

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/00971/2021

Jabalpur, this Thursday, the 4th day of January, 2024

HON'BLE SHRI JUSTICE AKHIL KUMAR SRIVASTAVA, JUDICIAL MEMBER
HON'BLE SHRI KUMAR RAJESH CHANDRA, ADMINISTRATIVE MEMBER



Umashankar Joshi Aged 82 years, S/o Late Heeralal Joshi
Post Ex-Joint General Manager, R/o 1017, West Ghamapur,
Near Ghamapur Chouk Jabalpur 482001 **-Applicant**

(By Advocate – **Applicant is present in person**)

V e r s u s

1. Union of India through Secretary (P)
Dept. of Pension and Pensioners' Welfare,
3rd Floor, Lok Nayak Bhawan, Khan Market New Delhi 110003

2. Principal Controller of Defence Accounts
(Pension) Draupadi Ghat, Prayagraj 211014 (UP)

3. Branch Manager, CPPC Branch, Punjab National Bank
PNB House Arera Hills, Jail Road, Bhopal 462011

4. General Manager, Ordnance Factory
Itarsi, Itarsi 461122 (MP)

- Respondents

(By Advocate – **Shri S.P.Singh**)

(Date of reserving the order:-08.11.2023)

ORDER

By Kumar Rajesh Chandra, AM:-

The applicant has preferred this Original Application seeking direction to the respondents to extend the benefit of AQP of 20% of basic pension from 01.10.2018 in accordance with the order of Supreme Court of India and the order of the Guwahati High Court

with interest at the GPF interest rate on the accrued arrears for the period up to the date it is actually paid by the respondent NO.3.

2. The brief facts of the case is that the applicant's date of birth is 01.10.1939. The applicant was superannuated on 30.09.1997 on attaining the age of 58 years from the post of Joint General Manager from Ordnance Factory, itarsi (MP). The applicant had attained 79 years of his age on 30.09.2018 and had entered 80th year of his age on 01.10.2018. In accordance with the clause 5.7 of the O.M No F. No.38/37/08- P&PW(A) dated 02.9.2008 he must have been given the Additional Quantum of pension (in short AQP) of 20% of the basic pension from 01.10.2018, the date from which the 80th year of his age had started. Whereas the pension Disbursing Authority (in short PDA)- the Respondent No.3 started giving the AQP of 20% of basic pension form 01.10.2019 on attaining the age of 80 years in accordance with the New PPO issued by the Respondent No.2. The applicant should be paid the AQP of 20% of basic pension w.e.f. 01.10.2018 and the accrued arrears of 12 months from 01.10.2018 to 30.09.2019 with interest at the GPF interest rate for the period of 12 months.



3. The respondents have filed their reply to the Original Application, wherein it has been submitted that the applicant retired from service on attaining the age of 58 years from the post of Joint



General Manager from Ordnance Factory Itarsi. As per the service records of the applicant his date of birth is 01.10.1939. The Principal Controller of Defence Accounts (pensions), had sanctioned pension, Gratuity & Commutation Value of pension to the applicant vide Pension Payment Order dated 26.05.1997. The applicant's pensionary benefits are subsequently revised vide dated 25.02.1998, dated 23.10.2001, dated 25.09.2014 and new PPO No. dated 08.01.2018. The applicant erroneously interpreted the Para 5.7 of Govt. of India, Ministry of Personnel Public Grievances & Pensions, Department of Pension & Pensioner's Welfare and filed this OA for grant of additional pension on attaining the age of 79 years i.e. w.e.f 01.10.2018, stating that the word "From" has been defined as the start of the event and not the attainment of it.

4. The applicant has filed the rejoinder to the reply filed by the respondents, wherein he re-iterated its earlier stand as taken in the O.A.

5. We have heard the learned counsel for both the sides and have gone through the pleadings and the documents annexed therewith.

6. It is apparent from the record that the applicant's date of birth is 01.10.1939. Accordingly the 80th year of his age started from 01.10.2018. In this case, the issue regarding entitlement of



additional quantum of pension @20% of basic pension, has already been adjudicated upon by the Hon'ble Guwahati High Court in WP (C) No. 4224/2016, decided on 15.03.2018 in the case of **Virendra Dutt Gyani vs. The Union of India & Ors.** and the same has attained finality as the Special Leave petition (Civil) Diary No. 18133/2019 dated 08.07.2019, filed before the Hon'ble Supreme Court has also been decided. Learned counsel for the applicant has also cited the judgment in his written submission passed by the Hon'ble High Court of Madhya Pradesh, Jabalpur in Writ Petition No.13291/2020 & Writ Petition No.15461/2020, decided on 03.12.2020, wherein the judgment passed in the case of Virendra Dutt Gyani (supra) has been dealt with by the Hon'ble High Court of Madhya Pradesh.

7. In the instant case, the quantum of 20% additional quantum of pension is being regulated in terms of the Office Memorandum dated 02.09.2008 (Annexure A-1). Para 8.3 of the said Office Memorandum along with the table appended below reads as follows:

“15. The quantum of age-related pension/family pension available to the old pensioners/family pensioners shall continue to be as follows:-

Age of family pensioner	Additional quantum of pension
From 80 years to less than 85 years	20% of basic family pension
From 85 years to less than 90 years	30% of basic family pension

From 90 years to less than 95 years	40% of basic family pension
From 95 years to less than 100 years	50% of basic family pension
100 years or more	100% of basic family pension



8. The meaning of expression “from 80 years” as defined in column 1 of the table of the Office Memorandum dated 02.09.2008, has been considered by the Hon’ble Gauhati High Court in Virendra Dutt Gyani (supra), wherein it has been held that the benefit of additional quantum of pension would be available from the first day of 80th year. The relevant paragraphs of the judgment read as under:

“21, In Collins English Dictionary, the word “from” has been defined to mean indicating the point of departure, source, distance, cause, change of state etc. Mr. Goswami had also argued that the word “from” is used to specify a starting point in spatial movement i.e. to specify starting point in an expression of limits. In Black’s Law Dictionary, 6th Edition, the word “from” has been defined to mean implying a starting point, whether it be of time, place or condition, and having a starting point of motion, noting the point of departure, origin, withdrawal etc. However, it has been explained that the word “from” does not have an absolute and invariable meaning but should receive an inclusion or exclusion construction according to the intention with which such word is used.

22. Therefore, as per the dictionary meaning, the expression “from eighty years” would indicate the starting point of eighty years. However, as a note of caution, it has also been clarified that inclusiveness or exclusiveness associated with the expression would have to be interpreted having regard to the intention for use of such word or expression.

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32. Therefore, on a thorough consideration of the matter, we hold that the benefit of additional quantum of pension as per Section 17B of the Act in the first slab would be available to be a retired judge from the first day of his 80th year. In so far petitioner is concerned, he would be entitled to the said benefit from

30.07.2015 which was the first day of his 80th year. Ordered accordingly”



9. Thus, this Tribunal is of the view that the law noticed in the case of Virendra Dutt Gyani (supra) is squarely applicable to the facts and circumstances of the present case and the benefit of 20% additional quantum of pension has to be extended to the applicant from the first day of 80th year, i.e. w.e.f. 01.10.2018 and not from the first day of 81st year, i.e. 01.10.2019, as has been extended by the respondents.

10. Accordingly, this Original Application is allowed and the respondents are directed to pay 20% additional quantum of pension to the applicant in terms of Office Memorandum dated 02.09.2008 from the first day of 80th year, i.e. 01.10.2018, within a period of three months from the date of receipt of a copy of this order, along with arrears and interest payable at GPF rates. No costs.

(Kumar Rajesh Chandra)
Administrative Member
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(Akhil Kumar Srivastava)
Judicial Member

