

वैज्ञानिक तथा औद्योगिक अनुसंधान परिषद  
COUNCIL OF SCIENTIFIC & INDUSTRIAL RESEARCH  
अनुसंधान भवन, 2 रफी मार्ग, नई दिल्ली-110001  
Anusandhan Bhawan, 2, Rafi Marg, New Delhi-10001



No. 5-1(70)/2009-PD

Dated: 24.09.2014

From

संयुक्त सचिव (प्रशासन)  
Joint Secretary (Admn.)

To,

The Directors/Heads of all  
CSIR National Labs./Instts./Hqrs.  
/Complex/Centres/Units.

Sub: Implementation of Government's decision in pursuance to CAT, Principal Bench, New Delhi Order dated 15.05.2014- Revision of pension of members of Central Government SAG (S-29) Pensioners' Association-reg.

Sir,

I am directed to forward herewith the Ministry of Personnel, PG & Pensions, Dept. of Pension & Pensioners' Welfare OM No. 38/37/08-P&PW (A) dated 26<sup>th</sup> August, 2014 & dated 04<sup>th</sup> September, 2014 along with the Hon'ble CAT, Principal Bench, New Delhi Order dated 01.11.2011 and 15.05.2014 for information, guidance and compliance.

Yours faithfully

  
(O.P. Dhawan)  
Deputy Secretary

Encl: As above

Copy to:

- ✓ 1. Head, IT Division with the request to make this communication available on the website & Policy Repository.
2. Office copy

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No.38/37/08-P&PW(A)  
Government of India  
Ministry of Personnel, Public Grievances and Pensions  
Department of Pension and P W

3<sup>rd</sup> Floor, Lok Nayak Bhawan,  
Khan Market, New Delhi.  
Dated the 4th September, 2014

**OFFICE MEMORANDUM**

Subject:- Implementation of Government's decision in pursuance to CAT, Principal Bench, New Delhi order dated 15.5.2014 - Revision of pension of members of Central Government SAG (S-29) Pensioners' Association - regd

The undersigned is directed to refer to this Department's OM of even number dated 26.8.2014 on the above subject vide which instructions were issued in regard to the implementation of order dated 15.5.2014/1.11.2011 of CAT, Principal Bench, New Delhi in respect of members of the Petitioners' Association (Central Government SAG (S-29) Pensioners' Association) in OA No.655/2010 only.

2. An MA No.2381/2014 in CP No.158/2012 in OA No.655/2010 came up for hearing on 27.8.2014. In the above MA, the Department has sought extension of time for implementation of order dated 15.5.2014 in CP No.158/2012. The Hon'ble Tribunal has passed the following directions

In the circumstances, as prayed, the matter shall appear on 7.10.2014. In the meanwhile, we hope and trust that the respondents shall implement the order and file compliance report".

A copy of the order dated 27.8.2014 of Hon'ble CAT, Principal Bench, New Delhi in MA No.2381/2014 in OA NO.655/2010 is enclosed.

3. In view of the above directions of the Hon'ble Tribunal, it is requested that the revised authorities in respect of the members of the Petitioners Association may be issued expeditiously in implementation on the instructions issued by this Department vide OM dated 26.8.2014 and a compliance report in this regard may be sent to this Department by 25.9.2014.

4. It would be the responsibility of the concerned Ministries/Departments for any delay in compliance of the directions given by the Hon'ble Tribunal in its order dated 27.8.2014.

3. This issues with the approval of J.S. (Pension)

(S.K. Makkar)

Under Secretary to the Government of India  
Tel No.24644634

To  
Ministries/Departments concerned.

Copy to:- The Secretary [Shri Sant Bhushan Lal] Central Government SAG (S-29) Pensioners' Association, C5/21, Grant Vasant, Vasant Kunj, New Delhi 110 070 alongwith a copy of OM of even number dated 26.8.14 issued by this Department to the concerned Ministries/Departments for implementation of order dated 15.5.2014/1.11.2011 of Hon'ble Tribunal



No.38/37/08-P&PW(A)  
Government of India  
Ministry of Personnel, PG & Pensions  
Department of Pension & Pensioners' Welfare

3<sup>rd</sup> Floor, Lok Nayak Bhawan  
Khan Market, New Delhi  
Dated the 26<sup>th</sup> August, 2014

Office Memorandum

Sub:- Implementation of Government's decision in pursuance to CAT, Principal Bench, New Delhi order dated 15.5.2014 – Revision of pension of members of Central Government SAG (S-29) Pensioners' Association – reg.

The undersigned is directed to say that as per Para 4.2 of this Department's OM of even number dated 1.9.2008 relating to revision of pension of pre-2006 pensioners w.e.f. 1.1.2006, the revised pension w.e.f. 1.1.2006, in no case, shall be lower than 50% of the sum of the minimum of pay in the pay band and the grade pay thereon corresponding to the pre-revised pay scale from which the pensioner had retired. A clarification was issued vide DoP&PW OM of even number dated 3.10.2008 that the pension calculated at 50% of the minimum of pay in the pay band plus grade pay would be calculated at the minimum of the pay in the pay band (irrespective of the pre-revised scale of pay) plus the grade pay corresponding to the pre-revised pay scale. It was also clarified that the pension will be reduced prorata where the pensioner had less than the maximum required service for full pension as per Rule 49 of the CCS(Pension) Rules, 1972 as applicable before 1.1.2006 and in no case it will be less than Rs.3,500/- p.m.

2. Central Government SAG (S-29) Pensioners' Association alongwith Shri Satish Verma, Retd. Chief Engineer, Central Water Commission, Ministry of Water Resources had filed OA No.655/2010 in the Hon'ble Central Administrative Tribunal, Principal Bench, New Delhi inter alia claiming that the revised pension of the pre-2006 pensioners should not be less than 50% of the minimum of the pay band + grade pay, corresponding to the pre-revised pay scale from which pensioner had retired as arrived at with reference to the fitment tables annexed to Ministry of Finance, Department of Expenditure OM No.1/1/2008-IC dated 30<sup>th</sup> August, 2008. Three other OAs were also filed by some pre-2006 pensioners in CAT, Principal Bench on the same issue. CAT, Principal Bench, New Delhi vide its order dated 1.11.2011 decided all the four OAs and directed to re-fix the pension of pension of all pre-2006 retirees w.e.f. 1.1.2006 based on the Resolution dated 29.8.2008.

3. The above order was challenged by the Government by filing Writ Petition No.1535/2012 and WP No.2348-50/12 in the High Court of Delhi. The High Court noticed that the DoP&PW had, in the meanwhile, issued an OM No.38/37/08-P&PW(A) dated 28.1.2013 which provided for stepping up of pension of pre-2006 pensioners w.e.f. 24.9.2012 to 50% of the minimum of pay in the pay band and grade pay corresponding to pre-revised pay scale from which the pensioner had retired. The High Court also noted the contents of Para 5 of the OM dated 28.1.2013 according to which the pension will be reduced pro rata, where the pensioner had less than the maximum required service full pension as per rule 49 of the CCS (Pension) Rules, 1972 as applicable before 1.1.2006 and in no case it will be less than Rs.3,500/- p.m. Hon'ble High Court observed that the only issue which survives is, with reference to Paragraph 9 of OM dated 28.1.2013 which makes it applicable w.e.f. 24.9.2012, and thereby denying arrears to be paid to the pensioners with effect from 1.1.2006. The Writ Petition No.1535/2012 alongwith 3 other Writ Petitions was dismissed by the Hon'ble High Court of Delhi on 29.4.2013.

4. An SLP No.23055-2013 filed against the order dated 29.4.2013 of Delhi High Court in WP (C) No.1535/2012 was dismissed by Hon'ble Supreme Court on 29.7.2013. The Review Petition and Curative Petition filed by the Government against the dismissal of SLP No.23055/2013 have also been dismissed.

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for P.S. Page 2

5. As a Civil Appeal No.8875-76/2011 on the similar issue filed by Ministry of Defence was pending in the Supreme Court, Union of India filed an SLP (CC) No.18339-41/2013 (converted into SLP (C) No.36148-50/2013). In its order dated 19.11.2013, Hon'ble Supreme Court was pleased to issue Notice on this SLP and directed to list the SLP alongwith Civil Appeal No.8875-76/2011. Hon'ble Supreme Court also took on record the following statement of Respondent pensioners in its order dated 19.11.2013:

"during the pendency of these petitions, the respondent-writ petitioner shall not precipitate the matter by filing contempt proceedings either before the High Court or before the Tribunal."

6. The Contempt Petition No.158/2012 filed in OA No.655/2010 came up for hearing before the Hon'ble CAT, Principal Bench on 15.5.2014. The Hon'ble CAT, Principal Bench, New Delhi in its order dated 15.5.2014 noted the submission by Govt. Counsel that the Ministry of Law has advised the Department to implement the order dated 1.11.2011 of Hon'ble CAT, Principal Bench in OA No.655/2010 qua the petitioners. In view of this, Hon'ble CAT disposed of the Contempt Petition with direction to the respondents to implement the directions of the Tribunal expeditiously preferably within three months.

7. Accordingly, it has been decided that the revised pension of member pensioners of the petitioner Association in OA No.655/2010 will not be less than 50% of the sum of the minimum of pay in the pay band and the grade pay thereon corresponding to the pre-revised pay scale from which they had retired as arrived at with reference to the fitment tables annexed to the Ministry of Finance, Department of Expenditure OM No.1/1/2008-1C dated 30<sup>th</sup> August, 2008 of Ministry of Finance (Department of Expenditure).

8. Instructions have been issued to the concerned Departments from where the members of the Central Government SAG (S-29) Pensioners' Association (Central Government civil pensioners only) have retired for implementation of the order dated 1.11.2011 of Hon'ble CAT, Principal Bench in OA No.655/2010 and order dated 15.5.2014 of the Hon'ble CAT in CP No.158/2012.. A copy of OM of even number is enclosed.

9. It is requested that (Name of the Autonomous Body) may be advised to take appropriate action in the matter.

Sd/-  
(Tripti P. Ghosh)  
Director

Secretary  
(Ministries/Departments concerned)

Copy to: Ministry of Finance, D/o Expenditure [Smti Vijay singh, Director (Adm.)] (E-V Section), North Block, New Delhi w.r.t. ID No. 274/E-V/2014 dated 15.5.2014.



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For Govt Deyts  
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No.38/37/08-P&PW(A)  
Government of India  
Ministry of Personnel, PG & Pensions  
Department of Pension & Pensioners' Welfare

3<sup>rd</sup> Floor, Lok Nayak Bhawan  
Khan Market, New Delhi  
Dated the 26<sup>th</sup> August, 2014

Office Memorandum

**Sub:-** Implementation of Government's decision in pursuance to CAT, Principal Bench, New Delhi order dated 15.5.2014 – Revision of pension of members of Central Government SAG (S-29) Pensioners' Association – reg.

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2. Central Government SAG (S-29) Pensioners' Association alongwith Shri Satish Verma, Retd. Chief Engineer, Central Water Commission, Ministry of Water Resources had filed OA No.655/2010 in the Hon'ble Central Administrative Tribunal, Principal Bench, New Delhi inter alia claiming that the revised pension of the pre-2006 pensioners should not be less than 50% of the minimum of the pay band + grade pay, corresponding to the pre-revised pay scale from which pensioner had retired as arrived at with reference to the fitment tables annexed to Ministry of Finance, Department of Expenditure OM No.1/1/2008-IC dated 30<sup>th</sup> August, 2008. Three other OAs were also filed by some pre-2006 pensioners in CAT, Principal Bench on the same issue. CAT, Principal Bench, New Delhi vide its order dated 1.11.2011 decided all the four OAs and directed to re-fix the pension of pension of all pre-2006 retirees w.e.f. 1.1.2006 based on the Resolution dated 29.8.2008.

3. The above order was challenged by the Government by filing Writ Petition No.1535/2012 and WP No.2348-50/12 in the High Court of Delhi. The High Court noticed that the DoP&PW had, in the meanwhile, issued an OM No.38/37/08-P&PW(A) dated 28.1.2013 which provided for stepping up of pension of pre-2006 pensioners w.e.f. 24.9.2012 to 50% of the minimum of pay in the pay band and grade pay corresponding to pre-revised pay scale from which the pensioner had retired. The High Court also noted the contents of Para 5 of the OM dated 28.1.2013 according to which the pension will be reduced pro rata, where the pensioner had less than the maximum required service full pension as per rule 49 of the CCS (Pension) Rules, 1972 as applicable before 1.1.2006 and in no case it will be less than Rs.3,500/- p.m. Hon'ble High Court observed that the only issue which survives is, with reference to Paragraph 9 of OM dated 28.1.2013 which makes it applicable w.e.f. 24.9.2012, and thereby denying arrears to be paid to the pensioners with effect from 1.1.2006. The Writ Petition No.1535/2012 alongwith 3 other Writ Petitions was dismissed by the Hon'ble High Court of Delhi on 29.4.2013.

4. An SLP No.23055/2013 filed against the order dated 29.4.2013 of Delhi High Court in WP (C) No.1535/2012 was dismissed by Hon'ble Supreme Court on 29.7.2013. The Review Petition and Curative Petition filed by the Government against the dismissal of SLP No.23055/2013 have also been dismissed.



5. As a Civil Appeal No.8875-76/2011 on the similar issue filed by Ministry of Defence was pending in the Supreme Court, Union of India filed an SLP (CC) No.18339-41/2013 (converted into SLP (C) No.36148-50/2013). In its order dated 19.11.2013, Hon'ble Supreme Court was pleased to issue Notice on this SLP and directed to list the SLP alongwith Civil Appeal No.8875-76/2011. Hon'ble Supreme Court also took on record the following statement of Respondent pensioners in its order dated 19.11.2013:

"during the pendency of these petitions, the respondent-writ petitioner shall not precipitate the matter by filing contempt proceedings either before the High Court or before the Tribunal."

6. The Contempt Petition No.158/2012 filed in OA No.655/2010 came up for hearing before the Hon'ble CAT, Principal Bench on 15.5.2014. The Hon'ble CAT, Principal Bench, New Delhi in its order dated 15.5.2014 noted the submission by Govt. Counsel that the Ministry of Law has advised the Department to implement the order dated 1.11.2011 of Hon'ble CAT, Principal Bench in OA No.655/2010 qua the petitioners. In view of this, Hon'ble CAT disposed of the Contempt Petition with direction to the respondents to implement the directions of the Tribunal expeditiously preferably within three months.

7. In implementation of the order dated 1.11.2011 of Hon'ble CAT, Principal Bench in OA No.655/2010 and order dated 15.5.2014 of the Hon'ble CAT in CP No.158/2012, it has been decided that the revised pension of members of Central Government SAG (S-29) Pensioners Association (as given in the enclosed list) will not be less than 50% of the sum of the minimum of pay in the pay band and the grade pay thereon corresponding to the pre-revised pay scale from which they 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 30<sup>th</sup> August, 2008 of Ministry of Finance (Department of Expenditure).

8. The normal family pension in respect of Central Government SAG (S-29) Pensioners Association (as given in the enclosed list) as revised w.e.f. 1.1.2006 in terms of para 4.1 or para 4.2 of the OM dated 1.9.2008 would also be further stepped up to 30% of the sum of minimum of pay in the pay band and the grade pay corresponding to the pre-revised pay scale in which the Government servant 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 30<sup>th</sup> August, 2008 of Ministry of Finance (Department of Expenditure).

9. In case the consolidated pension/family pension calculated as per para 4.1 of OM No.38/37/08-P&PW(A) dated 1.9.2008 in respect of members of Central Government SAG (S-29) Pensioners Association (as given in the enclosed list) is higher than the pension/family pension calculated in the manner indicated above, the same (higher consolidated pension/family pension) will continue to be treated as basic pension/family pension.

10. All other conditions as given in OM No. 38/37/08-P&PW(A) dated 1.9.2008, as amended from time to time shall remain unchanged in the case of pensioners as given in the list.

Sd/-  
(Tripti P. Ghosh)  
Director

Secretary  
(Ministries/Departments concerned)

Copy to: Ministry of Finance, D/o Expenditure [Shri Vijay singh, Director (Adm.)] (E-V Section), North Block, New Delhi w.r.t. ID No. 274/E-V/2014 dated 15.5.2014.



Reg No.	Name	Department	Designation	Head of Department	Pay & Accounts Office	Address	Remarks
382	V.S.Dixit	CPWD	Chief Engineer	Director General CPWD, Nirman Bhawan New Delhi	PAO (DG,CPWD), CCA Min. of UD, Nirman Bhawan, New Delhi-110011	FLAT NO. B.12, PLOT NO.6, SECTOR 22 DG (S) CGHS LTD. DWARKA NEW DELHI 110077	
390	Shiv Kumar Singhal	CPWD	Chief Engineer	Director General CPWD, Nirman Bhawan New Delhi	PAO, CPWD, North zone, New Delhi	B-30, Sector-36, Noida (U.P)	
459	Asleesh Chattopadhyaya	CPWD	Chief Engineer	Director General CPWD, Nirman Bhawan New Delhi	ZAOC(BDT), New Delhi	A. CHALTOPADHYAYA 1036 SECTOR A/A VASANT KUNJ NEW DELHI 110070	
481	Mohan S. Asnani	CPWD	Chief Engineer	Director General CPWD, Nirman Bhawan New Delhi	PAO (DG,CPWD), CCA Min. of UD, Nirman Bhawan, New Delhi-110011	15/11, SARVA PRIYA VIHAR NEW DELHI - 11001	
535	Ranjit Kumar Ganguli	CPWD	Chief Architect	Director General CPWD, Nirman Bhawan New Delhi	PAO, (CPWD), East Zone, Kolkata	35/1F PANDITIA ROAD, KOLKATA - 700029	
592	Mr.D.N.Agarwal	CPWD	Chief Engineer	Director General CPWD, Nirman Bhawan New Delhi	PAO (DG,CPWD), CCA Min. of UD, Nirman Bhawan, New Delhi-110011	Mr.D.N.Agarwal M-21, G.K. II NEW DELHI 110048	
619	S.S.Kaimal	CPWD	Chief Engineer	Director General CPWD, Nirman Bhawan New Delhi	PAO (DG,CPWD), CCA Min. of UD, Nirman Bhawan, New Delhi-110011	214, P.T.P. NAGAR, THIRUVANTHAPURAM - 695038,(KERALA)	
647	Vijay Kumar Ghumre	CPWD	Chief Engineer	Chief Commissioner of Income tax I Mumbai	Zonal Accounts Officer, C.B.D.T. Aayakar Bhavan, MUMBAI 400020	V.K.GHUMRE, 1601 "SPARKLE" CITI OF JOY JATASHANKAR DOSA ROAD, MULUND WEST, MUMBAI - 400080.	
654	S.L.KARUNAKARAN	CPWD	Chief Engineer	Director General CPWD, Nirman Bhawan New Delhi	It appears he was in S 30 group so may not be included here.	FLAT NO: 60 COSMOS C.G.H.S., PLOT NO:28 SECTOR -10, DWARKA, NEW DELHI - 110075	Belongs to S-30.
659	K.E.AYYAR	CPWD	Chief Engineer	Director General CPWD, Nirman Bhawan New Delhi	PAO (DG,CPWD), CCA Min. of UD, Nirman Bhawan, New Delhi-110011	533, Vaisnall, 2nd Main, 10th Cross, J.P. Nagar 3 Phase, Bangalore 560078.	
498	Harish Chander Sood	CRPF	Inspector General	The Director General, Central Reserve Police Force, Block No 1, CGO Complex, Lodhi Road, New Delhi-110018	Director (Accounts) Pay and Accounts Office, Central Reserve Police Force, Mahavir Nagar, New Delhi - 110018	HOUSE NO 36, SECTOR 10/A, GURGAON-122001 (HARYANA)	
88	Dr.D.S.Iyengar	CSIR	Scientist G	Director, CSIR-ILCT	Controller of Finance & Accounts, CSIR-ILCT Uppal Road Hyderabad 500007	H.NO.4-1-108, SRREET NO. 3, BHAVANI NAGAR, NACHARAM, HYDERABAD-500076	
90	C.Subrahmanyam	CSIR	Scientist 'G'	Director, CSIR-NGRI	Finance and Accts Officer,CSIR-NGRI Uppal Road, Hyderabad-500007(AP)	8-32/1, ROAD NO. 1 HEMANAGAR, UPPAL O.P. HYDERABAD-500039	

Reg No.	Name	Department	Designation	Head of Department	Pay & Accounts Office	Address	Remarks
94	R.L.Dhar	CSIR	Scientist 'G'	Director, CSIR-NGRI	Finance and Accts Officer, CSIR-NGRI Uppal Road, Hyderabad-500007(AP)	SAI DAYA 5-80, VIVEKANANDA NAGAR HABSHIGUDA HYDERABAD-500007	
95	Dr. Balbir Singh Sukhija	CSIR	Scientist 'G'	Director, CSIR-NGRI	Finance and Accts Officer, CSIR-NGRI Uppal Road, Hyderabad-500007(AP)	4-54/3, Street No 8, Habshiguda, Hyderabad-500007	
96	M. Thangarajan	CSIR	Scientist 'G'	Director, CSIR-NGRI	Finance and Accts Officer, CSIR-NGRI Uppal Road, Hyderabad-500007(AP)	4-54/1, LAKSHIMI ILLAM STREET NO: 8 HABSHIGUDA HYDERABAD-500007	
97	Dr. J. Madhusudana Rao	CSIR	Scientist 'G'	Director, CSIR-IICT	Controller of Finance & Accounts, CSIR-IICT Uppal Road Hyderabad-500007	209 GAYATRI TOWERS STR. NO 1 TARN-SKA HYDERABAD-500017	
111	Dr. B.R. Somashekar	CSIR	Scientist 'G'	Director, CSIR-NAL	Controller of Finance & Accounts, CSIR-NAL, HAL Airport Road, Vimanapura P.O., Bangalore 560 017	H. NO.- 105, 20th CROSS, CHOS LAYANT VIJAYANAGAR BANGALOR 560040	
112	Dr. R.V. Krishnan	CSIR	Scientist 'G'	Director, CSIR-NAL	Controller of Finance & Accounts, CSIR-NAL, HAL Airport Road, Vimanapura P.O., Bangalore 560 017	45, 6th MAIN ROAD MALLESWARAM BANGALORE - 560003	
113	E.S. Rajagopal	CSIR	Scientist 'G'	Director CSIR- NPL	Controller of Finance & Accounts, CSIR-NPL Dr KS Krishnan Marg New Delhi 110012	100/1, XI CROSS, 7th MAIN CORNER, MALLESWARAM BANGLOR 560003	
114	G. Rajendra	CSIR	Scientist 'G'	Director, CSIR-NAL	Controller of Finance & Accounts, CSIR-NAL, HAL Airport Road, Vimanapura P.O., Bangalore 560 017	NO 19, NAL LAYOUT, EAST END ROAD JATANAGAR 4th BLOCK, BANGALORE-560041	
115	A.C. Raghuram	CSIR	Scientist 'G'	Director, CSIR-NAL	Controller of Finance & Accounts, CSIR-NAL, HAL Airport Road, Vimanapura P.O., Bangalore 560 017	424, UPPER PALACE, VIJAYANAGAR BANGALORE-560030	
116	K. Keshava Narayana Raju	CSIR	Scientist 'G'	Director, CSIR-NAL	Controller of Finance & Accounts, CSIR-NAL, HAL Airport Road, Vimanapura P.O., Bangalore 560 017	156, CHS LAYONT, 8th MAIN 12th M, VIJAYANAGAR, BANGALORE - 560040	
117	Dr. P.S. Gopalakrishnan	CSIR	Scientist 'G'	Director, CSIR-NAL	Controller of Finance & Accounts, CSIR-NAL, HAL Airport Road, Vimanapura P.O., Bangalore 560 017	964, 3rd CROSS, 1st MAIN H.A.L III STAGE, BANGALORE- 560075	
118	Dr. T.S. Kannan	CSIR	Scientist 'G'	Director, CSIR-NAL	Controller of Finance & Accounts, CSIR-NAL, HAL Airport Road, Vimanapura P.O., Bangalore 560 017	548, G-A CROSS, 10th MAIN ROAD H.A.L III STAGE, BANGALORE 560075	



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Reg No.	Name	Department	Designation	Head of Department	Pay & Accounts Office	Address	Remarks
142	L.V.Gangadhara Rao	CSIR	Scientist 'G'	Director, CSIR-NIO	Controller of Finance & Accounts, CSIR-NIO Dona Paula Goa 403004	FLAT NO. 301, PADMAVATHI PAZA, M.J. COLONY, MOULA-ALI, HYDERABAD-500040 (A.P)	
144	Dr.S.P.Sharma	CSIR	Director Level Scientist	Director CSIR-NEERI	Controller of Finance & Accounts CSIR-NEERI Nehru Marg Nagpur 440020	PB 29/3602, BAR KA KUA VISHNU MARG, GANORI BAZAR JAIPUR 302001	
175	Dr.M.Pardhasaradhi	CSIR	Scientist 'G'	Director, CSIR-IICT	Controller of Finance & Accounts, CSIR-IICT Uppal Raod Hyderabad 500007	# 4-200/127, C&D ESWSRIPURI, SAINIKPURI HYDERABAD-500 094	
225	M.Shivakumaraswamy	CSIR	Scientist G	Director, CSIR-NAL	Controller of Finance & Accounts, CSIR-NAL, HAL Airport Road, Vimanapura P.O., Bangalore 560 017	#35, 2nd CROSS, 10th MAIN, INDIRANAGAR 2nd STAGE, BANGALOR-560038	
226	Dr.S.S.Desai	CSIR	Scientist G	Director, CSIR-NAL	Controller of Finance & Accounts, CSIR-NAL, HAL Airport Road, Vimanapura P.O., Bangalore 560 017	H. NO.35, UAS LAYOUT KRISHNA NAGAR 7th CROSS SANJAYANAGAR, BANGALOR - 560 094	
227	A.Krishnan	CSIR	Scientist G	Director, CSIR-NAL	Controller of Finance & Accounts, CSIR-NAL, HAL Airport Road, Vimanapura P.O., Bangalore 560 017	1 st FLOOR, SWAGATHAM APARTMENTS, 16/25, BINNY CRESCENT ROAD, BENSON TOWN, BANGALOR 560046	
228	Dr.M.V.A.Murthy	CSIR	Scientist G	Director, CSIR-NAL	Controller of Finance & Accounts, CSIR-NAL, HAL Airport Road, Vimanapura P.O., Bangalore 560 017	#3814, 12th CROSS (7th CROSS CT BED) BSK 2ND STAGE, BANGALOR 560070	
229	Dr.S.Nagabhushana	CSIR	Scientist G	Director, CSIR-NAL	Controller of Finance & Accounts, CSIR-NAL, HAL Airport Road, Vimanapura P.O., Bangalore 560 017	54/1 (82), SURVEYOR STREET BASAVANA GUDI, BANGALORE -560004	
230	Dr.M.V.V.Murthy	CSIR	Scientist G	Director, CSIR-NAL	Controller of Finance & Accounts, CSIR-NAL, HAL Airport Road, Vimanapura P.O., Bangalore 560 017	NO - 47, 11th CROSS, 9th MAIN, JAYANAGAR 2nd BLOCK, BANGALORE - 560011	
231	Dr.M.Krishna Murthy	CSIR	Scientist G	Director, CSIR-NAL	Controller of Finance & Accounts, CSIR-NAL, HAL Airport Road, Vimanapura P.O., Bangalore 560 017	271, III MAIN, J.P.NAGAR III PHASE BANGALORE - 560078	
232	M.D.Deshpande	CSIR	Scientist G	Director, CSIR-NAL	Controller of Finance & Accounts, CSIR-NAL, HAL Airport Road, Vimanapura P.O., Bangalore 560 017	ASHOK HEIGHTS 204, MAHALAKSHMI LAYOUT, BANGALOR - 560096	
233	Ningalah	CSIR	Scientist G	Director, CSIR-NAL	Controller of Finance & Accounts, CSIR-NAL, HAL Airport Road, Vimanapura P.O., Bangalore 560 017		

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Reg No.	Name	Department	Designation	Head of Department	Pay & Accounts Office	Address	Remarks
119	Dr. Mrs. Indira Raja Gopal	CSIR	Scientist 'G'	Director, CSIR-NAL	Controller of Finance & Accounts, CSIR-NAL, HAL Airport Road, Vimanapura P.O., Bangalore 560 017	B 4/1 VIJAY KIRAN APARTMENTS, 32 VICTORIA ROAD BANGALORE - 560047	
120	Dr. S. Rajagopalan	CSIR	Scientist 'G'	Director, CSIR-NAL	Controller of Finance & Accounts, CSIR-NAL, HAL Airport Road, Vimanapura P.O., Bangalore 560 017	B 4/1 VIJAY KUMAR APARTMENTS, 32 VICTORIA ROAD BANGALORE 560047	
121	Dr. S. N. Seshadri	CSIR	Scientist 'G'	Director, CSIR-NAL	Controller of Finance & Accounts, CSIR-NAL, HAL Airport Road, Vimanapura P.O., Bangalore 560 017	NO. 11, NALLAYOUT EAST END ROAD JAYANAGAR 10th BLOCK BANALORE 560041	
122	S. Srinath Kumar	CSIR	Scientist 'G'	Director, CSIR-NAL	Controller of Finance & Accounts, CSIR-NAL, HAL Airport Road, Vimanapura P.O., Bangalore 560 017	NO. 123a, 15th MAIN BTM II STAGE BANGALORE 560076	
123	H. Sundara Murthy	CSIR	Scientist 'G'	Director, CSIR-NAL	Controller of Finance & Accounts, CSIR-NAL, HAL Airport Road, Vimanapura P.O., Bangalore 560 017	350.1st D CROSS, 3rd MAIN 6th BLOCK 2nd PHASE, BSK 3rd STAGE, BANGALORE 560085	
124	Dr. Murugesan K	CSIR	Scientist 'G'	Director, CSIR-NAL	Controller of Finance & Accounts, CSIR-NAL, HAL Airport Road, Vimanapura P.O., Bangalore 560 017	959, TWECFTH MAIN HAL SECOND STAGE BANGALORE 560008	
125	Dr. Mrs. Kalyani Vijayan	CSIR	Scientist 'G'	Director, CSIR-NAL	Controller of Finance & Accounts, CSIR-NAL, HAL Airport Road, Vimanapura P.O., Bangalore 560 017	195, 16th CROSS, 4th MAIN MALLERWARAM, BANGALORE 560055	
126	Dr. V. Ramachandran	CSIR	Scientist 'G'	Director, CSIR-NAL	Controller of Finance & Accounts, CSIR-NAL, HAL Airport Road, Vimanapura P.O., Bangalore 560 017	NO-8, 3RD CROSS, VINAYAKA NAGAR, HEBBAL, BANGALORE - 560024	
127	Dr. Sudha Mahadevan	CSIR	Scientist 'G'	Director, CSIR-NAL	Controller of Finance & Accounts, CSIR-NAL, HAL Airport Road, Vimanapura P.O., Bangalore 560 017	21 FIRST CROSS ROAD, SUNDAR NAGAR GOKNLA BANGALORE - 560054	
128	Dr. R. Balasubramaniam	CSIR	Scientist 'G'	Director, CSIR-NAL	Controller of Finance & Accounts, CSIR-NAL, HAL Airport Road, Vimanapura P.O., Bangalore 560 017	808, "MAYURAPRIYA" 7TH MAIN ROAD, ICROSS HAL- IIInd STAGE BANGALORE - 560008	
129	Dr. A.K. Singh	CSIR	Scientist 'G'	Director, CSIR-NAL	Controller of Finance & Accounts, CSIR-NAL, HAL Airport Road, Vimanapura P.O., Bangalore 560 017		
136	Dr. Indugula Radhakrishna	CSIR	Scientist 'G'	Director, CSIR-NGRI	Finance and Accts Officer, CSIR-NGRI Uppal Road, Hyderabad-500007 (AP)	12-13-685, NAGARJUNA NAGAR TARNAKA, HYDERABAD - 500017	



Reg No.	Name	Department	Designation	Head of Department	Pay & Accounts Office	Address	Remarks
234	Q.H.Nagpurwala	CSIR	Scientist G	Director, CSIR-NAL	Controller of Finance & Accounts, CSIR-NAL, HAL Airport Road, Vimanapura P.O., Bangalore 560 017	FLAT NO. 301, SRI VARJ CLASSIC APTS, 1ST MAIN 2nd CROSS VINAYAKNAGAR MURSHAPALCE, BANGLORE 560017	
235	M.R.Narasimha Swamy	CSIR	Scientist G	Director, CSIR-NAL	Controller of Finance & Accounts, CSIR-NAL, HAL Airport Road, Vimanapura P.O., Bangalore 560 017	324, 14th CROSS, 8th MAIN 2nd BLOCK, JAYANAGR, BANGALOR 560011	
236	G.Narayan	CSIR	Scientist G	Director, CSIR-NAL	Controller of Finance & Accounts, CSIR-NAL, HAL Airport Road, Vimanapura P.O., Bangalore 560 017	# 3501, 14 MAIN, HAL II STAGE BANGLORE - 560038	
240	Dr.T.N.Gowd	CSIR	Scientist G	Director, CSIR-NGRI	Finance and Accts Officer, CSIR-NGRI Uppal Raod, Hyderabad-500007(AP)	FLAT NO. 201, SREE NILYAM APTS, NAGARJUNA NAGAR, TARNAKA, STREET NO.14, HYDEABAD-500017	
246	V.Divakara Rao	CSIR	Scientist G	Director, CSIR-NGRI	Finance and Accts Officer, CSIR-NGRI Uppal Raod, Hyderabad-500007(AP)	5-62/5, ROAD NO. 8 HABSIGUDA HADERABAD, 500007	
306	Dr.P.J.Reddy	CSIR	Scientist G	Director, CSIR-IICT	Controller of Finance & Accounts, CSIR-IICT Uppal Raod Hyderabad 500007	12-13-389 TARNAKA ST NO 1 HYDERABAD-50017	
422	Dr.M.S.Rajamurthy	CSIR	Scientist G	Director, CSIR-NAL	Controller of Finance & Accounts, CSIR-NAL, HAL Airport Road, Vimanapura P.O., Bangalore 560 017	44, ANURADHA, NAL LAYOUT EASTEND MAIN 4th BLOCK, JAYANAGAR BANGALORE 560041	
475	Dr.P.B.Sattur	CSIR	Scientist 'G'	Director, CSIR-IICT	Controller of Finance & Accounts, CSIR-IICT Uppal Raod Hyderabad 500007	DR. P.B/SATTUR, 94, OM-SRI OLD BADAMI NAGAR KESHWAPUR, HUBLI, 580023 (KARNATAKA)	
559	Dr Mohinder Pal	CSIR	Scientist 'G'	Director CSIR-NBRI	Controller of Finance & Accounts, CSIR-NBRI Rana Pratap Marg PB NO. 436 Lucknow 226001		
560	Dr Harish Chandra Chaturvedi	CSIR	Scientist 'G'	Director CSIR-NBRI	Controller of Finance & Accounts, CSIR-NBRI Rana Pratap Marg PB NO. 436 Lucknow 226001	"VISHRAM", VIVEK KHAND 4/254, GOMTI NAGAR, LUCKNOW - 226010	
490	P.S.Venkatadri	Customs & Cent Excise Service				H-12/1/2 33W CROSS STREET BESANT NAGR CHENNAI-600090	

Central Administrative Tribunal

Principal Bench

1. OA No.0655/2010

With

2. OA No.3079/2009

3. OA No.0306/2010

4. OA No.0507/2010

New Delhi this the 1st day of November, 2011.

Honble Mr. Justice V.K. Bali, Chairman

Honble Mr. M.L. Chauhan, Member (J)

Honble Dr. (Mrs.) Veena Chhotray, Member (A)

OA No.655/2010

1. Central Government SAG (S-29) Pensioners

Association through its Secretary

Shri Sant Bhushan Lal,

R/o C5/21, Grant Vasant, Vasant Kunj,

New Delhi-110 070.

2. Shri Satish Verma,

Retd. Chief Engineer,

Central Water Commission,



Ministry of Water Resources,

Govt. of India,

R/o B-6/8, Vasant Vihar,

New Delhi-110 057.

-Applicants

-Versus-

1. Union of India through the  
Secretary to the Govt. of India,  
Department of Pension and Pensioners Welfare,  
Ministry of Personnel,  
Public Grievances and Pensions,  
Lok Nayak Bhawan,  
Khan Market,  
New Delhi-110 003.

2. Secretary to the Government of India,  
Department of Expenditure,  
Ministry of Finance,

North Block,  
New Delhi.

-Respondents

1. Central Govt. Pensioners Association  
of Additional/Joint Secretary &  
Equivalent Officers,  
D-603, Anandlok CGHS Ltd.,  
Mayur Vihar-Phase I,  
Delhi-110091.

2. Shri S.P. Biswas,  
S/o late Shri Panchanan Biswas,  
R/o C-607, Anandlok CGHS Ltd.,  
Mayur Vihar-Phase-I,  
Delhi-110091.

3. Shri G.S. Lobana,  
S/o late Shri Inder Singh,  
R/o C-207, Anandlok CGHS Ltd.,  
Mayur Vihar-Phase-I,  
Delhi-110091.

-Applicants

Versus-

1. Union of India through the



Secretary to the Govt. of India,  
Department of Pension and Pensioners Welfare,  
Ministry of Personnel, Public Grievances and Pensions,  
Lok Nayak Bhawan, Khan Market,  
New Delhi-110 003.

2. Secretary to the Government of India,  
Department of Expenditure,  
Ministry of Finance,  
North Block,  
New Delhi.

-Respondents

OA No.306/2010

1. D.L. Vhora,  
Chief Surveyor of Works MES (Retd.)  
R/o 1020, Pocket D-1, Vasant Kunj,  
New Delhi-110070.
2. Om Prakash Chopra,

Chief Surveyor of Works MES (Retd.)

R/o B-111, Chander Nagar,

Janakpuri, New Delhi-110057.

3. R.D. Mirza,

Chief Surveyor of Works MES (Retd.),

R/o 7178, Pocket D-7,

Vasant Kunj,

New Delhi-110070.

4. S.S. Agarwal,

Chief Surveyor of Works MES (Retd.),

R/o 263, Rajouri Apartments,

Rajouri Garden, New Delhi-110064.

5. G.S. Mehta,

Chief Surveyor of Works MES (Retd.),

R/o B1A, 42 C, DDA Flats,

Janakpuri, New Delhi-110058.

6. H.R. Rajani,

Chief Engineer, MES (Retd.),

R/o 100S, Sector-A, Pocket-B,

Vasant Kunj, New Delhi-110070.

7. L.C. Chawla, Chief Engineer, MES (Retd.),

R/o 75, Kiran Vihar, New Delhi-110092.



8. Pooran Mal, Chief Engineer, MES (Retd.),  
R/o 63, Amaltas Lane, Green Park,  
K-5, Scheme Queens Road,  
Jaipur-302021.
9. S.K. Shangari,  
Chief Engineer, MES (Retd.),  
R/o 318, SFS DDA Flats,  
Ashok Vihar, Phase-IV,  
New Delhi-110052.
10. B.K. Sharma,  
Chief Engineer, MES (Retd.),  
R/o B-401, Munirka Apartments,  
Plot No.11, Sector-9, Dwarka,  
New Delhi-110075.
11. Ramchander Tripathi,  
Chief Engineer, MES (Retd.),  
R/o X-03, Suraksha Enclave,  
S. No.161, New DP Road, Aundh,  
Pune-411007.
12. Banwari Lal Singhal,  
Chief Engineer, MES (Retd.),  
R/o X-05, Suraksha Enclave,  
S.No. 161, New D.P. Road,

Aundh Pune-411007.

13. M.D. Khera,  
Chief Architect, MES (Retd.),  
R/o A-2/123, Janakpuri,  
New Delhi-110058.
14. K.K. Mitra,  
Chief Architect MES (Retd.),  
R/o 40/197, C.R. Park,  
New Delhi.
15. V.K. Razdan,  
Chief Architect MES (Retd.),  
R/o 2/262, Kudi Bhagtasni Housing Board,  
Jodhpur-342005.

-Applicants

--Versus--

Union of India through:

1. Secretary, Ministry of Personnel,  
Public Grievances and Pensions,  
Dept. of Pension and Pensioners Welfare,  
Lok Nayak Bhawan,  
New Delhi-110003.



Chief Surveyor of Works MES (Retd.),  
R/o 29, Anupam Apartments,  
Vasundhara Enclave,  
Delhi-110096.

4. Jasbir Singh Khanna,  
Chief Surveyor of Works MES (Retd.),  
R/o E-5/H, DDA Flats,  
Munirka, New Delhi-110067.

5. Devendra Gupta,  
Chief Surveyor of Works MES (Retd.),  
R/o B1/1, River Bank Colony,  
Lucknow.

6. Surya Mohan Bajpai,  
Chief Surveyor of Works MES (Retd.),  
R/o F-110, Indralok,  
Krishna Nagar,  
Lucknow-226023  
Uttar Pradesh.

-Applicants

-Versus-

Union of India through:

1. Secretary, Ministry of Personnel,  
Public Grievances and Pensions,

Dept. of Pension and Pensioners Welfare,

20

Lok Nayak Bhawan,

New Delhi-110003.

2. Secretary, Dept of Expenditure,  
Ministry of Finance, North Block,  
Central Secretariat,  
New Delhi-110001.

3. Secretary,  
Ministry of Defence,  
South Block,  
Central Secretariat,  
New Delhi-110011.

-Respondents

Memo of Appearances:

For the Applicants:

Mr. Nidhesh Gupta, Senior Advocate with Mr. Tarun Gupta, Counsel for applicants in OA Nos.655/2010.

Shri L.R. Khatana, Counsel for applicants in OA No.3079/2009.

Shri S.K. Malik, Counsel for applicants in OA No.306/2010 and 507/2010.



2. Secretary, Dept of Expenditure,  
Ministry of Finance, North Block,  
Central Secretariat,  
New Delhi-110001.

3. Secretary,  
Ministry of Defence,  
South Block,  
Central Secretariat,  
New Delhi-110011.

-Respondents

OA No.507/2010

1. PPS Gumber,  
Chief Engineer, MES (Retd.),  
R/o C-23-B, Gangotri Enclave,  
Alaknanda, New Delhi-110019.

2. Namo Narayan,  
Chief Surveyor of Works MES (Retd.),  
R/o 21, Part-3, Suresh Sharma Nagar,  
Bareilly UP.

3. Rajendra Prasad,

For the Respondents:

Shri Ritesh Kumar, Shri Piyush Sanghi, Shri Simranjeet Singh, Shri Sumit Goel, Shri Krishan Kumar, Shri Rajesh Katyal, counsel for the officials respondents.

Shri R.K. Sharma, counsel for respondents in OA No.306/2010 and 507/2010.

## ORDER

Honble Mr. M.L. Chauhan, Member (J):

By this common order we propose to dispose of four connected Original Applications, as the issues involved in all are same, as is also suggested by the learned counsel representing the parties. Pleadings to the extent the same may be required to be mentioned are, however, extracted from OA No.655/2010 in the matter of Central Government SAG (S-29) Pensioners Association and another v. Union of India & Others.

2. Applicants, who are pre-2006 retirees, are claiming pension at par with post-2006 retirees based on the recommendations of the VI Central Pay Commission, which became effective from 1.1.2006. Considering that the issues involved have great ramifications and in the meanwhile Bombay Bench and Patna Bench of the Tribunal rendered judgment(s) against their cause., the matter was referred to the Full Bench vide order dated 29.04.2011. The grievance projected by the applicants in these OAs are that the employees, who retired prior to 1.1.2006 (specified date) and those who retired thereafter form one class of pensioners. The attempt to classify them into separate classes/groups for the purpose of pensionary benefits was not found on intelligible differentia, which has a rationale nexus with the object sought to be achieved. To substantiate this argument reliance has been placed on the judgment of the Apex Court in the case of D.S. Nakara and others v. Union of India, (1983) 1 SCC 305 and Union of India v. S.P.S. Vains, (2008) 9 SCC 125. The further grievance raised by the applicants is that their notional pay fixation and consequent pension should not be lower than 50% of the sum of the minimum of the pay in the pay band and the grade pay thereon corresponding to scale of pay from which they had retired, as accepted by the Government vide resolution dated 29.08.2008 and the clarification issued by the respondents vide impugned OM dated 3.10.2008 and 14.10.2008 contrary to the Resolution dated 29.08.2008 and OM dated 1.9.2008 in regard para 4.2, are illegal, arbitrary, discriminatory, unreasonable and unjust, as according to the applicants in the clarification/modification order dated 3.10.2008 respondents had added and deleted certain words, which completely changed its meaning as per the recommendations of the Commission as accepted by the Government. In other words, the grievances raised by the applicants are that the respondents have not revised pension of the pre-2006 retirees even as per the modified parity/formula recommended by the Pay Commission and adopted by the Government vide resolution dated 29.08.2008. It may be stated that challenge has been made only to the aforesaid issues though the additional points raised by the applicants in OA-2087/2009 and 2101/2011 have not been pressed by the learned counsel for the applicants.



3. In order to decide the aforesaid issue, few relevant facts may be noticed. The Government of India constituted VI Central Pay Commission (VI CPC) on 05.10.2006, inter alia, to examine the principles which should govern the structure of pension, death-cum-retirement gratuity, family pension and other terminal or recurring benefits having financial implications to the present and former Central Government employees appointed before 1.1.2004. The report was submitted by the Commission on 24.03.2008. The Pay Commission made separate recommendations for revision of pension of the past pensioners and for determination of pension of those retiring after implementation of its recommendations. In regard to determination of pension of those retiring after implementation of its recommendations, the Commission recommended linkage of full pension with 33 years of qualifying service should be dispensed with. Once an employee renders the minimum pensionable service of 20 years, pension should be paid at 50% of the average emoluments received during the past 10 months or the pay last drawn, whichever is more beneficial to the retiring employee. Simultaneously, the extant benefit of adding years of qualifying service for purposes of computing pension/related benefits should be withdrawn as it would no longer be relevant. However, regarding revision of pension of past pensioners the Commission made recommendations as per para 5.1.47 of the report which recommendation of the Commissioner was accepted by the Government with certain modifications to which we will advert at a later stage. Thus, this modified formula formed basis for revision of the pension of the pre-2006 retirees, as adopted by resolution dated 29.08.2008, which according to applicants has not even been followed by the respondents in its true letter and spirit. Since the VI CPC has made separate recommendations for pre-2006 retirees and post-2006 retirees as such the Government issued two different OM's based upon the recommendations of the Central Pay Commission, i.e., one regarding revision of pension of past pensioners and second regarding post-2006 retirees. It is in the light of the aforesaid factual aspects the matter is required to be examined.

4. We may first examine the challenge of the applicants made on the basis of the judgment of the Apex Court in the case of D.S. Nakara (supra). It is not disputed that the Central Government employees on retirement from service are entitled to receive pension under the Central Civil Services (Pension) Rules, 1972. In D.S. Nakaras case (supra) there was no dispute regarding implementation of the liberalized scheme from a cut off date. Rather the Apex Court in the said case in para-47 has categorically held that undoubtedly when an upward revision is introduced a date from which it becomes effective has to be provided. The challenge was made only to that part of the scheme by which the benefit of Liberalized Pension Formula was made applicable to government servants who were in service on March 31, 1979 and retired from service on or after that date. What was the Liberalized Pension Formula has been mentioned in para-37 of the judgment. As can be seen from this para, under the earlier pension scheme the pension was related to average emoluments during 36 months just preceding retirement. On May, 25, 1979 the Government of India, Ministry of Finance issued OM No.F.19(3)EB-79 whereby the formula for commutation of pension was liberalized but it was made applicable to government servants who were in service on 31.03.1979 and retired from service on or after the specified date. The liberalized scheme introduced a slab system for commutation of pension, raised pension ceiling and provided for average emoluments with reference to the last 10 monthsservice. Consequently, the pensioners who retired prior to the specified date had to earn pension on the average 36 months salary just preceding the date of retirement. Thus, they suffered triple jeopardy viz. lower average emoluments, absence of slab system and lower ceiling. It was in this context that the Apex Court held that pensioners form a class as a whole and cannot be micro-classified by arbitrary, manipulated and unreasonable eligibility criteria for the purpose of grant of revised pension. The Apex Court held that the words who were in service on or after are words of limitation introducing the mischief and are vulnerable as denying equality and this part of the sentence was declared as unconstitutional and struck down. It was held that liberalized pension scheme will become operative to all pensioners governed by 1979 rules, irrespective of date of retirement. At this stage it will be useful to quote relevant portions of paras 47 to 49 of the judgment in D.S. Nakaras case (supra), which thus read:



Undoubtedly when an upward revision is introduced, a date from which it becomes effective has to be provided. It is the event of retirement subsequent to the specified date which introduces discrimination in one otherwise homogeneous class of pensioners. This arbitrary selection of the happening of event subsequent to specified date denies equality of treatment of persons belonging to the same class, some preferred and some omitted. Is this eligibility qualification severable?

48. It was very seriously contended, remove the event correlated to date and examine whether the scheme is workable. We find no difficulty in implementing the scheme omitting the event happening after the specified date retaining the more humane formula for computation by applying the rule of average emoluments as set out in Rule 34 and introducing the slab system and the amount worked out within the floor and the ceiling.

49. But we make it abundantly clear that arrears are not required to be made because to that extent the scheme is prospective. All pensioners wherever they retired would be covered by the liberalised pension scheme, because the scheme is a scheme for payment of pension to a pensioner governed by 1972 Rules. The date of retirement is irrelevant. But the revised scheme would be operative from the date mentioned in the scheme and would bring under its umbrella all existing pensioners and those who retired subsequent to that date. In case of pensioners, who retired prior to the specified date, their pension would be computed afresh and would be payable in future commencing from the specified date. No arrears would be payable. And that would take care of the grievance of retrospectivity. In our opinion, it would make a marginal difference in the case of past pensioners because the emoluments are not revised (Emphasis added)

5. Thus the Apex Court in the case of D.S. Nakara (supra) has not held that the cut off date when an upward revision is introduced cannot be prescribed and is arbitrary. At this stage it may also be useful to notice the decision of the Constitution Bench of the Apex Court in the case of Indian Ex-Servicemen League and others v. Union of India, (1991) 2 SCC 104, whereby the Apex Court explained the ratio laid down in the case of D.S. Nakara (supra) and has also relied upon its earlier constitution Bench decision in the case of Krishena Kumar v. Union of India, (1990) 4 SCC 207 and held that the Courts decision in D.S. Nakara (supra) has to be read as one of limited application and its ambit cannot be enlarged to cover all claims made by the pension retirees or a demand for an identical amount of pension to every retiree from the same rank irrespective of the date of retirement, even though the reckonable emoluments for the purpose of computation of their pension be different.

6. Further the Apex Court in the case of Govt. of Andhra Pradesh and others v. N. Subbarayudu and others, (2008) 14 SCC 702 has held that even if no reason is forth-coming for fixation of particular date it should not be interfered with by the Court unless the cut off date leads to some blatantly capricious or outrageous result. At this stage, it will be useful to quote paras 5-9 of the judgment, which read thus:

5. In a catena of decisions of this Court it has been held that the cut off date is fixed by the executive authority keeping in view the economic conditions, financial constraints and many other administrative and other attending circumstances. This Court is also of the view that fixing cut off dates is within the domain of the executive authority and



the Court should not normally interfere with the fixation of cut off date by the executive authority unless such order appears to be on the face of it blatantly discriminatory and arbitrary. (See State of Punjab & Ors. Vs. Amar Nath Goyal (2005) 6 SCC 754).

6. No doubt in D.S. Nakara & Ors. vs. Union of India 1983(1) SCC 305 this Court had struck down the cut off date in connection with the demand of pension. However, in subsequent decisions this Court has considerably watered down the rigid view taken in Nakara's Case (supra), as observed in para 29 of the decision of this Court in State of Punjab & Ors. vs. Amar Nath Goyal.

7. There may be various considerations in the mind of the executive authorities due to which a particular cut off date has been fixed. These considerations can be financial, administrative or other considerations. The Court must exercise judicial restraint and must ordinarily leave it to the executive authorities to fix the cut off date. The Government must be left with some leeway and free play at the joints in this connection.

8. In fact several decisions of this Court have gone to the extent of saying that the choice of a cut off date cannot be dubbed as arbitrary even if no particular reason is given for the same in the counter affidavit filed by the Government, (unless it is shown to be totally capricious or whimsical) vide State of Bihar vs. Ramjee Prasad 1990(3) SCC 368, Union of Indian & Anr. vs. Sudhir Kumar Jaiswal 1994(4) SCC 212 (vide para 5), Ramrao & Ors. vs. All India Backward Class Bank Employees Welfare Association & Ors. 2004 (2) SCC 76 vide para 31), University Grants Commission vs. Sadhana Chaudhary & Ors. 1996(10) SCC 536, etc. It follows, therefore, that even if no reason has been given in the counter affidavit of the Government or the executive authority as to why a particular cut off date has been chosen, the Court must still not declare that date to be arbitrary and violative of Article 14 unless the said cut off date leads to some blatantly capricious or outrageous result.

9. As has been held by this Court in Divisional Manager, Aravali Golf Club & Anr. vs. Chander Hass & Anr. 2008(3) 3 JT 221 and in Government of Andhra Pradesh & Ors. vs. Smt. P. Laxmi Devi 2008(2) 8 JT 639 the Court must maintain judicial restraint in matters relating to the legislative or executive domain.

7. Yet in another decision in the case of Union of India v. S.R. Dhingra and others, (2008) 2 SCC 229 the Apex Court relying upon its earlier decision in para-25 has made the following observations:

25 It is well settled that when two sets of employees of the same rank retire at different points of time, one set cannot claim the benefit extended to the other set on the ground that they are similarly situated. Though they retired with the same rank, they are not of the same class or homogeneous group. Hence Article 14 has no application. The employer can validly fix a cut-off date for introducing any new pension/retirement scheme or for discontinuance of any existing scheme. What is discriminatory is introduction of a benefit retrospectively (or prospectively) fixing a cut-off date arbitrarily thereby dividing a single homogenous class of pensioners into two groups and subjecting them to different treatment (vide Col B.J. Akkara (Retd) vs. Govt of India, (2006) 11 SCC 709, D.S. Nakara vs. Union of India (1983) 1 SCC 305, Krishna Kumar vs. Union of India (1990) 4 SCC 207, Indian Ex-Services League vs. Union of India (1991) 2 SCC 104, V. Kasturi vs. Managing Director, State Bank of India (1998) 8 SCC 30 and Union of India vs. Dr. Vijayapurapu Subbayamma (2000) 7 SCC 662).

8. If the matter is seen in the light of the law laid down by the Apex Court, as noticed above, it cannot be said that fixation of cut off date of 1.1.2006 for the purpose of extending retiral benefits is arbitrary and it is permissible for the Government to fix a cut off date for introducing any new pension/retirement scheme or for discontinuing of any existing



scheme. Thus, the challenge made by the applicants based upon the judgment in D.S. Nakara (supra) that pre-2006 retirees should be extended the same pensionary benefits as that of post-2006 retirees cannot be accepted.

9. Yet for another reason, pre-1.1.2006 and post-2006 retirees cannot be extended the same pensionary benefits inasmuch as the respondents on the basis of the recommendations of the VI CPC have issued two different Schemes for pre-2006 and post-2006 retirees. As regards, post-2006 retirees respondents have issued OM dated 2.9.2008 (Annexure R-1) as to how the pension has to be computed. As can be seen from this scheme, emoluments have to be computed on the basis of the revised pay structure and further as can be seen from paras 5.2 and 5.3 of the said OM qualifying service for the purpose of pension has been reckoned as 20 years as against 33 years, which was prevalent in respect of the employees who retired before 1.1.2006 and also that emoluments for the purpose of pensionary benefits have to be determined on the basis of 10 months average emoluments or emoluments last drawn by the employee before his retirement, whichever is more beneficial. Applicants have not challenged the validity of the OM dated 2.9.2008. As such, on these grounds pre-2006 retirees cannot claim benefit at par with post-2006 retirees, who are governed by the separate set of Scheme.

10. We may now consider the claim made by the applicants based upon the decision of the Apex Court in the case of S.P.S. Vains (supra). As already stated above, the Government of India has issued OM dated 01.09.2008 (Annexure A-1) in respect of pre-2006 pensioners/family pensioners pursuant to acceptance of recommendations made by the VI CPC. Para 2.1 of this OM stipulates that these orders shall apply to all pensioners/family pensioners who were drawing pension/family pension on 1.1.2006 under the Central Civil Services (Pension) Rules, 1972. CCS (Extraordinary Pension) Rules and the corresponding rules applicable to Railway pensioners and pensioners of All India Services, including officers of the Indian Civil Service retired from service on or after 1.1.1973. Para 2.2 stipulates that separate orders will be issued by the Ministry of Defence in regard to Armed Forces pensioners/family pensioners. Thus, reading of this OM clearly stipulates that the OM dated 1.9.2008 has been made applicable to the employees of the Central Government who are granted pension under CCS (Pension) Rules, 1972. Admittedly, the Armed Forces pensioners are not governed by the family pension Rules, 1972 but they are governed by different set of Rules. It may be stated here that in terms of the Pension Rules, 1972 the pension in the case of existing pensioners and future pensioners have to be computed by applying the rule of average emoluments as set out in Rule 34, whereas in the case of the defence pensioners, they are regulated in terms of the Special Army instructions issued in that regard based on the concept of one rank one pension, which is not applicable in respect of the employees serving in the Central Government. That apart the Government of India has also issued instructions dated 18.11.2009 based upon the judgment of the Apex Court in the case of S.P.S. Vains (supra) thereby clarifying that the judgment of the Apex Court in the case of S.P.S. Vains (supra) will not apply in the case of petitioners who retired from the civil departments and who, before their retirement, were governed by the CCS (Pension) Rules, 1972. That apart, in the case of S.P.S. Vains (supra) the Court was dealing with entirely a different issue. The issue involved in the said case was whether there could be a disparity in payment of pension to officer of the same rank, who had retired prior to the introduction of the revised pay scale, with those who retired thereafter. It was further noticed that an anomaly has arisen with the acceptance of the recommendations of the V CPC, which has created a situation whereby Brigadiers began drawing more pay than Major Generals and were, therefore, receiving higher pension and family pension than Major Generals. It was in this context that the judgment was rendered. In order to remove that anomaly Government stepped up pension of Major Generals who had retired prior to 1.1.1996, giving them pension as was given to the Brigadiers. Before the High Court it was urged on behalf of the writ petitioners that while the writ petitioners and the other similarly placed officers who had retired while holding the rank of Major Generals prior to 1.1.1996 were given the same pension as that of Brigadier. However, in the case of Major Generals who retired after 1.1.1996 their pay was initially fixed according to clause 12 (c) of Special Army instructions 2/S/1998



which enabled them to draw higher pension than those retired before 1.1.1996 despite holding the same rank. It was in this context that the Writ Petition was allowed by the High Court, directing the Government to fix minimum pay scale of the Major General above that of the Brigadier and grant pay above that of a Brigadier as has been done in the case of post 1.1.1996 retirees and consequently fix pension and family pension accordingly. Thus, according to us applicants cannot take any assistance from this judgment, which was rendered in the different facts and circumstances of the case and relates to the Army personnel and based on the premise of one rank one pension.

11. Thus, we agree with the reasoning given by the Bombay and Patna Benches of the Tribunal as regards fixation of pension of pre-2006 retirees at par with post-2006 retirees, based on the decisions of the Apex Court in D.S. Nakara and S.P.S. Vains (supra).

12. Now let us advert to last grievance raised by the applicants viz. that even if the modified parity, as recommended by the Pay Commission and accepted by the resolution dated 29.08.2008 is to be taken as criteria for determining pension of pre-2006 retirees, still on account of subsequent clarification issued to para 4.2 of the OM dated 1.9.2008 by the officers of the respondents vide OM dated 3.10.2008 and 14.10.2008 criteria and principles for determining the pension has been given a complete go-bye. Thus, these clarificatory OM's are illegal, arbitrary, discriminatory, unreasonable, unjust and are required to be quashed and set aside. At this stage, we wish to mention that this issue was not raised and considered by the Patna and Bombay Benches of the Tribunal, as such no finding on this aspect was given. However, in paras 66 and 67 of the judgment Patna Bench has given a direction that the Government should examine this aspect of S-29 pay scales retirees being able to retire at the maximum of the pay band 4 pay scale with the grade pay of Rs.10,000/- which would bring their pension to Rs.38,500/-. Suffice it to say that the observation made by the Patna Bench was given without taking into consideration the modified parity as recommended by the Pay Commission and accepted by the Central Government vide its resolution dated 29.08.2008, which formed the basis to grant pension to pre-2006 retirees.

13. In order to determine the issue, at this stage, it will be useful to quote item No.12 of the Resolution No.38/37/08-P&PW (A) dated 29.08.2008 whereby recommendations of the VI CPC, as contained in para 5.1.47, was accepted with certain modifications and thus reads:

S. No.	Recommendation	Decision of Government
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12	All past pensioners should be allowed fitment benefit equal to 40% of the pension excluding the effect of merger of 50% dearness allowance/dearness relief as pension (in respect of pensioners retiring on or after 1/4/2004) and dearness pension (for other pensioners) respectively. The increase will be allowed by subsuming the effect of conversion of 50% of dearness relief/ dearness allowance as dearness pension/ dearness pay. Consequently, dearness relief at the rate of 74% on pension (excluding the effect of merger) has been taken for the purposes of computing revised pension as on 1/1/2006. This is consistent with the fitment benefit being allowed in case of the existing employees. The fixation of pension will be subject to the provision that the revised pension, in no case, shall be lower than fifty percent 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. (5.1.47)	
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Accepted with the modification that fixation of pension shall be based on a multiplication factor of 1.86, i.e., basic pension + Dearness Pension (wherever applicable) + dearness relief of 24% as on 1.1.2006, instead of 1.74.

Based on this resolution, respondents issued OM of even number dated 1.9.2008. Para-4.2 whereof, which is relevant for the purpose, reads as follows:

The fixation of pension will be subject to the provision that the revised pension, in no case, shall be lower than fifty percent 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 fifty percent of the minimum of the revised pay scale.

14. On the basis of the recommendations made by VI CPC, which stood validly accepted by the Cabinet, it has been argued that principle for determining the pension has been completely altered under the garb of clarification. According to the learned counsel for the applicants on the basis of the aforesaid resolution/modified parity revised pension of the pre-2006 pensioners shall not be less than 50% of the minimum of the pay band + grade pay, corresponding to the pre-revised pay scale from which the pensioner had retired.

15. Applicants in para-11 of the Additional-Affidavit have explained how the Note prepared by a junior functionary (at the level of an Under Secretary) in the Department of Pension & Pensioners Welfare in regard to para-4.2 of the OM dated 1.9.2008 has been given a go-by to the resolution dated 29.08.2008. The Note so prepared has been extracted in this para, which thus reads:

Whether the pension calculated at 50% of the minimum pay in the pay band would be calculated (i) at the minimum of the pay in the pay band (irrespective of the pre-revised scale of pay) plus the grade pay corresponding to the pre-revised pay scale, or (ii) at the minimum of pay pay in the pay band which an employee in the pre-revised scale of pay will be getting as per the fitment tables at Annex I of the CCS (Revised Pay) Rules, 2008 plus the grade pay corresponding to the pre-revised pay scales.

16. It is pleaded that first the need for such a doubt being raised is not clear as both the formulation of the CPC in para 5.1.47 as well as in Government Resolution dated 29.8.2008 (Annexure A-7 of the OA) is clear that the fixation of pension will be subject to the provision that the revised pension in no case, shall be lower than fifty percent 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. (emphasis added). The use of words sum of, and and thereon leaves no doubt that both the minimum of the pay in the pay band and the grade pay have to correspond to the pre-revised pay scale.

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18. As regards the grievance to OM dated 14.10.2008 based on the OM dated 1.9.2008 (as clarified by OM dated 3.10.2008) whereby a revised table (Annexure A-1) of the pre-2006 pensioners pay scale/pay was finalized to facilitate payment of the revised pension/family pension, applicants have prepared a chart in respect of minimum of the pre-revised scales (modified parity) of S 29 along with 5 scales included in PB-4 works out as under and thus reads:

Min of Pre revised scale. (2+3) (Rs.)				Pay in the Pay Band	Grade Pay	Revised Basic Pay (2+3) (Rs.	Pension 50% of
1	2	3	4	5			
S-24							
(14300)	37400	8700	46100	23050			
S-25 (15100)							
	39690	8700	48390	24195			
S-26							
(16400)	39690	8900	48590	24295			
S-27							
(16400)	39690	8900	48590	24295			
S-28							
(Rs.14300)	37400	10000	47400	23700			
S-29							



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(18400)44700 10000 54700 27350

The first 4 columns of the above table have been extracted from the pay fixation annexed with MOF OM of 30th August 2008 (referred to in para 4.5 (iii) above). Revised pension of S 29 works out to Rs.27350 which has been reduced to Rs.23700 as per DOP OM of 3-10-2008 (para 4.8 (B) below).

It was explained during arguments that pay in the Pay Band indicated in column No.2 above table relates to the pay in the revised pay scale corresponding to the minimum pay in the pre-revised pay scale.

19. On the basis of this chart it has been pleaded that as per the impugned OM dated 14.10.2008 in the case of S-24 officers the corresponding pay in the Pay Band against 14300/- is shown as 37400. In addition, Grade Pay of Rs.8700/- was given totaling Rs.46,100/-. Similarly, revisions concerning all the other pay scales were accepted by the aforementioned OM dated 14th October, 2008. The illegality which has been perpetrated in the present matter is apparent from the fact that whereas an officer who was in the pre-revised scale S-24 and receiving a pay of Rs.14,300/- would now receive Rs.37,400/- plus grade pay of Rs.8700 and his full pension would accordingly be fixed at Rs.23050 (i.e. 50% of 37400 pay plus grade pay Rs.8700) pursuant to the implementation of VI CPC recommendations after 1.1.2006, whereas a person belonging to the Applicant Association, who was drawing a pay of Rs.18,400/- or even Rs.22,400/- (maximum of scale) in the pre-revised S-29 scale will now be getting pension as only 23700/- (i.e. 50% of pay of Rs.37,400/- plus grade pay of Rs.10000). However, the misinterpreted revised basic pay of Rs.37400 has caused a grave miscarriage of justice since those officers who belong to a much higher grade have now been equated with those who were working under them in a lower rank/grade. It is further relevant to note that those officers belonging to S-29 who would retired after 1.1.2006 would, however, be placed in the revised pay scale differently. For instance, a person who was in the pre-revised pay scale of 18000-22400 (S29) at Rs.18,400/- would now get Rs.44,700/- in addition to Grade Pay of Rs.10,000/- i.e. the revised basic pay of Rs.61,850/-. However, a person who retired only one day prior i.e. on 31st December 2005, even if he had received pre-revised pay of Rs.22400/- would now be placed in the revised pay of Rs.37400/- only in addition to the Grade Pay of Rs.10,000. Thus the illegality which has been committed in the present matter also relates to equating the pre-revised pay scale of Rs.18,400-22,400/- with the pre-revised pay scale of Rs.14,300-18,300/-.

20. In order to buttress the aforesaid submission applicants have given specific instance of an officer in para-6 of the Additional Affidavit who retired at a higher pay on 31.12.2005 getting a much higher pension at that time than another officer who retired only 5 days later, i.e., on 5.1.2006 at a lower pay. After implementing the VI CPC recommendations, as illegally modified by the Department of Personnel, the result is that the concerned person who retired on 31.12.2005 is getting far lower pension than the person who retired 5 days later. A copy of the said chart amplifying the above position has also been reproduced, which is to the following effect:

Name Ashok K. Ghosh R.K. Goel



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Department	Railways	Heavy Water Board
Scale of Pay	18400-500-22400	18400-500-22400
Date of Retirement	31.12.2005	05.01.2006 i.e. only 5 days
Last Pay Drawn	Rs.22900 (incl. one Stagnation increment)	Rs.21400
Average 10 months Emoluments incl. Dearness Pay	Rs.34350	Rs.31737.50 or 31738
Original Pension fixed	Rs.17175	Rs.15869
Revised Pension Fixed after 6th CPC implementation	Rs.2587(i.e. Rs.22900x2.26)	
	2 Rs.29435	

21. Applicants have also explained as to how the disparity has resulted on account of implementation/acceptance of VI CPC recommendations by the Government vide resolution dated 29.08.2008. As can be seen from the clarificatory order dated 30.08.2008 (Annexure A-6 at pages 139-147) regarding pay scale of S-24 to S-29, the pay scales of the V CPC of Rs.14300-18300 in respect of S-24 employees, the VI CPC has placed them in Pay Band-3 and recommended the Pay Band of Rs.15,600-39100/- plus Grade Pay of Rs.7600 per month. However, the Government has upgraded the said S-24 category to Pay Band 4 and placed them in the pay Band of Rs.37,400-67,000/- plus Grade Pay of Rs.8700/- per month. It is, therefore, absolutely clear that the Government authorities have increased the pay of S-24 employees by far more than double. Further, it is very relevant to note that the said impact would be not only on the retired S-24 officers but also on the large base of serving employees. Similarly, the same is the position with regard to S-25, S-26 and S-27 all of whom were recommended by the Sixth Pay Commission to be in the pay band of Rs.15,600-39,100/- but were placed by the Government in the pay band of Rs.37,400-67,000/-. Similarly in the case of employees who were placed in S-29 pay scale they were recommended Pay Band of Rs.39,200-67000/- plus Grade Pay of Rs.9,000/- per month by the VI CPC, whereas the Government has revised pay structure to Rs.37,400-67000/- plus Grade Pay of Rs.10,000/- per month. This has resulted in the anomaly which is essentially to be rectified.

22. It is submitted that the applicants are in the category of retired employees and are a diminishing category. In contrast, the serving employees of S-29 category are being given the benefits of the recommendations of the VI CPC. Further, as explained earlier, the benefits available in S-24 to S-27 grade are available not only to retired employees but also to the large base of serving employees. The financial effect of the same is many-many times that of the small additional expenditure which will be incurred on account of the benefits sought by the Applicants. Therefore, the argument sought to be raised by the Union of India during the course of hearing regarding the so-called financial impact has no factual basis at all.

23. Thus, according to the applicants the aforesaid disparity, which has been caused on account of granting enhanced scales in S-24 to S-27 grade contrary to the recommendations of the VI CPC and further reducing the scales recommended by the Pay Commission in respect of S-29 grade to be at par with the employees who were placed in S-24

to S-27 grade is required to be set right. According to the learned counsel of applicants even if the cut off date of 1.1.2006 for revision of the pay scale and grant of pensionary benefits on the basis of VI CPC is to be upheld, even then the applicants are entitled to relief based upon the Resolution dated 29.08.2008 whereby the recommendations of the Pay Commission was accepted and on account of disparity, which has resulted in granting different pay scales, as recommended by the VI CPC, which has caused prejudice to the applicants and thus has to be set right.

24. The stand taken by the respondents is that the recommendations of the VI CPC, as accepted by the Government vide Resolution dated 29.08.2008 and further clarification issued by the respondents is in consonance with the recommendations so accepted. It is stated that there may be a slight change in the word used in the clarification issued by the Government subsequently but has the same meaning as in the latter part of para 5.1.47 of the report of the VI CPC as accepted by Government. The phrase minimum of the pay in the Pay Band has been used and this phrase carries the same meaning i.e., the pay from which a pay band starts. It is stated that the clarification on OM dated 3.10.2008 was issued after due exercise in Department of Pension and Pensioners Welfare and Ministry of Finance and with the approval of the Honble Minister of State. It is further stated that VI CPC has not made any recommendation for complete parity between the pre-1996 and post-1-1-1996 pensioners. Therefore, question of allowing complete parity between pre-1996 and post 1.1.1996 pensioners would not arise. It is stated that the OM dated 1.9.2008 has been further clarified on 3.10.2008 that pension calculated at 50% of the minimum of the pay in the pay band plus grade pay would be calculated at the minimum of the pay in the pay band (irrespective of the pre-revised scale of pay) plus the grade pay corresponding to the pre-revised pay scale.

25. In order to decide the matter in controversy, at this stage, it will be useful to extract the relevant portions of para 5.1.47 of the VI CPC recommendation, as accepted by the Resolution dated 29.08.2008, para 4.2 of the OM dated 1.9.2008 and subsequent changes made in the garb of clarification dated 3.10.2008, which thus read:

Resolution No.38/37/8-P&PW(A) dated 29.08.2008-Para 5.1.47 (page 154-155) Para 4.2 of OM DOP&PW OM No. No.38/37/8-P&PW(A) dated 1.09.2008 (page 38 of OA) OM DOP&PW OM No. No.38/37/8-P&PW(A) dated 3.10.2008

The fixation as per above 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.



The fixation as per above 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 plus (and) the grade pay (thereon) corresponding to the pre-revised pay scale from which the pensioner had retired.

The Pension Calculated at 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] plus grade pay would be calculated (i) at the minimum of the pay in the pay band (irrespective of the pre-revised scale of pay plus) the grade pay corresponding to the pre-revised pay scale. For example, if a pensioner had retired in the pre-revised scale of pay of Rs.18400-22400, the corresponding pay band being Rs.37400-67000 and the corresponding grade pay being Rs.10000 p.m., his minimum guaranteed pension would be 50% of Rs.37400+Rs.10000 (i.e. Rs.23700)

Strike out are deletions and bold letter addition Strike out are deletions and bold letters addition.

26. As can be seen from the relevant portion of the resolution dated 29.8.2008 based upon the recommendations made by the VI CPC in paragraph 5.1.47, it is clear that the revised pension of the pre-2006 retirees should not be less 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 held by the pensioner at the time of retirement. However, as per the OM dated 3.10.2008 revised pension at 50% of the sum of the minimum of the pay in the pay band and the grade pay thereon, corresponding to pre-revised scale from which the pensioner had retired has been given a go-by by deleting the words sum of the and grade pay thereon corresponding to the pre-revised pay scale and adding irrespective of the pre-revised scale of pay plus implying that the revised pension is to be fixed at 50% of the

minimum of the pay, which has substantially changed the modified parity/formula adopted by the Central Government pursuant to the recommendations made by the VI CPC and has thus caused great prejudice to the applicants. According to us, such a course was not available to the functionary of the Government in the garb of clarification thereby altering the recommendations given by the VI CPC, as accepted by the Central Government. According to us, deletion of the words sum of the and grade pay thereon corresponding to the pre-revised scale and addition of the words irrespective of the pre-revised scale of pay plus, as introduced by the respondents in the garb of clarification vide OM dated 3.10.2008 amounts to carrying out amendment to the resolution dated 29.08.2008 based upon para 4.1.47 of the recommendations of the VI CPC as also the OM dated 1.9.2008 issued by the Central Government pursuant to the aforesaid resolution, which has been accepted by the Cabinet. Thus, such a course was not permissible for the functionary of the Government in the garb of clarification, that too, at their own level without referring the matter to the Cabinet.

27. We also wish to add that the Pay Commissions are concerned with the revision of the pre-revised pay scales and also that in terms of Rule 34 of the CCS (Pension) Rules, 1972 the pension of retirees has to be fixed on the basis of the

average emoluments drawn by them at the time of retirement. Thus, the pre-revised scale from which a person has retired and the emoluments which he was drawing at the time immediately preceding his retirement are a relevant consideration for the purpose of computing revised pension and cannot be ignored. As such, it was not permissible for the respondents to ignore the pre-revised scale of pay for the purpose of computing revised pension as per the modified



parity in the garb of issuing the clarifications, thereby altering the modified parity/formula, which was accepted by the Central Government vide its resolution dated 29.08.2008.

28. The above view is also fortified by paras 137.15, 137.20 and 137.21 of the V CPC recommendations, as reproduced below, leading to modified parity, which were also accepted by the VI CPC and accepted by the Central Government and thus read:

#### Immediate relief to pensioners

137.15 While the work relating to revision of pension of pre 1.1.1986 retirees by notional fixation of their pay shall have to be undertaken by the pension sanctioning authorities to be completed in a time-bound manner, we suggest that the pensioners should be provided some relief immediately on implementation of our recommendations. The pension disbursing authorities may be authorized to consolidate the pension by adding (a) basic pension; (b) personal pension, wherever admissible; (c) dearness relief as on 1.1.1996 on basic pension only; (d) Interim Relief (I and II) and (e) 20% of basic pension. The consolidated pension shall be not less than 50% of the minimum pay, as revised by the Fifth CPC, of the post held by the pensioner at the time of retirement. This may be stepped up by the pension disbursing authorities, wherever feasible, to the level of 50% of the minimum pay of the post held by the pensioner at the time of retirement. (emphasis supplied)

xxx      xxx      xxx      xxx      xxx

#### Modified parity conceded

137.20 We have given our careful consideration to the suggestions. While we do not find any merit in the suggestion to revise the pension of past retirees with reference to maximum pay of the post held at the time of retirement, as revised by the Fifth CPC, there is force in the argument that the revised pension should be not less than that admissible on the minimum pay of the post held by the retiree at the time of retirement, as revised by the Fifth CPC. We have no hesitation in conceding the argument advanced by pensioners that they should receive a pension at least based on the minimum pay of the post as revised by Fifth Pay Commission in the same way as an employee normally gets the minimum revised pay of the post he holds. We recommend acceptance of this principle, which is based on reasonable considerations. (emphasis supplied).

#### Principle enunciated

137.21 The Commission has decided to enunciate a principle for the future revision of pensions to the effect that complete parity should normally be conceded up to the date of last pay revision and modified parity (with pension equated at least to the minimum of the revised pay scale) be accepted at the time of each fresh pay revision. This guiding principle which we have accepted would assure that past pensioners will obtain complete parity between the

pre-86 and post-86 pensioners but there will be only a modified parity between the pre-96 and post-96 pensioners. The enunciation of the principle would imply that at the time of the next pay revision say, in the year 2006, complete parity should be given to past pensioners as between pre-1996 and post-1996 and modified parity be given between the pre-2006 and post-2006 pensioners.(emphasis supplied)

29. From the above extracted portion it is clear that the principle of modified parity, as recommended by the V CPC and accepted by the VI CPC and accepted by the Central Government provides that revised pension in no case shall be lower than 50% of the sum of the minimum of the pay in the pay band and grade pay corresponding to revised pay scale from which the pensioner had retired. According to us, as already stated above, in the garb of clarification, respondents interpreted minimum of pay in the pay band as minimum of the pay band. This interpretation is apparently erroneous, for the reasons:

a) If the interpretation of the Government is accepted it would mean that pre-2006 retirees in S-29 grade retired in December, 2005 will get his pension fixed at Rs.23700/- and another officer who retired in January 2006 at the minimum of the pay will get his pension fixed at Rs.27350/-. This hits the very principle of the modified parity, which was never intended by the Pay Commission or by the Central Government;

b) The Central Government improved upon many pay scales recommended by the VI CPC. The pay scale in S-29 category was improved from Rs.39200-67000/- plus Grade Pay of Rs.9,000/- with minimum pay of Rs.43280/- to Rs.37,400-67000/- with grade pay of Rs.10,000/- with minimum pay of Rs.44,700/- (page 142 of the paper-book). If the interpretation of the Department of Pension is accepted, this will result in reduction of pension by Rs.4,00/- per month. The Central Government did not intend to reduce the pension of pre-2006 retirees while improving the pay scale of S-29 grade;

c) If the erroneous interpretation of the Department of Pension is accepted, it would mean that a Director level officer retiring after putting in merely 2 years of service in their pay band (S-24) would draw more pension than a S-29 grade officer retiring before 1.1.2006 and that no S-29 grade officer, whether existing or holding post in future will be fixed at minimum of the pay band, i.e., Rs.37,400/-. Therefore, fixation of pay at Rs.37,400/- by terming it as minimum of the pay in the pay band is erroneous and ill conceived; and

d) That even the Minister of State for Finance and Minister of State (PP) taking note of the resultant injustice done to the pre-11.2006 pensioners (pages 169-170) had sent formal proposal to the Department of Expenditure seeking rectification but the said proposal was turned down by the officer of the Department of Expenditure on the ground of financial implications. Once the Central Government has accepted the principle of modified parity, the benefit cannot be denied on the ground of financial constraints and cannot be said to be a valid reason.

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.

(Dr. Veena Chhotray)

(M.L. Chauhan)

(V.K. Bali)

Member (A)

Member (J)

Chairman



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C.P. No.158/2012

O.A. No. 655/2010

M.A. No. 1228/2014

New Delhi, this the 15th day of May, 2014

HON<sup>BLE</sup> MR. JUSTICE SYED RAFAT ALAM, CHAIRMAN

HON<sup>BLE</sup> MR. V. AJAY KUMAR, MEMBER (J)

HON<sup>BLE</sup> DR. BIRENDRA KUMAR SINHA, MEMBER (A)

1. Central Government SAG (S-29)

Pensioners' Association

Through its Secretary Shri Sant Bhushan Lal,

C-5/21, Grand Vasant,

Vasant Kunj,

New Delhi-110 070.

2. Shri Satish Varma,

Retd. Chief Engineer, Central Water Commission,

Ministry of Water Resources,

Govt. of India,

Resident of B-6/8, Vasant Vihar,

New Delhi-110 057.

.. Petitioners

(By Advocate : Shri Nidesh Gupta, Sr. Advocate with Shri Sushil  
Malik, Shri M.K. Ghosh and Shri Tarun Gupta)

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Versus

1. Mr. R.C. Misra,  
Secretary to the Government of India,  
Department of Pensions and Pensioners Welfare,  
Ministry of Personnel, Public Grievances and Pensions,  
Lok Nayak Bhawan, Khan Market,  
New Delhi-110 003.

2. Mr. Sumit Bose,  
Secretary to the Government of India,  
Department of Expenditure,  
Ministry of Finance, North Block,  
New Delhi.

.. Proposed Contemnors/  
Respondents

(By Advocate : Shri Rajesh Katyal and with Shri D.S. Mahendru  
with departmental representatives Ms. Tripti Ghosh,  
Director and Shri Harjit Singh, Dy. Secretary)

ORDER (ORAL)

By Hon<sup>ble</sup> Mr. Justice Syed Rafat Alam



This is an application for initiating contempt proceedings against the respondents for not carrying out the judgment/order of the Tribunal dated 01.11.2011 in O.A. No.655/2010 and connected cases.

2. At the outset, Shri Rajesh Katyal, the learned counsel appearing on behalf of the respondents, on instructions from Ms. Tripti Ghosh, Director and Shri Harjit Singh, Dy. Secretary, submits that the Curative Petition preferred by them has already been rejected by the Hon<sup>ble</sup> Apex Court by order dated 30.04.2014, and that the Ministry of Law has advised the Department to implement the aforesaid order of the Tribunal qua the petitioners. He submits that some reasonable time may be given to them to implement the aforesaid order.

3. In view of the above, we are of the view that no purpose would be served by keeping this matter pending and it would be appropriate to dispose of the matter with direction to the respondents to implement the directions of the Tribunal expeditiously, preferably within three months.

4. With the above order, this Contempt Petition stands disposed of. Notices issued to the alleged respondents/contemnors are discharged.

M.A. No. 1228/2014

In view of the fact that Curative Petition has been rejected by the Hon<sup>ble</sup> Apex Court and also in view of the submission made by Shri Rajesh Katyal, the learned counsel appearing on behalf of the respondents, on instructions made by the departmental representatives, that they have been advised by the Ministry of Law to implement the order of this Tribunal, in our view the Miscellaneous Application No.1228/2014 has become infructuous, and the same is, therefore, rejected.

(Dr. Birendra Kumar Sinha) (V. Ajay Kumar) (Syed Rafat Alam)

Member (A)

Member (J)

Chairman

/Jyoti/

Central Administrative Tribunal

Principal Bench

CP No.158/2012

In

OA No.655/2010

New Delhi, this the 30th day of May, 2012

Hon<sup>ble</sup> Mr. Justice S.C. Sharma, Acting Chairman

Hon<sup>ble</sup> Mr. M.L. Chauhan, Member (J)

Hon<sup>ble</sup> Dr. Veena Chhotray, Member (A)

1. Central Government SAG (S-29) Pensioners' Association,  
Through its Secretary Shri Sant Bhushan Lal,  
C-5/21, Grand Vasant, Vasant Kunj,  
New Delhi-110 070.

2. Shri Satish Verma,  
Retd. Chief Engineer, Central Water Commission,  
Ministry of Water Resources, Govt. of India,  
Resident of B-6/8, Vasant Vihar,  
New Delhi-110 057.

Applicants.

(By Advocate : Shri Tarun Gupta)

Versus



1. Shri R.C. Misra,  
Secretary to the Government of India,  
Department of Pensions and Pensioners Welfare,  
Ministry of Personnel, Public Grievances & Pensions,  
Lok Nayak Bhawan, Khan Market,  
New Delhi-110003.

3. Mr. Sumit Bose,  
Secretary to the Government of India,  
Department of Expenditure,  
Ministry of Finance, North Block,  
New Delhi.

| Respondents.

(By advocate : Shri Krishan Kumar)

ORDER (ORAL)

Mr. Justice S.C. Sharma, Acting Chairman :

We have heard Shri Tarun Gupta, advocate for the applicant and Shri Krishan Kumar, advocate for the respondents. An order has been produced before us passed by the Hon<sup>ble</sup> High Court on 21.05.2012 and perusal of which shows that the IR has been granted by the Hon<sup>ble</sup> High Court till further orders. Under these circumstances, it will not be justified to keep this CP pending and we think it just and appropriate in the interest of justice that it may be closed at this stage with liberty to the petitioner to move an application for revival, as per the order of Hon<sup>ble</sup> High Court. Accordingly, the CP is dropped. However, liberty is granted to the petitioner to move an application for revival of the CP, as per the order of Hon<sup>ble</sup> High Court.

( Dr. Veena Chhotray )	( M.L. Chauhan )	( S.C Sharma )
Member (A)	Member (J)	Acting Chairman