भारत सरकार
वित्त मन्त्रालय, व्यय विभाग
केन्द्रीय पेंशन लेखा कार्यालय
त्रिकूट-II भीकाजी कामा प्लेस
नई दिल्ली-110066
फोन : 26174596, 26174456, 26174438

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF EXPENDITURE
CENTRAL PENSION ACCOUNTING OFFICE
TRIKOOT-II, BHIKAJI CAMA PLACE,
NEW DELHI-110066
PHONES : 26174596, 26174456, 26174438

CPAO/IT&Tech/Pre-2006 (PSU)/8.Vol-VI/2017-18/83 Dated: 21.07.2017

Office Memorandum

Subject: Restoration of full pension of absorbee pensioners in view of the order dated 01.09.2016 of Hon'ble Supreme Court in Civil Appeal No. 6048/10 and Civil Appeal No. 6371/2010.

Reference is invited to DP&PW OM F.No.4/34/2002-P&PW(D)/Vol-II dated 23rd June, 2017(copy enclosed) regarding restoration of full pension of absorbee pensioners. Earlier the basic pension of abosorbees were to be fixed notionally for the purpose of grant of Dearness Relief. Now all such absorbee pensioners who had taken 100% lump-sum amount in lieu of pension on absorption in PSUs/Autonomous Bodies in accordance with the then existing Rule 37-A and in whose case 1/3 pension had been restored after 15 years, may be allowed restoration of full pension after expiry of commutation period of 15 years from the date of payment of 100% lump-sum amount.

Further, as per Para 9 of the said OM the absorbee pensioners whose full pension is restored in terms of the above instructions would also be entitled to revision of their pension in accordance with the instructions issued from time to time in implementation of the recommendations of the Pay Commissions, including the 7th Central Pay Commission.

To facilitate the PAOs, a list of pensioners whose pensions are to be revised under 7th CPC has been provided in the login/Dash Board of CCAs/JS (Admn)/PAOs. The absorbee pensioners have been flagged in the list. Such cases may be taken up for revision as instructed by DP&PW vide OM dated 23.06.2017. The list is only to facilitate the work of Ministries/Departments which may invariably check/verify their records w.r.t. applicability etc. while processing individual cases.

All Heads of Offices and PAOs may be advised to revise the pension as per DP&PW OM No. F.No.4/34/2002-P&PW(D)/Vol-II dated 23rd June, 2017 as mentioned above.

(Subhash Chandra)
Controller of Accounts

To,

(i) All Pr. CCAs/CCAs/CAs/Administrators of UTs.
(ii) JS (Admn)/Admn in charge of Ministry/Departments.
(iii) Pay & Accounts Officers through through their Pr.CCAs/CCAs/CAs/AGs/Administrators of UTs.

F.No. 4/34/2002-P&PW(D).Vol.II
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Pension & Pensioners Welfare
3rd Floor, Lok Nayak Bhavan,
Khan Market, New Delhi
Dated the 23rd June, 2017

OFFICE MEMORANDUM

Subject: **Restoration of full pension of absorbee pensioners in view of the order dated 01.09.2016 of Hon'ble Supreme Court in Civil Appeal No. 6048/2010 and Civil Appeal No. 6371/2010.**

The undersigned is directed to say that in accordance with the instructions which existed before 31.03.1995, a Government servant, on absorption in a Public Sector Undertaking or an Autonomous Body, had the option to draw pro-rata gratuity and a lump sum amount in lieu of pension. The option regarding payment of lump sum amount in lieu of monthly pension on absorption in a PSU or autonomous body was available in terms of the instructions issued vide Department of Expenditure's O.M. No. 26(18)-E.V(B)/75 dated 08.04.1976, Department of Personnel & Training's O.M. No. 28016/5/85-Estt.(C) dated 31.01.1986 and Department of Pension & Pensioners' Welfare' O.M. No. 4(12)/85-P&PW dated 31.03.1987. This option was also available to Government employees on absorption in PSUs/autonomous bodies of the State Governments and Joint Sector undertakings in terms of this Department's O.M. No. 4/43/88-P&PW(D) dated 16.10.1989. The terms and conditions for absorption of Government employees consequent on conversion of a Government Department into a PSU or autonomous body issued vide this Department's O.M. No. 4/18/87-P&PW(D) dated 5.7.1989 also provided for a similar option of lump sum payment in lieu of monthly pension.

2. In accordance with Rule 37-A of the Central Civil Services (Pension) Rules, 1972, incorporated vide Department of Expenditure's Notification No. 44(1)-E.V./71 dated 09.04.1973, on exercise of the above option, an employee was entitled to a lump sum amount not exceeding the commuted value of one-third of the pension and terminal benefit equal to twice the aforesaid lump-sum amount, subject to the condition that the Government servant surrendered his right of drawing two-thirds of his pension.

3. The option to draw a lump sum amount in lieu of pension was withdrawn vide this Department's O.M. No. 4/42/91-P&PW(D) dated 31st March, 1995. Accordingly, the erstwhile Rule 37-A was omitted from the CCS(Pension) Rules, 1972 vide Notification No. 4/42/91-P&PW(D) dated 25.06.1997.

4. In implementation of the Order dated 15.12.1995 of Hon'ble Supreme Court in WP(C) No. 11855/85, instructions were issued vide this Department's O.M. No. 4/3/86-P&PW(D) dated 30.09.1996 for restoration of one-third commuted portion of pension of Government servants who had drawn lump sum payment on absorption in

a PSU/autonomous body. Further instructions were issued, from time to time, for computation and revision of the one-third restored pension of such absorbee pensioners and for payment of the attendant benefits like dearness relief, etc. to such absorbee pensioners. Orders for revision of the one-third restored pension w.e.f. 01.01.2006 of such absorbee pensioners were issued vide this Department's O.M. No 4/38/2008- P&PW(D) dated 15/09/2008, O.M. No. 4/30/2010-P&PW(D) dated 11/07/2013. and O.M. No. 4/38/2008-P&PW(D) dated 04/08/2016. These absorbee pensioners were, however, entitled to dearness relief and age-related additional pension based on the notional full pension.

5. Hon'ble High Court of Judicature of Madras, in its judgement dated 02-08-2007 in Writ Petition no. 22207/2002 filed by one Sh. K. Ganesan, an officer in the office of Controller General of Accounts, held that surrendering of the right for drawal of 2/3rd of Pension after its commutation, as provided under Rule 37-A (b), was repugnant to Section 12 of the Pensions Act, 1871 and that the petitioner was lawfully entitled for the restoration of his pension after the expiry of the period of commutation of 2/3rd pension. Hon'ble High Court, accordingly, directed restoration of 2/3rd pension and payment of arrears accordingly.

6. An SLP(Civil) No. 4054/2008 (converted into Civil Appeal No. 6048/2010) was filed by the Union of India challenging the aforesaid order dated 02-08-2007 of Hon'ble High Court of Judicature of Madras. In its order dated 1.9.2016, Hon'ble Supreme Court found no justification to interfere with the order dated 02.08.2007 of Hon'ble High Court directing restoration of 2/3rd pension in respect of the respondent (Shri K. Ganesan), after the expiry of the requisite period of commutation. The Civil Appeal No. 6048/2010 was accordingly dismissed by Hon'ble Supreme Court. In the said judgement dated 1.9.2016, similar direction was passed by Hon'ble Supreme Court in the Civil Appeal No. 6371/2010 for restoration of 2/3rd pension in respect of the petitioners, Shri K.L. Dhall, an absorbed employee of Ministry of Civil Aviation and member pensioners of Welfare Association of Central Government Officers, CAD Absorbed in PSU.

7. Review Petitions No. 465/2017 and No. 472/2017 were filed by Union of India in the Supreme Court against the aforesaid order dated 1.9.2016. Instructions were separately issued to the office of Controller General of Accounts and the Ministry of Civil Aviation vide OM No.4/34/2002-P&PW(D).Vol.II dated 21-12-2016 and OM No. 4/34/2002-P&PW(D).Vol.II dated 21-12-2016 respectively, for implementation of the orders of Hon'ble Supreme Court in respect of the petitioner/respondent pensioners in the aforesaid Civil Appeals, subject to the final outcome of the Review Petitions. The aforesaid Review Petitions No. 465/2017 and No. 472/2017 have been dismissed by Hon'ble Supreme Court on 22.03.2017.

8. The matter has been examined in consultation with the Department of Legal Affairs and the Ministry of Finance (Department of Expenditure). It has been decided to extend the benefit of order dated 02-08-2007 of the Hon'ble Madras High Court and the Order dated 01-09-2016 of the Hon'ble Supreme Court to all similarly placed absorbee pensioners. Accordingly, all such absorbee petitioners who had taken 100%

lump-sum amount in lieu of pension on absorption in PSUs/Autonomous Bodies in accordance with the then existing Rule 37-A and in whose case 1/3 pension had been restored after 15 years, may be allowed restoration of full pension after expiry of commutation period of 15 years from the date of payment of 100% lump-sum amount.

9. The absorbee pensioners whose full pension is restored in terms of the above instructions would also be entitled to revision of their pension in accordance with the instructions issued from time to time in implementation of the recommendations of the Pay Commissions, including the 7th Central Pay Commission.

10. In their application to the persons belonging to the Indian Audit and Accounts Department, these orders issue in consultation with the Comptroller and Auditor General of India.

11. Ministry of Agriculture etc. are requested to bring the contents of these Orders to the notice of Controller of Accounts/Pay & Accounts Officers and Attached & subordinate Offices under them on a top priority basis and for taking necessary action for implementation of the above instructions. All pension disbursing offices are also advised to prominently display these orders on their notice boards for the benefit of pensioners.

12 This issues with the approval of Ministry of Finance (Department of Expenditure) vide their ID Note No.1(11)/EV/2017 dated 26-05-2017 and dated 13-6-2017.

13. Hindi version will follow.

(Harjit Singh)
Director
Tel. No. 24624752

To

All Ministries/ Departments of Government of India (As per standard mailing list)

Copy to :

(1) Comptroller and Auditor General of India, Pocket-9, Deen Dayal Upadhyaya Marg, New Delhi-110 124.
(2) Controller General of Accounts, Mahalekha Niyantrak Bhawan, GPO Complex, Block E, Aviation Colony, INA Colony, New Delhi-110003 .
(3) Chief Conroller (Pension), Central Pension Accounting Office, Trikoot-II, Bhikaji Cama Place, New Delhi - 110 066.
(4) CMDs of All Pension Disbursing Banks.
(5) NIC, DoP&PW for uploading on the Website.