

No. CPAO/Tech/6th CPC/2009-10/ 257
Government of India
Ministry of Finance
Department of Expenditure
Central Pension Accounting Office
Trikoot-II, Bhikaji Cama Place
New Delhi.

28.08.2009

OFFICE MEMORANDUM

Subject:- Implementation of Government decision on the recommendation of the Sixth Central Pay Commission – Revision of pension of pre-2006 pensioners / family pensioners etc. and payment of Dearness Relief to re-employed and employed family pensioners.

Please find enclosed copies of O.M. No. 38/37/08-P&PW(A) dated 27.05.2009, & dated 14.07.2009, OM No. 38/88/08-P&PW(G) dated 09.07.2009 and OM No. 38/48/09-P&PW(A) dated 27.08.2009 issued by Department of Pension & Pensioners Welfare (available at website www.pensionersportal.com & www.persmin.nic.in) and also at our website www.cpaon.nic.in. The same may be circulated to all pension paying branches under your control for necessary action.

T. Palra

(Tripti P. Ghosh)
Controller of Accounts

To

1. All Nodal Officers of Authorised Banks
 2. All General Manager
 3. CPAO, NIC (for uploading our website)
- (As per list attached)

No.4/38/2008-P&PW (D)
GOVERNMENT OF INDIA
MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES & PENSIONS
DEPARTMENT OF PENSION & PENSIONERS' WELFARE

3rd Floor, Lok Nayak Bhawan,
Khan Market, New Delhi-110 003,
Dated 27th May 2009

OFFICE MEMORANDUM

Subject:- Revision of 1/3rd commuted portion of pension in respect of Government servants who had drawn lumpsum payment on absorption in Central Public Sector Undertakings/Central Autonomous Bodies -amount of the revised 1/3rd restored pension plus Dearness Pay (DP) & Dearness Relief (DR) on implementation of Government's decision on the recommendations of the Sixth Central Pay Commission to be not less than 1/3rd pre revised restored pension plus admissible DP & DR as already drawn up to 01.09.2008- Regarding.

The undersigned is directed to say that the restorable 1/3rd pension of the Government servants who had drawn lump sum payment in respect of pro-rata pension (1/3rd as well as 2/3rd) on absorption in a PSUs/Autonomous Bodies and have become entitled to restoration of 1/3rd commuted portion of pension as per the provisions of this Department's O.M. No. 34/2/86-P&PW dated 5th March 1987 after 15 years from the date of commutation or 1.4.85, whichever is later, is regulated vide this Department's O.M. Nos. 4/59/97-P&PW(D) dated 14th July 1998, OM No.4/79/2006-P&PW (D) dated 6.9.07 and dated 13.5.08. In pursuance of Government's decision on the recommendations of Sixth Central Pay Commission, instructions have been issued for revision of 1/3rd restorable pension of such absorbees vide Deptt. of Pension & Pensioners Welfare's OM of even No. dated 15th September 2008.

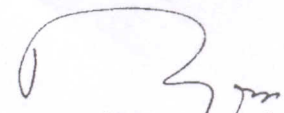
2. The Deptt. of Pension and PW has received representations that implementation of instructions contained in OM dated 15.9.2008 is resulting in drop in the total amount of 1/3rd restored pension plus DR in comparison to total amount of the 1/3rd restored pension plus admissible DP & DR as drawn by pensioners.

3. The President is pleased to decide that such absorbees, whose pre-revised 1/3 restored pension plus admissible DP and DR as on 1.9.2008 works out to be more than the amount of the revised 1/3rd restorable pension plus DR on the implementation of the Government's decision on the recommendations of the Sixth Central Pay Commission in terms of instructions contained in OM dated 15.9.2008, shall continue to draw the pre-revised pension plus DP plus DR admissible in terms of orders existed prior to issue of the OM dated 15.9.2008 till such time the restored amount of revised pension in terms of instruction contained in OM dated 15.9.2008 plus admissible DR works out to be more than the pre revised 1/3rd restored pension.

4. The Administrative Ministries/ Departments are therefore directed to ensure that wherever the restored amount of the revised pension plus DR of such absorbees, in terms of instructions contained in OM dated 15.9.2008, becomes less than 1/3rd pre revised restored pension plus admissible DP & DR as already drawn, the absorbed employees should be allowed to draw the pensionary benefits admissible to them till such time restored amount of the revised pension in terms of instructions contained in OM dated 15.09.2008 plus admissible DR works out to be more than pre revised 1/3rd restored pension plus admissible DP & DR as on 01.09.2008. Necessary entries in the PPOs to this effect shall be made accordingly.

6. This issues with the concurrence of Ministry of Finance (Department of Expenditure) vide their UO No.106/EV/2009 dated 18.05.2009 and C&AG's U.O.No.30 Audit (Rules)/12-2009 dated 5.5.2009.

7. Hindi version will follow.


(Raj Singh)
Director

To
All Ministries/Departments of the Government of India (As per mailing list)

F.No.38/37/08-P&PW(A)

Government of India

Ministry of Personnel, Public Grievances & Pensions
Department of Pension & Pensioners' Welfare

Lok Nayak Bhawan, New Delhi-110003

Dated the 14th July, 2009.

OFFICE MEMORANDUM

Sub: Implementation of Government's decision on the recommendations of the Sixth Central Pay Commission - Revision of pension of pre-2006 pensioners.

The undersigned is directed to say that in accordance with para 4.2 of this Department's O.M. No. 38/37/08-P&PW(A) dated 1.9.2008 (as clarified vide OM dated 3.10.2008 and 14.10.2008), the revised pension of pre-2006 pensioners shall, in no case, 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. Clarifications have been sought by Ministries/Departments as to whether Non-Practicing Allowance (NPA) is to be added to the minimum of the revised pay band plus the grade pay/ revised pay scale while considering stepping up consolidated pension on 1.1.2006. The matter has been examined in consultation with the Ministry of Finance (Department of Expenditure).

2. On implementation of the recommendations of Fifth Central Pay Commission, NPA was not added to the minimum of the revised scale of pay as on 1.1.1996 in cases where consolidated pension/family pension was to be stepped up to 50% / 30% respectively. Hon'ble Supreme Court, in its judgement dated 10.10.2006 in Transfer Case (civil) 72 of 2004 - Col. (Retd.) B.J. Akkara vs. UOI & others, upheld the validity of OM dated 11.9.2001 of Ministry of Defence not allowing the benefit of NPA in the case of retired medical officers of Armed Forces to be added to the minimum of revised scale of pay as on 1.1.1996 corresponding to the scale of pay held by the pensioner at the time of his retirement. Hon'ble Supreme Court held that NPA is not the part of minimum of the revised pay scale as on 1.1.1996.

3. NPA granted to medical officers does not form part of the Pay Bands/scales of pay. It is a separate element, although it is taken into account for the purpose of computation of pension. It is, therefore, clarified, that in the case of pre-2006 pensioners NPA is not to be added to the minimum of the revised pay band+Grade pay/revised pay scale in cases where consolidated pension/family pension as on 1.1.2006 is to be stepped up to 50% / 30% respectively, in terms of para 4.2 of Department of Pension & PW's O.M. No. 38/37/08-P&PW(A) dated 1.9.2008 (as clarified vide OM dated 3.10.2008 and 14.10.2008).

4. It is impressed upon all the Ministries/Departments of the Government of India to keep in view the above clarifications while disposing of the cases of revision of pension/family pension. They are also advised to dispose the representations received by them from pensioners on the above issues without referring them to this Department.

5. This issues with the concurrence of Ministry of Finance (Department of Expenditure) vide their U.O. No. 264/EV/2009 dated 9.7.2009.

(M.P. Singh)

Director (PP)

Telefax No.24624802

To

1. All Ministries/Departments of Government of India
2. All Pensioners' Association

Please visit: <http://pensionersportal.gov.in>

F. No. 38/88/2008-P&PW(G)
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Pension & Pensioners' Welfare

3rd Floor, Lok Nayak Bhavan
Khan Market, New Delhi
Date : 9th July, 2009

OFFICE MEMORANDUM

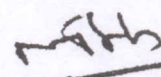
Subject : Payment of Dearness Relief to re-employed pensioners and employed family pensioners.

The undersigned is directed to say that the grant of DR to re-employed pensioners/family pensioners is presently regulated in accordance with the instructions contained in this Department's OM No. 45/73/97-P&PW(G) dated 2.7.1999. Consequent upon the revision in ignorable amount of pension from Rs. 1500/- to Rs. 4000/- in terms of DOPT OM No. 3/13/2008-Estt.(Pay-I) dated 11.11.2008, the amount of Rs. 1500/- appeared in OM dated 2.7.1999 is revised as Rs. 4000/-. The other conditions for grant of DR to re-employed pensioner/family pensioner remain the same.

2. In so far as persons serving in the Indian Audit Accounts Department are concerned, these orders are being issued after consultation with the CAG of India.

3. This issues with the concurrence of Ministry of Finance, Department of Expenditure vide their UO No. 132/EV/2009 dated 21.4.2009 and DOP&T vide their UO No. 3/16/2009-Estt. (Pay II) dated 23.6.2009.

4. Hindi version will follow.


(M. P. Singh)
Director

To

All Ministries and Departments of the Government of India.
Comptroller & Auditor General of India.
As per standard mailing list.

**MOST IMMEDIATE/
IMPLEMENTATION OF CAT ORDER**

**OM No. 38/48/09-P&PW(A)
Government of India
Ministry of Personnel Public Grievances and Pensions
Department of Pension and Pensioners Welfare**

**Lok Nayak Bhawan,
Khan Market, New Delhi-110 003
dated 27th August, 2009**

OFFICE MEMORANDUM

Subject: OA No. 504 of 2009 filed in the Central Administrative Tribunal, Ernakulam Bench – Grant of additional pension on attaining the age of 80 years regarding

The following Applicants filed OA No. 504 of 2009 in the Central Administrative Tribunal, Ernakulam Bench seeking direction of the hon'ble CAT that the pensioners/family pensioners may be given the additional quantum of pension/family pension, in terms of Department of Pension & PW Resolution No. 38/37/08-P&PW(A) dated 29.8.2008, O.M. No. 38/37/08-P&PW(A) dated 1.9.2008 and O.M. No. 38/37/08-P&PW(A) (pt. I) dated 3.10.2008, just after their completion of the age of 79 years:

1. Southern Railway Pensioners Association, Gopalan Vaidyar's Compound, Tileri Road, Bolar, Mangalore.
2. Shri K. Gopal Shenoy, Retired Wireless Inspector (Railways), Old Canara Bank Building, Padavinagadi, Konchady Post, Mangalore
3. Kamalaksha, Retired Railway Trolleyman, Nadukar House, Kalnad Village, Kasaragod District-671217

2. The Central Administrative Tribunal, Ernakulam Bench, in its Order dated 28.7.2009 disposed of the above OA with the following advice to the Secretary, Department of Pension & Pensioners Welfare:

"To consider the representations at Annexures A-4 to A-6 along with the grounds raised in the OA and pass a suitable order within a period of two months from the date of communication of this order."

3. In compliance of the above advice of the Hon'ble CAT, the representations at Annexure A-4 to A-6 and the grounds raised in para 5 of the OA No. 504 of 2009 have been examined in the Department of Pension & Pensioners Welfare.

4. The thrust of the argument made in the representations/OA is that a person attains the age of 80 years on completion of the age of 79 years and, therefore, the additional quantum of pension available on attaining the age of 80 years should be paid immediately on completion of the age of 79 years.

5. The above argument of the Applicants is on account of misinterpretation of the meaning of the phrase "attaining the age of". The position in the Rules regulating the

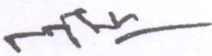
service conditions of the Government servants in this respect is well settled. In accordance with Rule 56 of the Fundamental Rules applicable to the Government servants, a Government servant retires from service on the afternoon of the last day of the month in which he attains the age of 60 years. Accordingly, a Government servant retires on the afternoon of the last day of the month in which he completes the age of 60 years and not in the month in which he completes the age of 59 years. On this analogy, the additional pension/family pension on attaining the age of 80 years has to be paid only after the pensioner completes the age of 80 years and not after he completes the age of 79 years.

6. In para 5(M) of the OA, the Applicants have referred to the Venkataramani Iyer's Law Maxims with Legal Maxims (Reprint 1991) according to which a person attains the age of 21 years "on the day preceding the anniversary of his 21st Birthday". In terms of this definition itself, a person born on 5.4.1988 attains the age of 21 years on 4.4.2009 and not on 5.4.2008.

7. It is clear from the above that a person attains the age of 80 years only when he completes the age of 80 years and not when he completes the age of 79 years. However, for the sake of convenience, it has been provided in the orders issued by this Department that the additional quantum of pension/family pension, on attaining the age of 80 years and above, would be admissible from the 1st day of the month in which the date of birth falls..

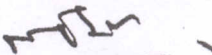
8. In the light of the foregoing, the request of the Applicants for payment of the additional quantum of pension available on attaining the age of 80 years immediately on completion of the age of 79 years is not agreed to.

9. This issues with the approval of Secretary, Department of Pension & Pensioners Welfare.


(M.P.Singh)
Director (PP)

1. Secretary, Southern Railway Pensioners Association, Gopalan Vaidyar's Compound, Tiler Road, Bolar, Mangalore.
2. Shri K. Gopal Shenoy, Retired Wireless Inspector (Railways), Old Canara Bank Building, Padavinagadi, Konchady Post, Mangalore
3. Kamalaksha, Retired Railway Trolleyman, Nadukar House, Kalnad Village, Kasaragod District-671217

Copy to: Secretary, Railway Board, Rail Bhawan, New Delhi


(M.P.Singh)
Director (PP)

Please visit: <http://pensionersportal.gov.in>