

**101 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No.23461 of 2012 (O&M)
Date of decision : October 26, 2016**

Smt. Zenobia Bhanot (through LR)

..... Petitioner

Versus

Union of India and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Rajiv Kataria, Advocate for the petitioner.

None for respondent No.1.

Mr. Naveen Sheoran, DAG, Haryana.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

Sh. S.N. Bhanot, a Member of Indian Administrative Services, belonging to Haryana Cadre, retired from service in the year 1975. He unluckily expired in the year 1985 and the petitioner (now deceased) was accordingly granted pension. Before the recommendations of report of the 6th Pay Commission of the Government of India, the pension was granted as per rates admissible at that time. In the report of 6th Pay Commission, certain increases were sought to be given to the pensioners on account of their age. Rules 4.5 to 4.7 of the office memorandum dated 01.09.2008 (Annexure P-1) are reproduced as under:

*“4.5 The quantum of pension/family pension available
to the old pensioners/family pensioners shall be*

increased as follows:

<i>Age of the pensioner/family pensioner</i>	<i>Additional quantum of pension</i>
<i>From 80 years to less than 85 years</i>	<i>20% of revised basic pension/family pension</i>
<i>From 85 years to less than 90 years</i>	<i>30% of revised basic pension/family pension</i>
<i>From 90 years to less than 95 years</i>	<i>40% of revised basic pension/family pension</i>
<i>From 95 years to less than 100 years</i>	<i>50% of revised basic pension/family pension</i>
<i>100 years or more</i>	<i>100% of revised basic pension/family pension</i>

The amount of additional pension will be shown distinctly in the pension payment order. For example, in case where a pensioner is more than 80 years of age and his/her consolidated pension in terms para 4.1 and 4.2 above is Rs.10,000 pm, the pension will be shown as (i) Basic pennton = Rs.10,000 and (ii) Additional pension = 2000 pm. The pension on his/her attaining the age of 85 years will be shown as (i) Basic Pension = Rs.10,000 and (ii) additional pension = Rs.3,000 pm.

4.6 Some of existing pensioners who retired between 31.3.1985 and 31.12.1985 are in receipt of personal pension. The said personal pension will continue to be granted as a separate element and will not be merged into the pension as consolidated above.

4.7 Since the consolidated pension/family pension arrived at as per paragraph 4.1 includes dearness relief up to average index level 536 (Base year 1982 =100) in accordance with the revised scheme of dearness relief for which orders are being issued separately. The four instalments of dearness relief sanctioned earlier from

1.7.2006, 1.7.2007 and 1.1.12008 in this Department's Office Memorandum No.42/2/2006-P&PW (G) dated the 15.9.2006, Office Memorandum No.42/2/2006-P&PW (G) dated 23.3.2007, Office Memorandum No.42/2/2006-P&PW (G) dated the 18.9.2007 and Office Memorandum No.42/2/2006-P&PW dated the 19.3.2008 respectively shall be adjusted against revised Dearness Relief becoming due on the consolidated pension/family pension.”

The petitioner fell in the age group of 80-85 years and she was entitled to 20% of revised basic pension/family pension. The grouse of the petitioner is that in the Rule 4.5 of the office memorandum, no cut off date is given, therefore, the petitioner is entitled to enhanced pension as per Rule 4.5 from the date when she attained the age of 80 years, which in this case is 2002. However, she was granted enhanced pension from 01.01.2006.

After hearing learned counsel for both the parties and going through the impugned office memorandum, I am of the view that the recommendations of 6th Pay Commission were implemented w.e.f. 01.01.2006. Before that there was no provision of increase in the pension/family pension on account of attaining a particular age. This was introduced first time in the 6th Pay Commission Report. The para No.1 of the said memorandum (Annexure P-1) of the said report makes it clear that the report was implemented w.e.f. 01.01.2006. It would follow that whatever benefits are granted on the basis of 6th Pay Commission Report these are w.e.f. the cut off date of 1.01.2006 and not a date prior to that. The mere

fact that in the Rule 4.5 of the memorandum, no cut off date is given does not mean that it would be from the date pensioner attained the particular age as mentioned in the said Rule. Since, a cut off date was mentioned in the office memorandum, therefore, all the benefits given in the said report are to be granted from the said date unless in a Rule it is mentioned that particular recommendation is implemented from an earlier date.

It being so, there are no merits in the present writ petition. As such, the same is dismissed.

(KULDIP SINGH)
JUDGE

October 26, 2016

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Whether speaking / reasoned Yes

Whether Reportable: No