

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 16TH DAY OF JUNE 2015/26TH JYAISHTA, 1937

WP(C).No. 32614 of 2014 (B)

PETITIONER(S):

**G.BHASI, AGED 64 YEARS
S/O.GOVINDA PILLAI, RETIRED SUB INSPECTOR
88 BATAILLION, CRPF
PRESENTLY RESIDING ATTHIRUVATHIRA VEEDU
KARALI JUNCTION P.O., KOLLAM DISTRICT, KERALA
PIN - 690 521.**

**BY ADVS.SRI.SAJITH KUMAR V.
SRI.P.K.ANTONY
SMT.SMITHA C.R.**

RESPONDENT(S)/RESPONDENTS:-:

- 1. UNION OF INDIA,
REPRESENTED BY ITS SECRETARY TO GOVERNMENT
MINISTRY OF HOME AFFAIR, GOVERNMENT OF INDIA
NEW DELHI - 110 001.**
- 2. SECRETARY TO GOVERNMENT,
MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES & PENSIONS
DEPARTMENT OF PENSION AND PENSIONERS WELFARE
GOVERNMENT OF INDIA, LOK NAYAK BHAWAN
NEW DELHI - 110 003.**
- 3. THE DIRECTOR GENERAL
CENTRAL RESERVE POLICE FORCE, LODHI ROAD
CGO COMPLEX, NEW DELHI - 110 003.**
- 4. THE DEPUTY DIRECTOR (ACCOUNTS),
PAY AND ACCOUNT OFFICE, DIRECTORATE GENERAL OFFICE
CENTRAL RESERVE POLICE FORCE, MAHAVIR NAGAR
TILAK NAGAR, NEW DELHI - 110 018.**

R. BY ADV.SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
16-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1. A TRUE COPY OF THE RELEVANT PAGES OF THE DISCHARGE CERTIFICATE ISSUED BY THE RESPONDENTS.

EXHIBIT P2. A TRUE COPY OF THE MEMO NO:38/37/08-P& PW(A) DATED 01.09.2008 ISSUED BY THE 2ND RESPONDENT.

EXHIBIT P3. A TRUE COPY OF THE OFFICE MEMORANDUM NO:38/37/08-P& PW (A) DATED 14.10.2008 ISSUED BY THE 2ND RESPONDENT.

EXHIBIT P4. A TRUE COPY OF THE JUDGMENT DATED 29.04.2013 IN WP(C) NO.1535/2012 BEFORE THE HON'BLE DELHI HIGH COURT AT NEW DELHI.

EXHIBIT P5. A TRUE COPY OF THE ORDER DATED 25.06.2012 ISSUED BY THE 4TH RESPONDENT.

EXHIBIT P6. A TRUE COPY OF THE REPRESENTATION DATED 20.11.2014, BEFORE THE 4TH RESPONDENT.

RESPONDENT(S)' EXHIBITS:

EXHIBIT R3(A): COPY OF DEPARTMENT OF PENSION AND PENSIONER'S WELFARE (DOP & PW) OM NO.38/37/08-P&PW(A) DATED 1.9.08.

EXHIBIT R3(B): COPY OF DOP & PW OM NO.F.NO.38/37/08-P&PW(A), PT.I DATED 3.10.08.

EXHIBIT R3(C): COPY OF DOP & PW OM NO.38/37/08-P&PW(A) DATED 14.10.08.

EXHIBIT R3(D): COPY OF DOP & PW OM NO.38/37/08-P&PW(A) DATED 26.08.14.

EXHIBIT R3(E): COPY OF LETTER NO.P.III.3/2015 (COURT CASES) (E-REV PEN) DATED 13.01.15 ISSUED BY DIRECTOR (ACCOUNTS) PAY AND ACCOUNTS OFFICE, CRPF, NEW DELHI.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.32614 OF 2014 (B)

Dated this the 16th day of June, 2015

J U D G M E N T

The petitioner, who had entered into the service of the Central Reserve Police Force with effect from 25.7.1971 retired under VRS on 1.11.1991. He had thus 20 years, three months and seven days of service over and addition to which, he was also eligible for five years of service weightage. Thus, the pension of the petitioner was calculated by taking a qualifying service of 25 years. The issue in the writ petition stems from an implementation of the recommendations of the 6th Pay Commission which had recommended revision of pension for pre-2006 pensioners by recommending that the revised pension would, in no case, be lower than the 50% 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. The details of the recommendations of the 6th Pay Commission are to be found in Ext.P2 memo dated 1.9.2008 issued by the 2nd respondent.

2. The facts in the writ petition would disclose that the assurance in Ext.P2 memo was subsequently diluted through another

Office memorandum dated 14.10.2008 issued by the 2nd respondent, which is produced as Ext.P3 in the writ petition. In Ext.P3, it was contemplated that there would be a pro-rata reduction from the assured minimum of revised pension that was contemplated in Ext.P2 to those having less than 33 years of qualifying service. The implementation of Ext.P3, as far as the petitioner is concerned, meant that, as against a revised pension of 6,750/- which he would have received in accordance with Ext.P2 memorandum, he would get only a revised pension of Rs.5,216/- based on Ext.P3 memorandum. The petitioner would submit that Ext.P3 memorandum was the subject matter of challenge before the various High Courts and the said Courts had specifically found in favour of the petitioners by holding that the petitioners were entitled to get the revised pension that was assured to them by Ext.P2 memorandum and it could not be diluted by the terms of Ext.P3 memorandum. It is not in dispute before me that the said judgments of the High Courts have attained finality consequent both, to the dismissal of the Civil Appeals filed by the respondents in some cases and the dismissal of the Special leave Petitions filed by the respondents in other cases. In that view of the matter, I find that the present writ petition has to be allowed

following the judgments referred to above, by declaring that the petitioner is entitled to the revised pension in accordance with Ext.P2 Office Memorandum. The respondents shall do the needful in ensuring that the petitioner gets the benefit of revised pension as contemplated in Ext.P2 Memorandum forthwith while disbursing the pensionary benefits due to him. The respondents shall also ensure that if there is any arrears of pension payable to the petitioner, the same is disbursed to the petitioner within a period of four months from the date of receipt of a copy of this judgment.

The writ petition is allowed as above.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp