mr. B. Siva Sankar, Sr. PC for CG)

ORDER
(As per Mr. Sudhi Ranjan Mishra, Judicial Member)

The applicant filed the OA seeking revision of pension as has been granted to pre-2006 pensioners in terms of Dept of Expenditure, Govt. of India OM dt. 12.04.2016.



2. The applicant was appointed to the post of Postal Assistant w.e.f. 23.02.1983. He was granted financial upgradations under TBOP and BCR Schemes. Subsequently, he was compulsorily retired on 01.09.2002 on disciplinary grounds, by which time, he had completed 19½ years of qualifying service. On his retirement, his pension was initially fixed on prorata basis as Rs.1499/- and the same was fixed at Rs.3500/- after 6th CPC. Further, the Department of Pension & Pensioners' Welfare (for short "**DOP&PW**") issued OM dt. 06.04.2016 for revising the pre-2006 pensions/ family pensions along with arrears of pension from 01.01.2006, without linkage to the qualifying service of 33 years. Subsequently, the Government issued OM dt. 12.04.2016 to the effect that the revised consolidated pension of pre-2006 pensioners shall not be less than 50% of the minimum of the pay in the Pay Band and Grade Pay corresponding to the pre-revised pay scale as per fitment table without pro-rata reduction of pension even if they had qualifying service of less than 33 years at the time of retirement. But the said benefit has not been extended to the applicant despite representation. The applicant submits that when similar benefit was not extended to the pre-2006 pensioners, who are compulsorily retired like him, OA No. 640/2014 was filed before the Ernakulam Bench and the said

OA was allowed by the Tribunal, which was also upheld by the Hon'ble High Court of Kerala and also by the Hon'ble Apex court. Therefore, he is also entitled for the same benefit.



3. Respondents filed reply statement wherein they stated that the applicant was sanctioned pension of Rs.1499/- and all other retirements were paid. On implementation of the VI CPC recommendations, Government issued OM dt. 01.09.2008 and as per para 4.2 of the said OM, pension shall not be lower than 50% of the minimum of the Pay corresponding to the pre-revised Pay Scale from which the pensioner had retired. They further state that the DoP & PW vide OM dt. 22.07.2011 clarified that Para 4.2 of its earlier OM dt. 01.09.2008 will not be applicable for revision of pension/ family pension in respect of the pensioners who were in receipt of compulsory retirement pension and compassionate allowance under Rules 40 and 41 of CCS (Pension) Rules, 1972. Similar clarification was also issued vide OM dt. 12.05.2017 while implementing VII CPC recommendations. The respondents submit that, in view of the clarifications issued vide OMs dt. 22.07.2011 and 12.05.2017, the applicant is not entitled for the relief.

4. Heard learned counsel for both sides and perused the pleadings on record.

5. During the course of hearing of the case, the learned counsel for the applicant produced Office Memorandum No. 38/46/2017-P&PW(A)(4879) dated 14.06.2022 issued by the DoP & PW and submitted that the earlier clarifications vide OMs dt. 25.03.2004, 22.07.2011 and 12.05.2017 in

regard to revision of pension/ family pension of those pensioners who were sanctioned compulsory retirement pension or compassionate allowance have been withdrawn. Relevant paras of the OM dt. 14.06.2022 are extracted hereunder:



“4. Based on representations received from some pensioners and also some court decisions in this regard, the matter has been re-considered in consultation with Department of Expenditure. It has now been decided that the provisions contained in this Department’s OMs No.45/86/97-P&PW(A)-Part III dated 10.02.1998 and No.45/10/98-P&PW(A) dated 17.12.1998 regarding revision of pension/ family pension after 5th CPC, para 4.2 of this Department’s OM No. 38/37/08-P&PW(A) dated 01.09.2008 (as amended / clarified from time to time) regarding revision of pension/ family pension after 6th CPC and this Department’s OM No. 38/37/2018-P&PW(A) dated 12.05.2017 regarding revision of pension/ family pension after 7th CPC by notional fixation of pay, would also be applicable for revision of pension/ family pension in respect of pensioners who were drawing compulsory retirement pension or compassionate allowance. Accordingly, pension/ family pension of such pensioners/ family pensioners shall be revised w.e.f. 01.01.1996, 01.01.2006 and 01.01.2016 in accordance with the aforesaid orders issued for revision of pension of the pre-1996, pre-2006 and pre-2016 pensioners/ family pensioners, respectively.

5. In cases where compulsory retirement pension or compassionate allowance was sanctioned at a rate which was less than full pension, the revised pension computed as per the aforesaid OMs would be proportionate to the reduced initial pension/ compassionate allowance which was sanctioned on compulsory retirement/ dismissal/ removal. In other words, the revised pension/ compassionate allowance computed as per the aforesaid OMs would be reduced by the same percentage by which the initial pension was reduced at the time of sanction of pension/ compassionate allowance on compulsory retirement/ dismissal/ removal. In cases where the compulsory retirement pension was given in full without any reduction, the revised pension computed as per the aforesaid OMs would also be given in full without any reduction.

6. There will be no reduction in the amount of family pension computed as per the aforesaid OMs in any case, including in cases where the amount of initial compulsory retirement pension/ compassionate allowance was less than full pension.

7. Accordingly, the clarification/ instructions contained in this Department’s OMs No.45/86/97-P&PW(A)pt. V dated 25.03.2004, No. 38/37/08-P&PW(A) dated 22.07.2011 and para 11 of OM No. 38/37/2016-P&PW(A) dated 12.05.2017 stand withdrawn.

8. All Ministries/ Departments are requested to revise the pension/ family pension w.e.f. 01.01.1996, 01.01.2006 and 01.01.2016 (as may be applicable) in respect of the pensioners who were sanctioned compulsory retirement pension or compassionate allowance accordingly.”

6. In view of the above OM wherein it is clearly directed to revise the pension/ family pension even in respect of those who were sanctioned compulsory retirement pension or compassionate allowance, this Tribunal is of the view that the applicant is entitled for the relief of revision of his pension and for consequential benefits.



7. In the result, the OA is disposed of with a direction to the respondents to revise the pension of the applicant and pay the consequential benefits as per rules on the subject, within a period of three months from the date of receipt of this order. There shall be no order as to costs.

(SUDHI RANJAN MISHRA)
JUDICIAL MEMBER

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