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* IN THE HIGH COURT OF DELHI AT NEW DELHI

\+ W.P.(C) 11576/2022

BALE RAM KASHYAP .....Petitioner

Through: Mr. Jogy Scaria and Mr. Ashwini Kumar Soni, Advocates.

versus

UNION OF INDIA & ORS. .....Respondents

Through: Mr. A.K.DE, Ms. Ananya De, Advocates for R-3, 4.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% 20.03.2026

1. The Petitioner retired from United India Insurance Company Limited[1] in the year 2001 and has since been drawing pension under the General Insurance (Employees') Pension Scheme, 1995.[2] His grievance is that his pension is being worked out on a proportionate basis by applying 33 years as the qualifying-service benchmark, notwithstanding the Office Memorandum[3] of the Department of Pension & Pensioners' Welfare dated 6th April, 2016 which provides to the contrary.

Background

2. The Petitioner had earlier served in the Indian Army and thereafter entered the service of Respondent No. 3 under the ex-servicemen quota. He superannuated on 31st August, 2001 after rendering 24 years and 16 days of

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[1] "the Respondent Company"
[2] "the 1995 Scheme"

service with Respondent No. 3. He receives pension for that service under the 1995 Scheme. He also draws military pension separately. The present case concerns only the former.

3. The Petitioner says that, after the OM dated 6th April, 2016, pension payable to a pre-2006 retiree could no longer be reduced by reference to the 33-year requirement, and that this principle must govern his case as well. On that basis he seeks revision of pension with effect from 1st January, 2006 and payment of arrears. The said OM reads as follows:

"No. 38/37/08-P&PW (A)
Government of India
Ministry of Personnel, PG & Pensions
Department of Pension & Pensioners' Welfare

3rd Floor, Lok Nayak Bhawan
Khan Market, New Delhi-110 003.
Dated the 06th April, 2016

OFFICE MEMORANDUM

Sub: Revision of pension of pre-2006 pensioners-delinking of revised pension from qualifying service of 33 years.

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.

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

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[3] "OM"

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 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.

7. Ministry of Agriculture, etc, are requested to bring the contents of these orders to the notice of Controller of Accounts/Pay and Accounts Officers and Attached and Subordinate Offices under them for revising the pension of all those pre 2006 pensioners who had rendered less than 33 years of qualifying service at the time of retirement in the manner as indicated above on top priority. Revised Pension Payment Orders in all these cases may also be issued immediately.

8. All pension disbursing offices/banks are also advised to prominently display these orders on their notice boards for the benefit of pensioners.

9. This issues with the approval of Ministry of Finance, Deptt. of Expenditure vide ID Note No. 2(9)/EV/2015, dated 15.3.2016.

10. Hindi version will follow.

(Seema Gupta)
Deputy Secretary to the Government of India"

4. The Respondent Company resists the claim on the ground that the Petitioner is not a pensioner under the Central Civil Services regime, but is governed by the 1995 scheme, which is a distinct statutory framework. It is argued that, unless the said scheme itself incorporates or adopts the change relied upon by the Petitioner, the OM dated 6th April, 2016 cannot, by its own force, alter the basis on which his pension is computed. It is further submitted that the Petitioner, having voluntarily opted for and accepted pension under the said scheme, is bound by its provisions, and no claim of parity with Central Government pensioners can be sustained. It is also contended that any amendment to the scheme lies within the domain of the

Central Government and not the Respondent Company. The Central Pension Accounting Office (Respondent No. 2) additionally submits that the Petitioner's pension falls outside its administrative jurisdiction.

Submissions

5. The Petitioner's grievance relates to the basis on which his pension is being computed and rests principally on the OM dated 6th April, 2016 and the subsequent clarification dated 13th June, 2016. He submits that, once pension for pre-2006 retirees was delinked from the requirement of 33 years' qualifying service, there was no lawful basis to continue computing his pension on a proportionate basis by taking 33 years as the denominator. He points out that he had put in more than 24 years of service with Respondent No. 3 and was already a pensioner under the 1995 Scheme, and the denial of the claimed benefit is not founded on any deficiency in qualifying service, but on the Respondents' refusal to extend the benefit of the said OM to pensioners of the general insurance companies.

6. The Petitioner further submits that the General Insurance (Employees') Pension Scheme, 1995 cannot be read in complete isolation from the pension principles applied to central government pensioners. He relies on the structure of the scheme, particularly the provisions by which CCS pension norms are drawn in for specified purposes, and on the decision of the Madras High Court in ***M. Thiagarajan v. United India Insurance Company Limited and Ors.***[4] According to him, the decision shows that, where the 1995 scheme adopts or reflects the CCS pension framework, the Respondents cannot borrow from it selectively. In his submission, once that framework is accepted for working out pension under the scheme, the

benefit of the later clarification removing pro-rata reduction linked to 33 years cannot be withheld merely because he is a pensioner of a general insurance company.

7. The Petitioner also relies on the line of correspondence placed on record, including the RTI exchanges, the clarification dated 12th May, 2016, the CPAO communication of 13th June, 2016, later representations, and the CIC proceedings. His submission is that the Respondents were repeatedly put on notice of the legal position but chose to continue with the older basis of computation without addressing the real point. He submits that the stand taken by the Respondent Company is technical rather than substantial: that they are not answering why a pre-2006 pensioner under their own pension scheme should continue to suffer pro-rata reduction after the 33-year condition itself stood removed from the governing pension framework on which the revision exercise rests.

8. The Respondent Company submits that the Petitioner is not a pensioner under the Central Civil Services pension rules, but under the General Insurance (Employees') Pension Scheme, 1995, which is a separate statutory scheme framed under the General Insurance Business (Nationalisation) Act, 1972. On that footing, their submission is simple: an OM issued in the CCS framework may govern pensioners and authorities within that framework, but it does not, by its own force, alter a different statutory pension scheme operating in a different service structure.

9. It is argued that there has been no amendment to the 1995 scheme bringing in the change reflected in the OM dated 6th April, 2016. Until that happens, pension under the scheme has to be worked out on the terms of the

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[4] W.P. No. 28282 of 2015, decided on 20th April, 2023

scheme itself. The Respondent Company also submits that it has no authority, acting on its own, to reshape statutory pension provisions by applying an executive instruction issued for another service regime. On that footing, the Respondents say the claim fails at its legal source.

10. Respondent No. 2, the Central Pension Accounting Office, submits that the Petitioner's pension is not sanctioned or administered through it at all and that it has no authority to revise pension payable by United India Insurance Company Limited under the 1995 scheme. Its communication dated 13th June, 2016 was only a transmission of the Department's instructions to the authorities functioning in that field, and not a recognition that pensioners of the general insurance companies had thereby become entitled to identical treatment. On that basis, it is argued that the petition is misconceived, at any rate as against it.

Discussion and Reasons

11. The Court has considered the aforenoted submissions. The Petitioner's case is that the OM dated 6th April, 2016 removed the 33-year qualifying service benchmark for pre-2006 pensioners and that the benefit thereof ought to enure to him as well. The Respondents, on the other hand, contend that, irrespective of its effect within the CCS pension framework, the Petitioner can succeed only if the said change is shown to have been incorporated into the General Insurance (Employees') Pension Scheme, 1995, under which he draws pension. The controversy, therefore, turns on the applicability of the said OM to the aforesaid scheme.

12. In the Court's opinion, the necessary link has not been established. The OM dated 6th April, 2016 was issued in the context of revision of pension of pre-2006 pensioners under the Central Civil Services pension

regime, and its language, source, and administrative setting are all referable to that framework. The Petitioner seeks to extend that position to the General Insurance (Employees') Pension Scheme, 1995. The present record does not permit such an extension. An executive instruction of this nature may regulate the pension framework for which it is issued, but cannot, by itself, amend or enlarge a distinct statutory scheme unless the latter expressly adopts it or its terms so warrant.

13. That said, the Respondents cannot answer the matter simply by saying that the 1995 Scheme is a separate one. Regulation 54B does not permit so broad a response. It provides that, for the employees to whom it applies, pensionary benefits are to be calculated in accordance with the Central Civil Services (Pension) Rules, 1972, the Central Civil Services (Commutation of Pension) Rules, 1981, and the instructions issued thereunder from time to time. The Petitioner is therefore right in saying that the Scheme is not entirely sealed off from the CCS pension framework.

14. But that does not conclude the matter in his favour. In ***M. Thiagarajan,*** the Madras High Court relied on Regulation 54B while dealing with the components that entered pension computation, including dearness allowance and other allowances. The present controversy is not of that kind. Here, the question is whether the OM dated 6th April, 2016, which removed pro-rata reduction linked to 33 years in the CCS framework for pre-2006 pensioners, can be read as having been incorporated into the 1995 Scheme as well.

15. On the present record, that conclusion is not made out. The Petitioner has not been able to point to any provision in the 1995 Scheme which specifically carries the 2016 change into it. Nor has he shown any authority

holding that Regulation 54B has that effect in relation to the 33-year benchmark. The Respondents have consistently maintained that no corresponding amendment was made in the 1995 Scheme, and that position has not been displaced by anything more definite than analogy. ***M. Thiagarajan*** shows that the Scheme may, in an appropriate case, require pension to be worked out with reference to the CCS framework. It does not decide that the OM dated 6th April, 2016, in all its incidents, automatically gets incorporated into the pension scheme applicable to general insurance employees. It is one thing to say that the scheme reflects or borrows certain CCS pension principles. It is another to say that every later executive relaxation in the CCS field becomes part of that scheme without legislative or regulatory adoption. The present case requires the second conclusion. The decision in ***M. Thiagarajan*** does not advance the Petitioner's case to that extent.

16. To conclude, the OM dated 6th April, 2016 cannot, by itself, be read as amending or overriding the pension formula under the 1995 scheme. In the absence of any corresponding statutory change, regulatory adoption, or binding authority directly extending that benefit to pensioners under that scheme, the prayer for revision of pension cannot be granted.

17. The writ petition is accordingly dismissed.

SANJEEV NARULA, J

MARCH 20, 2026
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