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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 21.11.2025

\+ W.P.(C) 3344/2019

VIDYA PRAKASH GUPTA .....Petitioner

Through: Ms. Poonam, Adv. with Petitioner-in-person.

versus

UNION OF INDIA AND ORS. .....Respondents

Through: Mr. Ripudaman Bhardwaj, CGSC with Mr. Kushagra Kumar and Mr. Amit Kumar Rana, Advs.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE MADHU JAIN

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed, challenging the Order dated 12.12.2018 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as, 'Tribunal') in O.A. No. 943/2017, titled ***Vidya Prakash Gupta v. Union of India & Ors.***, whereby the O.A. filed by the petitioner was dismissed.

2. As a brief background of the facts in which the present petition arises, the petitioner had joined service in the Department of Telecom, Ministry of Communications, Government of India, in the year 1967, and was promoted as Senior Assistant Engineer/Sr. SDE, on regular basis, with effect from 01.09.1993 in the pay scale of Rs. 2200-4000/-. The petitioner was on deputation to TCIL (a PSU under the

Department of Telecom) with effect from 01.10.1991 and was absorbed in the services of the said PSU on 27.09.1994, which became his deemed date of retirement from Government service. At the time of absorption/deemed retirement, the petitioner had completed 27 years, 4 months and 10 days of qualifying service and his last basic pay drawn was Rs. 3,800/- per month under the Fourth Central Pay Commission (CPC).

3. Initially, the petitioner's pension was fixed at Rs. 1,546/- per month on a pro-rata basis due to his service being less than 33 years, which was then the prescribed minimum qualifying length of service for full pension. Upon the implementation of the Fifth CPC, the petitioner’s pension was revised to Rs. 4,659/- per month, again on pro-rata basis. Following the implementation of the Sixth CPC, the petitioner's pension was revised to Rs. 10,531/- per month, continuing the pro-rata reduction.

4. *Vide* O.M. No. 38/37/08-P&PW(A) dated 06.04.2016, the Department of Pension & Pensioners' Welfare issued instructions for delinking of revised pension from qualifying service of 33 years for pre-2006 pensioners with effect from 01.01.2006, with arrears of revised pension payable from 01.01.2006. This O.M. was issued with the approval of the Ministry of Finance, Department of Expenditure.

5. Following this, the petitioner made a representation to the respondents, seeking revision of his pension with effect from 01.01.2006 without the pro-rata effect as per the instructions contained in the O.M. dated 06.04.2016. The said representation, however, was rejected *vide* Letter dated 19.12.2016. Aggrieved thereby, the

petitioner filed the above O.A.

6. *Vide* the Impugned Order dated 12.12.2018, the learned Tribunal dismissed the O.A., holding that the petitioner's pension had been correctly fixed as per the relevant rules.

7. The learned counsel for the petitioner, drawing reference to the O.M.s dated 01.09.2008 and 06.04.2016, submits that under the Sixth CPC, the revised pension of pre-2006 pensioners shall not be lower than 50% of the minimum of the pay in the Pay Band and the Grade Pay, corresponding to the pre-revised pay scale from which the pensioner had retired, as per the fitment table, without pro-rata reduction of pension, even if the pensioners had qualifying service of less than 33 years at the time of retirement, and arrears of revised pension would be payable with effect from 01.01.2006.

8. Further, she places reliance on the Corrigendum O.M. dated 18.06.2020 issued to the O.M. dated 06.07.2017, containing the concordance table for fixation of notional pay and pension of employees who retired in various grades during the Fourth, Fifth and Sixth CPC, and Table 29 enclosed therewith, to submit that the basic pay of Rs.3,800/- of the petitioner under the Fourth CPC corresponds to Rs.25,910/- under the Sixth CPC, and that the petitioner is entitled to 50% thereof as his pension under the Sixth CPC.

9. She further submits that, interestingly, however, the petitioner's pension under the Seventh CPC has been correctly fixed without pro rata reduction, and he is receiving the same since 01.01.2016.

10. In support of petitioner's claim, she places reliance on the judgments of this Court in ***All India S-30 Pensioners Association &***

Ors. v. Union of India & Ors., 2024:DHC:2264-DB; and ***S.A. Khan & Anr. v. Union of India & Ors.***, 2015:DHC:4138-DB.

11. On the other hand, the learned counsel for the respondents submits that the pension of the petitioner has been correctly determined in accordance with the relevant rules and applicable O.M.s.

12. We have considered the submissions made by the learned counsels for the parties.

13. The issue in the present case pertains to the fixation of the petitioner's pension/Family Pension in accordance with his correct position in the fitment table and the continued application of pro-rata reduction to the petitioner's pension for the Sixth CPC period despite such reduction being abolished for officers who had completed the requisite qualifying service as per the 6^{th} CPC. To appreciate the case of the petitioner, it would be necessary to trace the evolution of the policy.

14. Following the acceptance of the Sixth CPC recommendations, the O.M. dated 01.09.2008 was issued by the Department of Pension & Pensioners' Welfare providing guidelines for implementation of Government decision on the recommendations of Sixth CPC for grant of revised pension to pre-2006 pensioners. It provided that revised pension shall not be lower than 50% of the minimum of pay in the pay band plus grade pay corresponding to the pre-revised pay scale from which the pensioner had retired. However, subsequent O.M.s dated 03.10.2008, 14.10.2008 and 28.01.2013 modified the manner of calculation of pension inasmuch as they changed the pension

calculation formula to 50% of the minimum pay of the pay band (irrespective of pre-revised scale) plus grade pay, and also introduced a distinction between pre-2006 and post-2006 pensioners, whereby post-2006 pensioners with 20 years of service would receive full pension but pre-2006 pensioners with less than 33 years of service would have their pension reduced on a pro-rata basis.

15. Subsequently, several petitions were filed before the learned Tribunal challenging the correctness of the pension calculation for pre-2006 pensioners under the Sixth CPC. The Full Bench of the learned Tribunal held that the clarifications issued through O.M.s dated 03.10.2008 and 14.10.2008 had illegally modified the pension calculation formula from "*50% of the sum of minimum pay in the pay band and grade pay corresponding to the pre-revised pay scale*" to "*50% of minimum pay in the pay band (irrespective of pre-revised scale) plus grade pay*" and were liable to be quashed. This decision was approved by the Punjab and Haryana High Court in ***R.K. Aggarwal and Ors. vs. State of Haryana & Ors.***, 2012 SCC OnLine P&H 24416, holding as under:

> *"26. It is for the aforesaid reasons, we remark that there is no need to go into the legal nuances. Simple solution is to give effect to the resolution dated 29.08.2008 whereby recommendations of the 6th Central Pay Commission were accepted with certain modifications. We find force in the submission of learned counsel for the petitioners that subsequent OMs dated 03.10.2008 and 14.10.2008 were not in consonance with that resolution. Once we find that this resolution ensures that "the fixation of pension will be subject to the provision that the revised*

pension, in no case , shall be lower than 50% of the sum pay of the minimum of the pay in the band pay thereon and the grade corresponding to the pre-revised pay scale from which the pensioner had retired", this would clearly mean that the pay of the retiree i.e. who retired before 01.01.2006 is to be brought corresponding to the revised pay scale as per 6th Central Pay Commission and then it has to be ensured that pension fixed is such that it is not lower than 50% of the minimum of the pay in the band and the grade pay thereon. As a result, all these petitions succeed and mandamus is issued to the respondents to refix the pension of the petitioners accordingly within a period of two months and pay the arrears of pension within two months. In case, the arrears are not paid within a period of two months, it will also carry interest @ 9% w.e.f. 01.03.2013. There shall, however, be no order as to cost."

16. The Special Leave Petition against the said Judgment being SLP(C) No.19784/2013 filed before the Supreme Court was dismissed as withdrawn vide Order dated 28.10.2013.

17. This Court also, in its Judgment dated 29.04.2013 passed in W.P.(C) No. 1535/2012, titled ***Union of India & Anr. v. Central Govt. SAG & Ors.***, placing reliance on the Judgment of the Punjab and Haryana High Court in ***R.K. Aggarwal*** (supra), upheld the learned Tribunal's Order, while further extending the applicability of the Office Memorandum to take effect from 01.01.2006 instead of 24.09.2012. The said Judgment has also been upheld by the Supreme Court *vide* Orders dated 29.07.2013 and 17.03.2015 passed in SLP(C) No. 23055/2013 and SLP(C) No. 36148-36150/2013.

18. Following these judicial pronouncements, the Department of

Pension & Pensioners' Welfare issued O.M. No. 38/37/08-P&PW(A) dated 28.01.2013 directing stepping up of pension of pre-2006 pensioners to 50% of the sum of minimum of pay in the pay band and grade pay corresponding to pre-revised pay scale from which the pensioner retired, with effect from 24.09.2012. Subsequently, vide O.M. No. 38/37/08-P&PW(A) dated 30.07.2015, it was directed that the pension of all pre-2006 pensioners may be revised in accordance with the O.M. dated 28.01.2013 with effect from 01.01.2006 instead of 24.09.2012.

19. Recently, this Court in ***Late B.H. Ahuja through LR Usha Ahuja Wife v. Union of India***, 2025:DHC:7883-DB, reiterated the above settled position.

20. In the meanwhile, this Court in ***S.A. Khan & Anr. v. Union of India & Ors.***, 2015:DHC:4138-DB, specifically dealt with pro-rata reduction for pre-2006 pensioners with less than 33 years of service, and held as under:

> *"24. Reverting to the facts of the instant case we find that the respondents have failed to show any nexus between the criteria with the object of the policy. To give benefit of full pension to those who have rendered 20 years service but have retired on or after January 01, 2006 but subject the pensioners who have retired on or before December 31, 2005 to a pro-rata cut in pension unless backed by a reasonableness of the criteria with the object sought to be achieved would render the cut-off date as an arbitrary criteria and thus liable to be quashed.*
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> *25. To summarize, the petitioners must succeed on two points. Firstly that the policy decision of the Government in the Office*

> *Memorandum dated September 01, 2008 to fix pension for all category of pensioners did not classify post and pre January 01, 2006 retirees and all were entitled to pension as per a common formula. Under the garb of clarification the Office Memorandum of October 03, 2008 followed by the Office Memorandum dated October 14, 2008 and repeated in the Office Memorandum dated January 28, 2013 the cut-off date was inserted by an officer of the Government having no authority to cut down the beneficial policy decision notified on September 01, 2008. Secondly for the reason the cut-off date is arbitrary and fouls Article 14 of the Constitution of India.*
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> *26. The writ petitions are allowed. The Office Memorandums introducing the cut-off date and mandating that pre January 01, 2006 pensioners would have their pension fix by pro-rata reducing the same by such numbers of years they have rendered less service than 33 years are quashed. It is declared that the writ petitioners would be entitled to full pension post January 01, 2006 without any pro-rata cut therein. Pension deducted from the petitioners (after it was correctly fixed and paid but later on reduced and hence deductions made) shall be refunded as also the arrears paid within six weeks from today failing which the amount payable would bear simple interest @ 9% per annum reckoned six weeks hereinafter."*

21. The SLP, being SLP(C) Nos. 6104-6105/2016, filed against the said judgment stands dismissed as withdrawn *vide* Order dated 04.07.2016.

22. Separately, the specific issue of pro-rata reduction of pension for pre-2006 pensioners who had qualifying service of less than 33

years had also come up for consideration before the Ernakulum Bench of the learned Tribunal, in OA No. 715/2012, titled ***M.O. Inasu v. Union of India***, which was allowed *vide* Order dated 16.08.2013, with the directions that the revised pension with effect from 01.01.2006 under para 4.2 of O.M. dated 01.09.2008 would not be reduced based on the qualifying service of less than 33 years. Petitions filed against the same by the Union of India before the High Court of Kerala and before the Supreme Court were dismissed.

23. It was in this backdrop, and in compliance with the aforesaid decisions, that the O.M. No. 38/37/08-P&PW(A) dated 06.04.2016 was issued, which reads as under:

> *"**Sub.- Revision of pension of pre-2006 pensioners - delinking of revised pension from qualifying service of 33 years.***
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> *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.*
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> *2. Several petitions were filed in the 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 30th August, 2008. Hon'ble CAT, Principal Bench, New Delhi vide its common order dated 1.11.2011 in OA No.655/2010 and three other connected OAs directed to re-fix the pension of all pre-2006 retirees w.e.f. 1.1.2006 based on the Resolution dated 29.8.2008 of the Department of Pension & Pensioners' Welfare and in the light of the observations of Hon'ble CAT in that order.

3. Orders were issued vide this Department's OM of even number dated 28.1.2013 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 retired. Para 5 of this OM provides that in case the consolidated pension/family pension calculated as per para 4.1 of O.M. No.38/37/08- P&PW (A) dated 1.9.2008 is higher than the pension/family pension calculated in the manner indicated in the O.M. dated 28.1.2013, the same (higher consolidated pension/family pension) will continue to be treated as basic pension/family pension.

4. Subsequently, in compliance of the order dated 1.11.2011 of the Hon'ble CAT, Principal Bench in OA No. 655/2010, order dated 29.4.2013 of Hon'ble High Court of Delhi in WP (C) No. 1535/2012 and order dated 17.3.2015 of Hon'ble Supreme Court in SLP (C) No. 36148/2013, order were issued vide this Department's OM of even number dated 30.7.2015 that the pension/family pension of all pre — 2006 pensioners/family pensioners may be revised in accordance with *this Department's O.M. No.38/37/08-P&PW(A) dated 28.1.2013 with effect from 1.1.2006 instead of 24.9.2012.*

5. In accordance with the order issued in implementation of the recommendation of the 6th CPC, the pension of Government servants retired/retiring on or after 1.1.2006 has been delinked from qualifying service of 33 years. In OA No. 715/2012 filed by Shri. M.O. Inasu, a pre-2006 pensioner, Hon'ble CAT, Ernakulam Bench, vide its order dated 16.8.2013 directed that the revised pension w.e.f. 1.1.2006 under para 4.2 of OM dated 1.9.2008 would not be reduced based on the qualifying service of less than 33 years. The appeals filed by Department of Revenue in the Hon'ble High Court of Kerala and in the Hon'ble Supreme Court have also been dismissed. Similar orders have been passed by Hon'ble CAT/High Court in several other cases also.

6. The matter has been examined in consultation with the Ministry of Finance (Department of Expenditure). It has-now been decided that the revised consolidated pension of pre-2006 pensioners shall not be lower than 50% of the minimum of the pay in the Pay Band and the grade pay (wherever applicable) corresponding to the pre-revised pay scale as per fitment table without pro-rata reduction of pension even if they had qualifying service of less than 33 years at the time of retirement. Accordingly, Para 5 of this Department's OM of even number dated 28.1.2013 would stand deleted. The arrears of revised pension would be payable with effect from 1.1.2006."

24. It is evident that the O.M. dated 06.04.2016 was not issued in vacuum, but in compliance with the judicial decisions discussed hereinabove. The said O.M. categorically provides that the revised

consolidated pension of pre-2006 pensioners shall not be lower than 50% of the minimum of the pay in the Pay Band and the Grade Pay corresponding to the pre-revised pay scale as per fitment table without pro-rata reduction of pension even if they had qualifying service of less than 33 years at the time of retirement and that the arrears of revised pension would be payable with effect from 01.01.2006. Thus, the legal position that pre-2006 pensioners with qualifying service of 20 years or more, as against the earlier requirement of 33 years, are entitled to full pension without pro-rata reduction for the Sixth CPC period with effect from 01.01.2006, has been settled.

25. Coming to the present case, the petitioner had completed 27 years, 4 months and 10 days of qualifying service, which clearly exceeds the 20 years threshold. Therefore, in accordance with the O.M. dated 06.04.2016, the petitioner, under the Sixth CPC, is entitled to the revised consolidated pension of not less than 50% of the sum of minimum of the pay in the Pay Band and the grade pay corresponding to the pre-revised pay scale as per the fitment table without pro-rata reduction of pension.

26. Significantly, the pension of the petitioner under the Seventh CPC has been calculated correctly in accordance with the fitment table, and without any pro-rata reduction of pension.

27. In view of the above, the Impugned Order cannot be sustained and is accordingly set aside.

28. The petitioner has claimed that as per the concordance Table 29 annexed to the Corrigendum O.M. dated 18.06.2020 issued to the O.M. dated 06.07.2017, his basic pay of Rs.3,800/- under the Fourth

CPC corresponds to Rs.25,910/- under the Sixth CPC. Accordingly, the petitioner would be entitled to full pension along with arrears with effect from 01.01.2006 without any pro-rata cut therein, in accordance with the O.M. dated 06.04.2016.

29. The respondents are directed to re-determine the pension/Family Pension of the petitioner as per his last basic pay drawn, which was Rs. 3,800/- per month in the pay scale of Rs. 2200-4000/- under the Fourth CPC, by determining the corresponding Pay Band and Grade Pay under the Sixth CPC, and in terms of the settled position of law, the applicable O.M.s and the fitment and concordance tables, without any pro rata deduction, within a period of eight weeks from today. The arrears of the revised pension/Family Pension due to the petitioner with effect from 01.01.2006 till 31.12.2015 shall be released to the petitioner within a further period of eight weeks thereafter, along with interest @ 6% per annum.

30. The petition is allowed in the above terms.

NAVIN CHAWLA, J

MADHU JAIN, J

NOVEMBER 21, 2025/b/*P/SJ*