

RAILWAYS SENIOR CITIZENS WELFARE SOCIETY

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No. RSCWS/ HO /Memo DOP&PW / 2016-22

Dated: 27-10-2016

1. Secretary, GOI, Department of Pension, Patel Bhawan, New Delhi-110001
2. Mrs. Vandna Sharma, Joint Secretary Department of Pension & Pensioners Welfare, 3rd Floor Lok Nayak Bhawan, Khan Market, New Delhi - 110003.

Dear Sir / Madam,

Subject: Restoration of two-third commuted portion of pension after 15 years from the date of commutation in respect of the Government servants who had drawn lump sum amount on their absorption in a Public Sector Undertaking / Autonomous Body.

Reference: i) Supreme Court judgment in CIVIL APPEALS NO. 6048 OF 2010 and No. 6371 of 2010 decided on 1-9-2016

ii) DOP&PW OM No. No.4/3/86-P&PW (D) Dated 30/09/1996

1. DOP&PW vide its orders dated 30-9-1996 cited above, had restored one third commuted portion of pension after 15 years from the date of commutation in respect of the Government servants who had drawn lump sum amount on their absorption in a Public Sector Undertaking/Autonomous Body – implementation of the Judgement of the Supreme Court.

2. a) Supreme Court has now also ordered restoration of 2/3rd Commuted Pension of PSU Absorbees who took full Commutation of Pension. The orders were passed in the case of Union of India & Another -Vs- K. Ganeshan (Dead) in Civil Appeal No. 6048 of 2010 and Civil Appeal No. 6371 of 2010.

b) Following is the text of the orders passed:

i) CIVIL APPEAL NO. 6048 OF 2010

“Having heard learned counsel for the appellants, and having perused the record of the case, we find no justification whatsoever to interfere with the impugned order, directing restoration of 2/3rd pension in respect of the respondent herein, after the expiry of the requisite period of commutation.

The instant appeal is accordingly dismissed.”

ii) Civil Appeal No. 6371 of 2010

“Heard learned counsel for the rival parties. In view of dismissal of Civil Appeal No. 6048 of 2010 by us today (Union of India and another vs. K. Ganesan (Dead), this appeal has to be accepted. Accordingly, the instant appeal is allowed. The impugned order of the High Court is set aside. It is directed that the appellants shall be entitled for restoration of their 2/3rd pension, after the expiry of the requisite period of commutation”.

3. a) 100% of Commuted portion of Pension of all Central Government Pensioners is restored after 15 years – (whether they got One-third of their Pension Commuted or 40% as applicable thereof) and they continue to get the balance

two-third or 60% (as applicable) of their Pension after their retirement till the full commuted portion of pension is restored to them after 15 years.

b) On the other hand, the PSU absorbees who got the 100% Commutation done got no pension after their retirement till one third was restored vide DOP&PW orders dated 30-9-1996 cited above and they continued to be deprived of the restoration of the balance two-third of their Pension after 15 years of the commutation, with the result that, unlike other Central Government Pensioners who receive full Pension after 15 years of retirement, PSU absorbees receive only one third of pension after 15 years of retirement.

c) This is discriminatory and in violation of law of natural justice as well violation of Articles 14, 16 and 39 of the Constitution of India.

d) It is to remove this discrimination that the Hon'ble Supreme Court has restored the Balance two third of the Commuted portion of the pension after 15 years from the date of commutation in respect of the Government servants who had drawn lump sum amount on their absorption in a Public Sector Undertaking / Autonomous Body. The rationale for this restoration was that the lump-sum settlement given to this group of pensioners was tantamount to commutation as permissible as per Secn.10 of the Pension Act.

e) It is, therefore, just and logical to restore the balance 2/3rd of the pension after 15 years of retirement to all PSU absorbees who had taken 100% / lump-sum commutation on their absorption in the PSU / Autonomous Bodies - as had been done for restoration of first 1/3rd thereof.

4. It is, therefore, requested that

i) Orders may please be issued early for Restoration of two-third commuted portion of pension after 15 years from the date of commutation in respect of all the Government servants who had drawn lump sum amount on their absorption in a Public Sector Undertaking / Autonomous Body.

ii) In the interest of natural justice, further delay and litigation on this issue may please be avoided - compelling other similarly placed elderly pensioners to approach the Courts of law.

Thanking you,

Yours faithfully,

(Harchandan Singh)
Secretary General, RSCWS