

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

**CWP No.18309 of 2015 (O&M)
Decided on : 22.07.2019**

Ran Singh Yadav

... Petitioner

Versus

Union of India and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr. Kuldeep Singh, Advocate for the petitioner.

Ms. Alisha Arora, Advocate for respondents No.1 to 3.

Mr. Ajay Kumar Gupta, Senior Panel Counsel
for Union of India.

G.S. Sandhawalia, J. (Oral)

In the present writ petition filed under Article 226/227 of the Constitution of India, the petitioner seeks issuance of a writ in the nature of certiorari for quashing of the order dated 22.06.2015 (Annexure P-4), whereby his claim for revision of pension as per revision of pension of pre-2006 pensioners (Annexure P-2) has been denied.

2. The claim is, thus, sought for revision of pension at par with his juniors, who had retired 6 years after the petitioner's retirement, but are receiving 50% pension of his emoluments, whereas the petitioner is drawing pension on pro-rata basis after deduction of the remaining period from 33 years of service.

3. It is the case of the petitioner that he was appointed as Constable with CISF on 02.09.1975 and has retired from service on 01.08.2000 after completion of 29½ years of service after weightage. On account of his premature retirement his pension was regulated under CCS Pension Rules, 1972 w.e.f. 01.08.2000 on pro-rata basis after deducting the

remaining period from 33 years, as per prescribed rules. At that point of time as per the revision and recommendation of 6th Pay Commission, since he was in the pay scale of 5500-175-9000 his pension was fixed @ ₹6450/- w.e.f. 24.09.2012 (Annexure P-1).

4. It is his case that as per communication dated 28.01.2013 (Annexure P-2) of Government of India, Ministry of Personnel, PG & Pensions Department of Pension & Pensioners' Welfare, it has been decided that pension of pre-2006 pensioners was revised from 01.01.2006 in terms of para 4.1 or para 4.2 of Letter OM dated 01.09.2008. Step up of 50% of the sum of minimum of pay in the pay band and the grade pay corresponding the pre-revised pay scale from which the pensioner had retired as arrived at with reference to the fitment tables, which had to be granted. Accordingly, reliance has been placed upon pay fixation attached as Annexure-A to show that the pay scale would be 9300-34800 and as per Column No.9, the pension would work out @ ₹7215/-. The said portion reads as under:-

“Sub:- Revision of pension of pre-2006 pensioners-reg.

The undersigned is directed to say that in pursuance of Government's decision on the recommendations of Sixth Central Pay Commission, orders were issued for revision of pension/family pensioners vide this Department's OM No.38/37/08- P&PW(A) dated 1.9.2008, as amended from time to time.

2. It has been decided that the pension of pre-2006 pensioners as revised w.e.f. 1.1.2006 in terms of para 4.1 or para 4.2 of the aforesaid OM dated 1.9.2008, as amended from time to time, would be further stepped up to 50% of

the sum of minimum of pay in the pay band and the grade pay corresponding to the pre-revised pay scale from which the pensioner 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 30th August, 2008. In the case of HAG and above scales, this will be 50% of the minimum of the pay in the revised pay scale arrived at with reference to the fitment tables annexed to the above-referred OM dated 30.8.2008 of Ministry of Finance, Department of Expenditure.

3. The normal family pension in respect of pre-2006 pensioners/family pensioners as revised w.e.f. 1.1.2006 in terms of para 4.1 or para 4.2 of the aforesaid 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 30th August, 2008. In the case of HAG and above scales, this will be 30% of the minimum of the pay in the revised pay scale arrived at with reference to the fitment tables annexed to the above OM dated 30.8.2008 of Ministry of Finance (Department of Expenditure).

4. A revised concordance table (Annexure) of the pre-1996, pre-2006 and post 2006 pay scales/pay bands indicating the pension/family pension (at ordinary rates) payable under the above provisions is enclosed to facilitate payment of revised pension/family pension

5. The pension so arrived at in accordance with para 2 above and indicated in Col. 9 of Annexure will be reduced pro-rata, 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.”

5. The necessary averments as such has been made in paragraph No.6 qua this fact. The said averments have not been categorically denied by the respondents in the written statement. The only plea is taken that vide order dated 17.07.2013 (Annexure-C), the pension has been fixed @ ₹6450/- which is equivalent to the Annexure P-1.

6. Counsel for the respondents as such could not differentiate as to why the petitioner cannot be granted the benefit of revised pay as per the instructions dated 28.01.2013 (Annexure P-2), apart from relying upon para 5 of the office memorandum. In the absence of denial as such to the applicability of Annexure P-2, it is apparent that the petitioner has been wrongly denied the benefit of the revised pay scale as per the recommendation of the pay commission.

7. Para 5 of the Office Memorandum dated 28.01.2013 (Annexure P-2) came up for consideration before the Coordinate Bench of this Court in **CWP No.3423 of 2014 'Parminder Singh Bedi and others Vs. Union of India and others'** decided on 18.12.2015, in which the said condition as such has been quashed. This Court speaking through Mr. Harinder Singh Sidhu J., examined the issue in detail and relied upon the judgment of the Division Bench of this Court in **'R.K. Aggarwal Vs. State of Haryana' 2013 (4) SCT 286** and the judgment of the Delhi High Court passed in **'S.A. Khan and another Vs. Union of India and others' WP (C) 8012 of 2013** decided on 07.05.2015. It was also noticed that SLP had been filed against the aforesaid order which

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was dismissed with liberty to file a review application, which was also dismissed on 09.05.2014. Resultantly, the condition that the pension of the pensioner will be reduced pro-rata was quashed. The relevant portion of the order passed in the case of **Parminder Singh Bedi (supra)** reads as under:-

“Accordingly, these petitions are allowed. The impugned Office Memorandums, to the extent that they provide that the pension of pre-2006 pensioners would be reduced pro-rata, where the pensioner had less than the maximum service of 33 years required for full pension are quashed. It is directed that the pay of the petitioners who have retired before 01.01.2006 be brought corresponding to the revised pay scale as per the 6th Central Pay Commission and then it be ensured that pension fixed is such that it is not lower than 50% of the minimum of the pay in the pay band and the grade pay thereon. The respondents are directed to refix the pension of the petitioners accordingly and pay the arrears of pension within a period of two months.”

8. Resultantly, the present writ petition is allowed and the respondents are directed to grant the benefit of revised pay scale, as per Annexure P-2, by discarding para 5 of the same, fixing the pension of the petitioner @ ₹7215/- per month from 01.01.2006. Needful be done within a period of 3 months from today. The arrears be paid, thereafter, within a period of 2 months and arrears shall carry interest @ 8% per annum from 01.02.2013.

(G.S. SANDHAWALIA)
JUDGE

JULY 22, 2019

Naveen

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No