



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. NO. 3009 OF 2009

IN THE MATTER OF:

Central Govt. Pensioners' Association of
Addl./Joint Secretary
& Equivalent Officers & Ors.



Applicants

Versus

Union of India & Ors.

Respondents

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प्रधान न्यायाधीश/CAAT (PD)
कोष बांटा/Filed Today

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Filed By:

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New Delhi
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A

SYNOPSIS

This Application is made by the applicants for redressal of their common grievance, which arises out of the illegal, arbitrary, unjust, unreasonable and invidiously discriminatory decision / interpretation of the recommendations while accepting / implementing the recommendations of the Sixth Central Pay Commission, which has resulted in grave prejudice and miscarriage of justice to applicants vis a vis their counterparts, juniors and even subordinates who have retired from service after 1.1.2006, which is contrary to the principles of law laid down by the Hon'ble Apex Court in the cases D.S. Nakara & Ors. vs. Union of India, (1983) 1 SCC 305 and S.P. S. Vains & Ors. Vs. Union of India, (2008) 9 SCC 125.

The impugned action is also contrary of the accepted / admitted position of allowing the same fitment as is being allowed in the case of existing employees and violative of the concept of modified parity between the "present" and "future" retirees as enunciated but the Pay Commission and accepted by the Government to allow fitment benefit consistent with the one being allowed in the case of existing employees.



B

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

M.A. NO. 2136 OF 2009

IN
O.A. NO. 2136 OF 2009

IN THE MATTER OF:

 Central Govt. Pensioners' Association of
Addl. Joint Secretary
& Equivalent Officers & Ors.

..Applicants

Versus

Union of India & Ors.

..Respondents

Application under Rule 4(5)(a)&(b) of the CAT Procedure Rules

MOST RESPECTFULLY SHOWETH:

1. That the applicants have filed the accompanying O.A. aggrieved by the invidious discrimination caused to them by way of arbitrary, illegal, unjust, unreasonable, iniquitous revision/re-fixation of their pension whereby the equals and have been treated as unequal while implementing the recommendations of the Central Pay Commission and in the process grave prejudice and injustice has been caused to the applicants.



2. That the cause of action for filing the present O.A. is the same for all the applicants and affects the applicants in the same manner and material facts leading to the present O.A. are also the same.

3. It is, therefore, most respectfully prayed that the applicants may be exempted from filing separate O.As. and be permitted to join in the accompanying O.A.

Verification:

Verified at New Delhi on this the ____ day of October, 2009 that the contents of the above application are true and correct to our knowledge and no part thereof is false and nothing material has been concealed there from.


Applicant No. 1


Applicant No. 2



Applicant No. 3



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. NO. _____ OF 2009

IN THE MATTER OF:

1.  Central Govt. Pensioners' Association of
Addl. Joint Secretary
& Equivalent Officers
D-603, Anandlok CGHS Ltd.,
Mayur Vihar - Phase I,
Delhi-110091.
(Through its Secretary Shri S.K. Ray)
2. Shri S.P. Biswas,
S/o late Shri Panchanan Biswas,
R/o C-607, Anandlok CGHS Ltd.,
Mayur Vihar - Phase I,
Delhi-110091.
3. Shri G.S. Lobana,
S/o late Shri Inder Singh,
R/o C-207, Anandlok CGHS Ltd.,
Mayur Vihar - Phase I,
Delhi-110091.

Applicants

Versus

1. Union of India
Through Secretary to the Govt. of India,
Department of Pension and Pensioners' Welfare,
Ministry of Personnel, Public Grievances and Pensions,
Lok Nayak Bhavan,
Khan Market, New Delhi.
2. Secretary to the Govt. of India,
Department of Expenditure,
Ministry of Finance,
North Block, New Delhi.

Respondents



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ORIGINAL APPLICATION UNDER SECTION 19 OF THE
ADMINISTRATIVE TRIBUNALS ACT, 1985

I. **Particulars of orders against which the application is made:**

This Application is made by the applicants for redressal of their common grievance, which arises out of the illegal, arbitrary, unjust, unreasonable and invidiously discriminatory decision / interpretation of the recommendations while accepting / implementing the recommendations of the Sixth Central Pay Commission, which has resulted in grave prejudice and miscarriage of justice to applicants vis a vis their counterparts, juniors and even subordinates who have retired from service after 1.1.2006, which is contrary to the principles of law laid down by the Hon'ble Apex Court in the cases D.S. Nakara & Ors. vs. Union of India, (1983) 1 SCC 305 and S.P. S. Vains & Ors. Vs. Union of India, (2008) 9 SCC 125.

A true each of the copy of the impugned O.Ms. dated 11.2.2009, 14.10.2008 and 3.10.2008 is annexed hereto and marked as Annexure-A1, A2 & A3 respectively.

[Note: The applicants respectfully submit that the present O.A. is limited to the issue of erroneous implementation/ interpretation of the decisions on the Sixth CPC recommendations and the arbitrary cut off date applied in the applicants' case for that purpose. However, the applicants reserve their right to raise other substantive issues of irrationality, arbitrariness and discrimination



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under Articles 14 and 16 of the Constitution of India in regard to of fixation of pay bands/ pay scales etc. separately.]

2. Jurisdiction of the Tribunal:

The applicants declare that the subject matter of the orders against which they seek redressal is within the jurisdiction of the Hon'ble Tribunal.

3. Limitation:

The applicants further declare that the Application is within the limitation period prescribed in Section 21 of the Administrative Tribunals Act, 1985.

4. Facts of the case:

- 4.1 That the applicant No.1 herein is the Central Govt. Pensioners' Association of ex-Additional Secretary / Joint Secretaries and Equivalent Officers of the Government of India, who retired from service prior to 1.1.2006 and the present O.A. is filed by it in representative capacity to seek redressal of the common grievances of its members, which arise out of the illegal, arbitrary, unjust, unreasonable and invidiously discriminatory decision / interpretation by the respondents while accepting / implementing the recommendations of the Sixth Central Pay



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Commission, which has resulted in grave prejudice and miscarriage of justice to applicants vis a vis their counterparts, juniors and even subordinates who have retired from service after 1.1.2006. The applicants No.2 and 3 are, amongst others, the members of the applicant No.1 association. A true copy of the resolution / authorization is annexed hereto and marked as Annexure-A4.

4.2 That the members of the applicant No.1 association retired from government service prior to 1.1.2006 and their retirement benefits, including the pension, were settled as per the provisions of the rules and instructions prevalent at the relevant point of time.

4.3 That the Government of India constituted the Sixth Central Pay Commission vide Resolution No.5/2006-E-III(A) dated 5.10.2006 and the Commission in its Terms of Reference, inter alia, included the issues (i) To examine the principles, the date of effect thereof that should govern the structure of pay, allowances and other facilities / benefits whether in cash or in kind to the specified categories of Central Government employees and (ii) To examine the principles which should govern the structure of pension, death-cum-retirement gratuity.



family pension and other terminal or recurring benefits having financial implications to the present and former Central Government employees appointed before January 1, 2004.

- 4.4 That the Sixth Central Pay Commission submitted its Report to the Government on 24.3.2008 wherein various recommendations were made with regard to the revision of pay scales and pension structure etc. The distinctive and novel feature of the Report of the Sixth CPC was the introduction of the concept of "Pay Bands" and "Grade Pay" for each category of employees.
- 4.5 That in Chapter 5.1 "Pensionary benefits of the Civilian employees and Defence Forces Personnel", the Sixth CPC made its recommendations relating, inter alia, to fixation/revision of pension of the Central Government employees who retired in the past or who were to retire in future. The crucial recommendations, relevant for the purpose of adjudication of the present O.A. are contained in paragraphs 5.1.46 and 5.1.47 of Chapter 5.1 of the Report of the Sixth CPC, which are extracted herein below for the facility of ready reference:-

Past pensioners- Analysis	of	5.1.46. The main demands of past pensioners relating to grant of one
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a



<p>changes made in the past and recommendations</p>	<p>rank one pension both for civilian as well as Defence Forces retirees and better medical facilities. In case of Defence Forces, the issue of one rank one pension was conceded partially when one time increase was granted to defence forces pensioners in 1992 that reduced the gap between past & present pensioners in Forces. The Fifth CPC extended full parity between pre & post 1/1/1986 pensioners and a modified parity between pre & post 1/1/1996 pensioners. In modified parity, it was provided that pension could, in no case, be less than 50% of the minimum of the corresponding Fifth CPC revised pay scale from which the pensioner had retired.</p>
<p>Fitment benefit to the past pensioners</p>	<p>5.1.47 The Commission notes that modified parity has already been conceded between pre and post 1/1/1996 pensioners. Further, full neutralization of price rise on or after 1/1/1996 has also been extended to all the pensioners. Accordingly, no further changes in the extant rules are necessary. <u>However, in order to maintain the existing modified parity between present and future retirees, it will be necessary to allow the same fitment benefit as is being recommended for the existing Government employees.</u> The Commission, accordingly, recommends that all past pensioners should be allowed fitment benefit equal to 40% of the pension excluding the effect of merger of 50% dearness allowance/dearness relief as pension (in respect of pensioners retiring on or after 1/4/2004) and dearness pension (for other pensioners) respectively. The increase will be allowed by subsuming the effect of conversion</p>



	<p>of 50% of dearness relief/dearness allowance as dearness pension/dearness pay. Consequently, dearness relief at the rate of 74% on pension (excluding the effect of merger) has been taken for the purposes of computing revised pension as on 1/1/2006. This is consistent with the fitment benefit being allowed in case of the existing employees. A table (Annex 5.1.1.) showing fixation of the pension of the existing pensioners in the revised dispensation consequent to implementation of the recommendations of this Commission has been prepared and should be used for fixing the revised pension of the existing pensioners. The fixation as per this table will be subject to the provision that the revised pension, in no case shall be lower than fifty percent of the sum of the minimum of the pay in the pay band and the grade pay thereon corresponding to the pre-revised pay scale from which the pensioner had retired. To this extent, a change would need to be allowed from the fitment shown in the fitment table.</p>
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- 4.6 That it is also pertinent to mention that on the implementation aspect of its recommendations, the Sixth CPC itself had emphasized on the integrated, organic and inter-connectedness of the nature of its recommendations and had suggested a methodology of holistic approach to its recommendation which were to be considered as a package and had sounded a note of



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caution that any partial implementation and a fragmented approach will destroy the underlying spirit and break the common thread and bring in several anomalies and inconsistencies of their implementation. In this regard the relevant portion of paragraph 1.2.25 of the Report of the Sixth CPC is extracted below:-

"...All the recommendations are inter-connected and need to be treated as an organic whole. Partial implementation of these recommendations will destroy the underlying spirit, break the common thread and bring in several anomalies and inconsistencies. The Report would, therefore, need to be treated in a holistic manner and the recommendations considered as a package."

- 4.7 That the Government of India, after having considered the recommendations of the Sixth CPC, notified its decision with regard to the acceptance or otherwise thereof, vide Resolution dated 29.8.2008, whereby the decision conveyed on in regard to recommendation made in paragraph 5.1.47 of the Sixth CPC Report is as follows:-

S. No.	Recommendation	Decision of Govt.
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12	All past pensioners should be allowed fitment benefit equal to 40% of the pension excluding the effect of merger of 50% dearness allowance/ dearness relief as pension (in respect of pensioners retiring on or after 1/4/2004) and dearness pension (for other pensioners) respectively. The increase will be allowed by subsuming the effect of conversion of 50% of dearness relief/ dearness allowance as dearness pension/dearness pay. Consequently, dearness relief at the rate of 74% on pension (excluding the effect of merger) has been taken for the purposes of computing revised pension as on 1/1/2006. This is consistent with the fitment benefit being allowed in case of the existing employees. The fixation of pension will be subject to the provision that the revised pension, in no case, shall be lower than fifty percent of the sum of the minimum of the pay in the pay band and the grade pay thereon corresponding to the pre-revised pay scale from which the pensioner had retired.(5.1.47)	Accepted with the modification that fixation of pension shall be based on a multiplication factor of 1.86, i.e. basic pension + Dearness Pension (wherever applicable)+ dearness relief of 24% as on 1.1.2006, instead of 1.74.
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A true copy of the relevant extracts of the aforesaid Resolution dated 29.8.2008 is annexed hereto and marked as **Annexure-A5.**

That it is also pertinent to mention that on 29.8.2008 itself the Government notified The Central Civil Services (Revised Pay) Rules, 2008 along with Revised Pay Bands and Grade Pays for posts carrying present scales in Group 'A', 'B', 'C' & 'D'. It is relevant to note therefrom that the scales of pay from S-24 to S-30, i.e. erstwhile 7 pay scales, have been clubbed in Pay Band *PB-4* and the corresponding pay scale is given as



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12	<p>All past pensioners should be allowed fitment benefit equal to 40% of the pension excluding the effect of merger of 50% dearness allowance/ dearness relief as pension (in respect of pensioners retiring on or after 1/4/2004) and dearness pension (for other pensioners) respectively. The increase will be allowed by subsuming the effect of conversion of 50% of dearness relief/ dearness allowance as dearness pension/dearness pay. Consequently, dearness relief at the rate of 74% on pension (excluding the effect of merger) has been taken for the purposes of computing revised pension as on 1/1/2006. This is consistent with the fitment benefit being allowed in case of the existing employees. The fixation of pension will be subject to the provision that the revised pension, in no case, shall be lower than fifty percent of the sum of the minimum of the pay in the pay band and the grade pay thereon corresponding to the pre-revised pay scale from which the pensioner had retired.(S.1.47)</p>	<p>Accepted with the modification that fixation of pension shall be based on a multiplication factor of 1.86, i.e. basic pension + Dearness Pension (wherever applicable)+ dearness relief of 24% as on 1.1.2006, instead of 1.74.</p>
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A true copy of the relevant extracts of the aforesaid Resolution dated 29.8.2008 is annexed hereto and marked as **Annexure-A5.**

That it is also pertinent to mention that on 29.8.2008 itself the Government notified The Central Civil Services (Revised Pay) Rules, 2008 along with Revised Pay Bands and Grade Pays for posts carrying present scales in Group 'A', 'B', 'C' & 'D'. It is relevant to note therefrom that the scales of pay from S-24 to S-30, i.e. erstwhile 7 pay scales, have been clubbed in Pay Band "PB-4" and the corresponding pay scale is



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given as Rs.37400-67000/- and issued instructions vide O.M. dated 30.8.2008. However, by a subsequent notification dated 16.7.2009 the pay scale "S-30" has been deleted from "PB-4" and has been termed as "HAG" scale with the corresponding scale of Rs.67000-79000/-. A true copy each of the relevant extracts of aforesaid rules/O.M./notifications is annexed hereto and marked as **Annexure-A6** (colly.).

- 4.8 That after acceptance of the Sixth CPC recommendations, the respondent No.1 issued Office Memorandum F.No.38/37/08-P&PW(A) dated 1st September, 2008, the paragraph 4.2 whereof which is relevant for the purpose, reads as follows:-

"4.2 The fixation of pension will be subject to the provision that the revised pension, in no case, shall be lower than fifty percent 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. In the case of HAG+ and above scales, this will be fifty percent of the minimum of the revised pay scale." (emphasis supplied)

That the above stipulation in the O.M. clearly meant that the revised pension of a pensioner shall not be less than fifty percent 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 (emphasis supplied).

However, the respondents have subsequently issued clarifications vide O.Ms. dated 3.10.2008, 14.10.2008 and 11.2.2009, whereby the effect of the highlighted portion of



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paragraph 4.2 of the O.M. dated 1.9.2008 has been totally obliterated, which is contrary to the settled proposition of law that the stipulation of an O.M. cannot be amended, altered or modified by way of issuing clarifications. A true copy of the relevant extracts of the aforesaid O.M. dated 1.9.2008 is annexed hereto and marked as Annexure-A7.

4.9 That in order to settle the anomalies arising out of the implementation of the Sixth Pay Commission's recommendations, Government of India set up Anomaly Committee vide Office Memorandum No.11/2/2008-JCA dated 12th January, 2009. A true copy of the aforesaid O.O. dated 12.1.2009 is annexed hereto and marked as Annexure-A8.

4.10. That the applicants, aggrieved by the grave prejudice and miscarriage of justice caused to them, made representations to the Anomaly Committee, besides individual representations to the concerned authorities and others, however, their grievance has not been redressed. A true copy each of the representations is annexed hereto and marked as Annexure-A9 (colly.).

5. **Grounds for relief with legal provisions:**

That in view of the facts and circumstances stated above, the impugned orders/action of the respondents is illegal, arbitrary, unreasonable, unjust and discriminatory and liable to



be quashed and set aside by this Hon'ble Tribunal on the following, amongst other grounds, which are taken without prejudice to each other:

GROUND S

- (A) BECAUSE the impugned order / action of the respondents is absolutely illegal, arbitrary, discriminatory, unjust and unreasonable inasmuch as the same has caused hostile and invidious discrimination among the retirees / employees as a homogenous group and a sub-classification is impermissible in law within a classification for the purpose of revision of pay / payscale / pension of the different categories of employees and all the retirees / employees have to be treated equally under a uniform policy / criterion for that purpose.
- (B) BECAUSE after the introduction of the distinctive feature of "Pay Bands" and "Grade Pay", all the retirees and / or employees have to be treated as a class for the purpose of rationalization of their pay / pay scales as they constitute the same classification and differential treatment among them is not based on any intelligible differentia having rational nexus with the objective sought to be achieved.



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Hence the impugned order is violative of Articles 14 and 16 of the Constitution of India and liable to be quashed and set aside by this Hon'ble Tribunal.

- (C) BECAUSE the impugned action is contrary to the policy statement made by the Sixth CPC itself in regard to implimentation of its recommendations as a package and any deviation therefrom is bound to result in anomalies to destroy the entire structure of the recommendations as has happened in the present case. In this regard paragraph 1.2.25 of the Sixth CPC report reads as under:-

"...All the recommendations are inter-connected and need to be treated as an organic whole. Partial implementation of these recommendations will destroy the underlying spirit, break the common thread and bring in several anomalies and inconsistencies. The Report would, therefore, need to be treated in a holistic manner and the recommendations considered as a package."

Therefore, the impugned action of the respondents is contrary to the policy underlying the Sixth Pay Commission Report and therefore, arbitrary, irrational, unreasonable and unjust and therefore, liable to be quashed and set aside by this Hon'ble Tribunal.

- (D) BECAUSE the respondents have totally misread and misinterpreted the stipulation of paragraph 2.4 of the



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O.M. dated 1.9.2004 because the expression **"corresponding to the pre-revised pay scale from which the pensioner had retired"** cannot be read in isolation or applied selectively. The entire paragraph has to be read as a whole and then has to be applied to the expression **"minimum of pay in the pay band plus the grade pay"** and cannot be applied selectively to the expression **"grade pay"** alone. Hence the impugned action of the respondents is totally illegal, arbitrary and discriminatory and liable to be quashed and set aside by this Hon'ble Tribunal.

(E) BECAUSE for the purpose of implementing the stipulation of **"fifty percent of the minimum of the pay"** all the retirees are a homogenous class and a group like the HAGs cannot be set apart for preferential and favourable treatment and hence the impugned action of the respondents is totally arbitrary, illegal and discriminatory and therefore, bad in law and liable to be quashed and set aside by this Hon'ble Tribunal.

(F) BECAUSE it is the settled proposition of law that the substantive provisions of an order cannot be whittled



down or amended or modified by way of a clarificatory order nor the benefit accrued under the substantive provisions cannot be taken away by way of a clarification. Therefore, the impugned action is bad in law and liable to be quashed and set aside by this Hon'ble Tribunal.

(G) BECAUSE the impugned action of the respondents is contrary to the principles of law laid down by the Hon'ble Apex Court in the cases D.S. Nakara & Ors. vs. Union of India, (1983) 1 SCC 305 and S.P. S. Vains & Ors. Vs. Union of India, (2008) 9 SCC 125, as an irrational and arbitrary cut off date cannot be fixed to the disadvantage of a homogenous class of people. Hence the impugned action is bad in law and liable to be quashed and set aside by this Hon'ble Tribunal.

(H) BECAUSE in the facts and circumstances of the present case, the applicants are not only discriminated against their own colleagues and juniors but even the subordinates, which is exemplified by the illustrations given herein below:-

ILLUSTRATION-I

Mr. A was posted as Add. Secretary to the Government of India in the pay scale of Rs.22,00 - 24,500



drawing pay of Rs.24,500. He retired on 31.12.2005. As per the interpretation of paragraph 4.2 of Government OM dated 1.9.2008 made by the Department of Pensions & Pensioners Welfare read with OM dated 14.10.2008 the pension of Mr. A is fixed at 50% of Rs.37,400 + Grade pay of Rs.12,000 which is Rs.24,700; WHEREAS Mr. B was posted as Director under Mr. A and was promoted to the post of Joint Secretary on 1.12.2005 in the scale of Rs.18,400-22,400. His pay was fixed at Rs.18,400. He retired on 31.1.2006. His pension is fixed at Rs.27,350 on the basis of the above formula. This is because by applying pay fixation rule his pay as on 1.1.2006 is fixed at Rs.44,700 + Grade pay of Rs.10,000 totaling Rs.54,700. 50% of this pay is Rs.27,350 (Please see the pay fixation table issued by the Department of Expenditure in F.No.1/1/2008-IC dated 30.8.2008.) This is a case of junior / subordinate getting higher pension just because of fortuitous circumstance as he retired one month later and that too from a lower scale of pay.

ILLUSTRATION-II

In Illustration-I what has been shown are the cases of persons with one being lower in rank and where, according to the Government's own language the table gives the minimum pay below which it cannot be fixed in the case of the serving officer. The following example gives the cases of two colleagues who were identically placed. For example A and B both batch mates in the IAS were posted as Addl. Secretary in the pay scale of Rs.22,400 - 24,500. Both had reached the maximum of the scale of pay i.e. Rs.24,500/-. A retired on 31.12.2005 and his pension was fixed as per formula illustrated in Illustration-I at Rs.24,700/-. B retired on 31.1.2006 i.e. one month later. His pension was fixed at Rs.35,190/- nearly Rs. 10,000 more. Because in his case pay was fixed at Rs.58,380 plus grade pay of Rs.12,000 on 1.1.2006, 50% of which comes to Rs.35,190/-.

Similar is the case of two batchmates C & D holding the post of Joint Secretary to the Government of India in the scale of pay of Rs.18000 - 22400/-. C retires on 31.12.2005 and his pension is fixed at Rs.23,700/- (being 50% of 47,400/-, i.e., Rs.37,400 + Grade Pay of



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Rs.10,000/-); whereas D retires on 31.1.2006, i.e. one month later. His pension is fixed at Rs.27,350/- (being 50% of Rs.54,700/-, i.e. pay in the pay band Rs.44,700 + grade pay Rs.10000/-). Thus C is getting pension of Rs.3650/- less pension per month than that of his colleague D, who retires after one month only.

Hence the above two illustrations clearly demonstrate the irrationality, arbitrariness, illegality of the impugned action and their invidious and hostile discriminatory effect on the applicants. Hence the impugned action is bad in law and by applying the principles of law laid down by the Hon'ble Apex Court in the cases of D.S. Nakara and SPS Vans (supra), is liable to be quashed and set aside by this Hon'ble Tribunal.

The impugned action is also contrary of the accepted / admitted position of allowing the same fitment as is being allowed in the case of existing employees and violative of the concept of modified parity between the "present" and "future" retirees as enunciated but the Pay Commission and accepted by the Government to allow fitment benefit consistent with the one being allowed in the case of existing employees.



- (i) BECAUSE the Hon'ble Supreme Court has held in the case of State of A.P. and Others vs. Goverdhanlal Pitti (2003) 4 SCC 739, as follows:

"12. The legal meaning of malice is "ill-will or spite towards a party and any indirect or improper motive in taking an action". This is sometimes described as "malice in fact". "Legal malice" or "malice in law" means "something done without lawful excuse". In other words, "it is an act done wrongfully and willfully without reasonable or probable cause, and not necessarily an act done from ill feeling and spite. It is a deliberate act in disregard of the right of others". (See Words and Phrases Legally Defined, 3rd Edn., London Butterworths, 1989.)"

That in the facts and circumstances of the present case, viewed in the light of the above law laid down by the Hon'ble Apex Court, the denial of the right to equality to the applicants is mala fide in law and therefore, liable to be quashed and set aside by this Hon'ble Tribunal.

- (ii) BECAUSE the impugned order/action is also otherwise bad in law on a number of grounds, which the applicants crave, leave to urge during the course of arguments with the permission of this Hon'ble Tribunal in the interest of justice.



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6. **Details of the remedies exhausted:**

The applicants have exhausted the departmental remedies as mentioned in paragraph 4.10 hereinabove, but the respondents have failed to redress the applicants' grievance and hence no other equally efficacious remedy is available to the applicants except to approach this Hon'ble Tribunal to prevent the grave miscarriage of justice to the applicants.

7. **Matters not previously filed or pending with any other court:**

The applicants further declare that they had not previously filed any writ petition, application or proceedings on this cause of action in any court, High Court, the Supreme Court or any of the Benches of this Hon'ble Tribunal and no suit or other proceeding is pending before any court or any other authority or any Bench of this Hon'ble Tribunal.

8. **Reliefs sought:**

In view of the facts and circumstances mentioned above in para 4 and the Grounds of relief in para 5 and the position



stated in para 6 herein above, the applicants most humbly pray for the following reliefs:

- A. That this Hon'ble Tribunal may be pleased to declare the impugned orders/OMs/ action of the respondents as illegal, arbitrary, discriminatory, unreasonable, inequitable and unjust and quash and set aside the same and direct the respondents to consider the case of the applicants and allow / grant the revision/fixation of their pension which is not lower than fifty percent of the sum of the minimum of the pay in the pay band and the grade pay thereon corresponding to the scale of pay from which they had retired as is done in the case of other similarly placed employees/retirees who retired after 1.1.2006 without the stipulation of cut off date, which is totally arbitrary and discriminatory in the facts and circumstances of the present case and violative of the principle of modified parity with the existing employees and grant arrears of pension with 12 % interest thereon.
- B. Pass any such other or further orders or directions as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of this case.



9. **Interim Order, if any, prayed for:**

In the facts and circumstances of the case, no interim direction is prayed for at this stage, however, the applicants crave leave to move appropriate application at a subsequent stage if so required / advised.

10. **Particulars of the Postal Order filed in respect of the application fee:**

11. **List of enclosures:**

(as per index)

VERIFICATION:

I, S.K. Ray s/o late R.S. Ray, Secretary of the applicant No.1 Association herein, do hereby verify on behalf of the applicant No.1, on this the ____ day of October, 2009 that the contents of paras, 1, 4, 6 and 7 are true to our personal knowledge and paras 2, 3, 5 are believed to be true on legal advice, paras 8 and 9 are prayers for relief before this Hon'ble Tribunal. That we have not suppressed any material facts.

Signatures on behalf of applicant No.1



VERIFICATION:

7.3

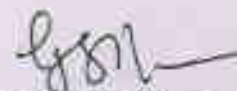
I, S.P. Biswas s/o late Shri P. Biswas, aged about 70 years, r/o C-607, Anandlok CGHS Ltd., Mayur Vihar-Phase I, Delhi-110091, applicant No. 2 herein, do hereby verify on this the ____ day of October, 2009 that the contents of paras, 1, 4, 6 and 7 are true to our personal knowledge and paras 2, 3, 5 are believed to be true on legal advice, paras 8 and 9 are prayers for relief before this Hon'ble Tribunal. That I have not suppressed any material facts.



Signatures of applicant No.2

VERIFICATION:

I, G.S. Lobana s/o late Shri Inder Singh, aged about 75 years r/o C-207, Anandlok CGHS Ltd., Mayur Vihar-Phase I, Delhi-110091, applicant No. 3 herein, do hereby verify on this the ____ day of October, 2009 that the contents of paras, 1, 4, 6 and 7 are true to our personal knowledge and paras 2, 3, 5 are believed to be true on legal advice, paras 8 and 9 are prayers for relief before this Hon'ble Tribunal. That I have not suppressed any material facts.



Signatures of applicant No.3

Through:


(L. R. Khatana)
Advocate