



CONFEDERATION OF CENTRAL GOVT. EMPLOYEES & WORKERS

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Ref: CONF/GENL/Ex-service men/2016-19

Dated – 28.09.2016

To,

Dr. Jitendra Singh
Hon'ble Minister of State
Ministry of Personnel,
Public Grievances and Pension
102, North Block
New Delhi - 110001

Respected Sir,

Sub: - Ex-Service men pay fixation – intervention requested.

1. It is submitted that pay fixation of re-employed Ex-Service men who held rank below commissioned officer/Group A at the time of their retirement is not carried out in many departments (Eg; Postal department) as per Government orders issued from time due to misinterpretation/wrong classification by the administrative authorities. The re-employed Ex-Servicemen are being deprived of their due by the controlling authorities.
2. Department of Personnel & Training under Ministry of Personnel, Public Grievances and Pension is the nodal authority in the subject matter. Presently CCS (Fixation of Pay of re-employed Pensioners) orders 1986, amended from time to time, which act as the basic guideline, is required to be amended to bring clarity and parity for whole class of Ex-servicemen. The pay of the re-employed Ex-Commissioned officers/Group 'A' is fixed at a higher stage due to their past service benefit but in the case of re-employed Ex-Servicemen who held rank below commissioned officers, their pay is fixed at minimum of pay scale of re-employed post which is denial of natural justice and violation of fundamental rights, particularly right to equality, enshrined in our constitution, as discrimination arises out of such partial provisions. The provision contained in pay fixation basically are welfare measure to support the class of Ex-Servicemen as a whole. However, this discrimination in pay fixation had added to their woes.
3. Detailed statement of case for regularization/streamlining of pay fixation of re-employed Ex-Servicemen are enclosed herewith for your kind consideration and issue of necessary guidelines in favour of veteran Warriors of our country who sacrificed their vital years for India and still engaged themselves in nation building.

**STATEMENT OF CASE FOR REGULARISATION OF PAY FIXATION OF RE-EMPLOYED EX-SERVICEMEN
(PERSONNEL BELOW OFFICER RANK) IN CENTRAL GOVERNMENT DEPARTMENTS/ MINISTRIES**

INTRODUCTION

Government of India provides reemployment opportunities to Ex-Servicemen Officers/Other Ranks of Indian Armed Forces in various Departments/Ministries, Public Sector Organizations & Autonomous Bodies as a rehabilitation measure due to their compulsory retirement at early age to keep the forces young. According to CCS (Fixation of Pay of reemployed Pensioners) Orders 1986 amended from time to time by DOP&T the Reemployed Officers are allowed to draw a higher stage of initial pay in consideration with their pre-retirement pay on reemployment in such Government organizations. In case of other ranks/PBOR (Jawans/NCOs/JCOs) the Government departments and Ministries have allowed to draw only minimum/entry pay of re-employed post as applicable to fresh recruit. Public Sector organizations viz., Nationalised Banks, LIC, NIC and other PSUs have allowed to draw the higher stage of initial pay (at the stage of pre-retirement pay) to reemployed ex-servicemen (Jawans/JCOs/NCOs) as mentioned above.

DETAILED JUSTIFICATION OF THE CASE

Department of Posts and some other departments has not agreed to allow the higher initial pay on re-employment in consideration with pre-retirement pay to re-employed ex-servicemen belonging to below officer rank of the Armed Forces. Most of the Ex-servicemen belong to PBOR category retired (discharged) from service at the age of 35 - 40 years to keep the forces young. To ensure the minimum survival support earning, Government of India introduced a higher stage of pay in several manners to the reemployed ex-servicemen from time to time. According to **Dept of P&T OM No 3/1/86-Estt (P-II) dated 31 July 1986** the earlier orders relating to fixation of pay of reemployed pensioners was scattered in a number of OM issued by Ministry of finance from time to time. Dept. of P&T consolidated all these orders and issued fresh guidelines in a single order viz., CCS (Fixation of pay of re-employed pensioners) Order 1986. The pay fixation procedure mentioned in such earlier OMs (Prior to 1986) issued by Ministry of Finance as under: -

- 1) According to Ministry of Finance, **Dept of Expenditure OM No 8(34) Estt-III/57 dated 25 Nov 1958** pay of the re-employed pensioners will be fixed at the minimum of pay scale of the re-employed post. In cases where it is felt that fixation of pay of re-employed officers at the minimum of pay scale will cause undue hardship the pay may be fixed at a higher stage by allowing one increment for each year of service the officer has rendered before retirement in a post not lower than that he reemployed. In other words, if the amount of pay plus pension is less than the last pay drawn before retirement from previous service, it will be treated as undue hardship.
- 2) In case of reemployed pensioner who retired before attaining the age of 55 years, Rs 125/- was ignored from the pension for the purpose of pay fixation vide Ministry of finance **OM No F.4(3)-E-III/82 dated 13 December 1978**.
- 3) According to Ministry of Finance **OM No F.4(3)-E.III/82 dated 13 Dec 1983** the entire pension of the reemployed pensioners who held below Group A post/ Commissioned officer rank and retired before attaining the age of 55 years will be ignored for the purpose of pay fixation. In this regard Para 4(d) (i) of CCS (Fixation of pay or reemployed pensioners) order 1986, amended from time to time may be referred.

Hence in the cases where pay plus Non Ignorable Portion of Pension is less than last pay drawn (LPD) before retirement, it will be treated as undue hardship. In case of Ex - Personnel below Commissioned officer /Group 'A' Officer Rank, the non-ignorable part of pension is zero. So it may be described such a manner that, if the pay of re-employed post is less than last pay drawn in such cases advance increments will be granted as instructions given in Ministry of Finance OM dated 25 November 1958. Hence the pay of re-employed ex-servicemen (Jawans/JCOs) will be fixed at higher stage.

4) Now the provisions of CCS (Fixation of pay of reemployed pensioners) Order 1986, and its application is as under: -

(i) **In case of Reemployed officers who held Group A/Commissioned Officer Rank** before retirement: -

According to Para 4(d)(ii) such re-employed officer who retired before attaining the age of 55 Years, first Rs 4000/- of his pension only will be ignored for the purpose of pay fixation.

According to Para 4(b) (ii) Pay of such re-employed officers will be fixed at the same stage as last pay drawn before retirement as a part of pension is only ignored for the purpose of pay fixation and remaining part of pension will be deducted from pay so fixed at the last pay drawn. As a result, pay of such officer is fixed at much higher than the minimum pay of re-employed post. **Illustration as mentioned below: -**

Colonel **A** Retired at the age of 54 Years and re-employed as Section Officer [Gp A Gazetted post in the pay scale of (Rs 15600 (BP) + Rs 5400 (Grade Pay)) His other details are as under: -

Initial pay of reemployed post = Rs 15600 + Rs 5400 = Rs 21000

Last pay drawn in previous service = Rs 54000 (BP) + Rs 8700 (GP) + Rs 6000 (MSP)

Total pay last drawn = Rs 68700/-

Pensioned sanctioned = Rs 34350/- pm

Pay fixation on his re-employment: -

Step - I - Determination of last pay drawn = Rs 68700

Step - II - Determination of non-ignorable = Rs 34350 – Rs 4000 = Rs 30350 part of his pension

Step - III - Deduction of non-ignorable = Rs 68700 – Rs 30350 = Rs 38350 Part of pension from Last Pay Drawn

Step - IV - Fixation of Initial pay = Rs 38350

(In addition to pay so fixed above, he shall be permitted to draw, separately any pension sanctioned to him and to retain any other form of retirement benefit. As explained in para 4(C) of CCS (RP) rules, 2008 vide OM 3/19/2009 dated 5th April 2010.)

From above it is notable that the minimum pay of the re-employed post is Rs 21,000/- and the pay fixed at Rs 38350/- hence the pay has been fixed at the higher stage due to consideration of his pre-retirement pay. It is justified as the pay of an experienced person can never be equal to a fresh recruit, but the same justification should be considered for reemployed Ex Non-Commissioned officer cadre (JCOs/Jawans) also.

In case of Reemployed Ex-servicemen who held rank below Group A/Commissioned Officer Rank before retirement and retired before attaining the age of 55 years: -

According to Para 4(d) (i) such re-employed ex-servicemen who retired before attaining the age of 55 Years his entire pension will be ignored for the purpose of pay fixation.

According to Para 4(b) (i) Pay of such re-employed ex-servicemen will be fixed at the minimum of pay scale of reemployed post. Pre-retirement pay will not be considered for his pay fixation. Treatment of undue hardship caused due to fixation of minimum pay is neglected here.

Illustration as mentioned below: -

Sepoy ABC (MACP-I) Retired at the age of 36 Years and reemployed as Social Security Assistant in the pay scale of Rs 5830 (BP) + Rs 2400 (GP) Initial pay of reemployed post = Rs 5830 + Rs 2400 = Rs 8230

His other details are as under: -

Last pay drawn = Rs 9550 (BP) + Rs 2400 (GP) + Rs 2000 (MSP) + Rs 300 (Class pay)

Total pay last drawn = **Rs 14250/-**

Pension sanctioned = Rs 7125/- pm

Pay fixation on his re-employment: -

Step-I Determination of Initial pay of re-employed post = Rs 8230

Step-II Fixation of Initial pay on re-employment = Rs 8230

From above it is notable that the re-employed ex-servicemen is allowed to draw only minimum pay of reemployed post which is Rs 8200/- much less than his last pay drawn Rs14250/- before retirement, hence the undue hardship arises as his pre-retirement pay has been neglected. The gap will widen in case we take example of Nb Subedar of Army or a Sergeant of Air force who gets X-pay additionally.

From the illustration (i) and (ii) it is revealed that the CCS (Fixation of pay of reemployed pensioners) Order 1986 is not a consolidation of provisions of OM issued by Ministry of finance rather it is an order issued by Government of India which intended to give benefit to Ex Commissioned officers and deprive the Ex-servicemen (PBOR). This Order was formulated to serve the interests of Ex Group 'A' Officers/Commissioned Officer category only and discriminated against the PBOR/Other Ranks in terms of Right to equality enshrined in our Constitution of India. The service conditions were equally harsher to whole class of ex-servicemen including all ranks of Armed Forces; in fact more harsh if service privileges and promotions are to be considered separately.

5. In addition to above, according to Para 2 of **DOPT OM No 3/13/2008/Estt/Pay II dated 11 Nov 2008** it is clear that the pay of re-employed ex-servicemen will be fixed according to rule 7 of CCS RP Rules 2008 with adherence to CCS (Fixation of pay of reemployed pensioners) Rules 1986 amended from time to time. The term minimum pay refers here the pay last drawn by the reemployed ex-servicemen before retirement (substantive pay) and the pay should be fixed in the pay structure of re-employed post i.e. the grade pay of re-employed post only admissible in such case. Total pay should be equal to the last pay drawn by the pensioner. In this regard your attention is also invited to para 3(v) of **DOPT OM No 3/19/2009-Estt (Pay II) dated 05 April 2010** where it is clearly instructed that the pay of re-employed personnel/officers will be fixed at the same stage as last pay drawn. In this regard Verdict of *Honourable Supreme Court dt 08.11.1996 in the case of Director General of India Posts Vs B Ravindran* may be referred.

6. Pay of Re-Employed Officers is fixed at higher stage due to formula applied as prescribed in the CCS (Fixation of pay of re-employed pensioners) Order 1986. Whereas the interest of personnel below officer rank was totally neglected and their pay is fixed at the minimum of pay scale only which is contrary to natural injustice and violation of Right to equality enshrined in the Constitution of India as discrimination arises.

7. Public Sector Banks, LIC, NIC and PSUs are still allowed the higher stage of initial pay to Ex PBOR with reference to the Government orders (DOP&T OM dated 05.04.2010). Circular of Indian Banks Association in this regard may be referred to. Due to misinterpretation/ambiguous language of Government orders issued on the subject matter, Central Government departments does not agree to re-fix the pay of re-employed ex-servicemen (PBOR) category as mentioned in para 4 above. The re-employed Ex-serviceman belonging to PBOR category, are allowed to get their pay fixed only at the minimum/entry pay of re-employed post which is illogical and unlawful decision in terms of violation of constitutional provisions of fundamental rights. As a result, a large number of ex-servicemen are suffering from financial hardship besides moral depression.

8. Quoting the same authority /Govt. orders issued by DOP&T the PSU organizations and Nationalised Banks (Govt. Undertakings) have facilitated the pay fixation to the ex-servicemen (PBOR) to fix the pay at the same stage as last pay drawn before retirement but Central Government departments still not agreed to provide the entitlements to the re-employed ex-soldiers due to ambiguous provisions. They cite different reasons that PSUs are following different pay system etc. forgetting that PSUs derive the authority from the same Central government, So, how can there be two sets of rules for same category by same employer (Central Government).

REMEDIAL ACTION REQUIRED TO BE TAKEN

9. In view of the above it is requested that, your good office should weed out the actual disparity arising out of incomplete and discriminatory orders issued by the DOP&T vide CCS (Fixation of pay of reemployed pensioners) Order 1986 (amended from time to time) and issue necessary amendment/fresh order in favour of the Ex Servicemen (PBOR) category as mentioned below: -

For: - Para 4(b)(i)

Where the pension is fully ignored, the initial pay on re-employment shall be fixed as per entry pay in the revised pay structure of the re-employed post applicable in the case of direct recruits appointed on or after 1.1.2006 as notified vide Section II, Part A of First Schedule to CCS (RP) Rules, 2008.

It should be read as under (**DRAFT PROPOSAL**): - Para 4(b)(i)

where the pension is fully ignored, the initial pay on re-employment shall be fixed as per entry pay in the revised pay structure of the re-employed post applicable in the case of direct recruits appointed on or after 1.1.2006 as notified vide Section II, Part A of First Schedule to CCS (RP) Rules, 2008. In cases of reemployed ex-servicemen where pension is fully ignored and pay fixed at minimum/entry pay of reemployed post which is less than his pay last drawn in the Armed forces will be treated as undue hardship and his pay required to be fixed at a higher stage by allowing advance increments until his pay reaches at the same stage as last pay drawn before retirement to prevent undue hardship. In addition, he will be permitted to draw, separately any pension sanctioned to him and to retain any other form of retirement benefit.

Illustration: Sergeant/Havildar (any noncommissioned rank) ABC Retired before the age of 55 Years and reemployed in the pay scale of Rs 5830 (BP) + Rs 2400 (GP)
Initial pay of reemployed post = Rs 5830 + Rs 2400 = Rs 8230

Last pay drawn by him = Rs 12000 (BP) + Rs 2800 (GP) + Rs 2000 (MSP) + Rs 300 (Class pay) + GCB 240 + X-pay 1400

Total pay last drawn = Rs 18740/-

Pension sanctioned = Rs 9370/-

Pay fixation on his reemployment: -

Step – I Determination of minimum pay = Rs 5830 + Rs 2400 = 8230 (minimum pay of reemployed post)

Step - II Fixation of total pay = Rs 18740/- (Last pay drawn) by allowing advance increment).

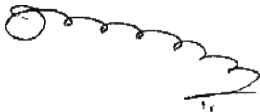
Step - III Manner of Re-fixation of pay = Rs 16840 (Band Pay) + 2400 (Grade Pay of re-employed post)

(This order should be applicable to all re-employed ex-servicemen irrespective of their date of retirement and date of re-employment)

CONCLUSION

10. In the light of the above, it is requested that the fresh orders/amendments be issued free from any scope of misinterpretation/ ambiguity, clearly mentioning the feasibility of fixation of pay of the re-employed ex-servicemen belonging to below officer ranks, at the same stage as the last pay drawn before retirement, ignoring entire portion of pension since the pension is miniscule and not even enough to live on rent in a city. In addition, they shall be permitted to draw, separately any pension sanctioned to them and to retain any other form of retirement benefit. Thousands of re-employed soldiers suffering from acute financial hardship due to very low earning even after re-employed. They would get relief with the right approach and initiative if taken at your end at the earliest. This will also save the Government's expenditure and precious time of officers on litigations that are either pending or may be initiated in various courts.

Yours faithfully,



(M. Krishnan)

Secretary General

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