

## AGENDA

of the General Body Meeting of  
NAGPUR UNIVERSITY TEACHERS' ASSOCIATION  
to be held at 12.00 noon on **SUNDAY, the**

**11 th October, 2015 at**  
**Bharatiya Mahavidyalaya, Rajapeth,**  
**Amravati**

Agenda of the General Body Meeting of Nagpur University Teachers' Association to be held at 12.00 noon on Sunday, the 11th October, 2015 at Bharatiya Mahavidyalaya, Rajapeth, Amravati is as follows :-

### ITEM NO. 656 : CONFIRMATION OF MINUTES :

**TO CONFIRM** the minutes of the General Body meeting of Nagpur University Teachers' Association held at 12.00 noon on Sunday, the 15th March, 2015 at Yeshwant Mahavidyalaya, Seloo Dist. Wardha

**Notes :-** (1) Copy of the minutes was Circulated on pages 45 to 48 of 2015 NUTA Bulletin.

(2) Corrections, if any, were invited in the copy of the Minutes of the General Body Meeting of Nagpur University Teachers' Association held at 12.00 noon on Sunday, the 15th March, 2015 at Yeshwant Mahavidyalaya, Seloo Dist. Wardha vide No. CIM/39 Dated 1st April, 2015 published on page 53 of 2015 NUTA Bulletin. No correction was received.

### ITEM NO. 657 : APPROVAL TO THE AUDITED STATEMENTS :

**(A) TO CONSIDER and TO APPROVE** the Audited Balance Sheet and Income and Expenditure Account of the Association for the year ended on 31st March, 2015.

**Notes :** (i) The copy of the Audited Balance Sheet and Income and Expenditure Account of the Association for the said Financial year is circulated on page 126 & 128 of 2015 NUTA Bulletin.

(ii) The Audited Balance Sheet and Income and Expenditure Account will be placed before the General Body by Dr. B.T.Gawande, Treasurer, on behalf of the Executive Committee.

(iii) If any honourable member has a query, regarding the Audited Balance Sheet and Income and Expenditure Account, he should make it, within a week from the date of posting of this Bulletin, to Dr. B.T.Gawande, Treasurer, NUTA, Uday Colony, V.M.V.Road, Amravati 444 604 specifying the exact point on which he seeks information/ clarification. A copy of the query also be sent to Prof. P.B. Raghuvanshi, President NUTA, Buty Plot, Near Mahajan wadi, Rajapeth, Amravati 444 601 .

### ITEM NO. 658 : STATEMENT ON FIXED SECURITIES POSITION :

**To Note** the Statement no. 26 showing the position of the Fixed Securities of the Association as on 31st March, 2015.

**Note :** (i) Statement no. 26 regarding the fixed securities of the Association as on 31st March, 2015, is circulated on page 129 of 2015 NUTA Bulletin. (ii) The Statement showing the position of

the Fixed Securities of the Association as on 31st March, 2015, will be placed before the General Body by Dr. B.T.Gawande, Treasurer, on behalf of the Executive Committee.

### ITEM NO. 659 : ANNOUNCEMENT IN RESPECT OF CHANGE OF ADDRESS :

**TO NOTE** the announcement in respect of Change of address : Acknowledgment No. 30

**Notes :** Announcement in respect of Change of address : Acknowledgment No. 30 is circulated on page 130 of 2015 NUTA Bulletin.

### ITEM NO. 660 : UGC LETTERS

**TO NOTE** the UGC Letters dated 4th August, 2015 and 17th August, 2015.

**Note :-** The UGC Letters dated 4th August, 2015 and 17th August, 2015 is circulated on page 131 & 134 of 2015 NUTA Bulletin.

### NAGPUR UNIVERSITY TEACHERS' ASSOCIATION

### MEETING NOTICE : 2

**Date : 15.09.2015**

From :

**Dr. A.W.DHAGE**

Secretary, NUTA Sankalp Sahaniwas,  
Khare Town, Dharampeth,  
Nagpur-444 010

To,

**All the members**

of the Nagpur University Teachers' Association

Dear members,

I have the honour to inform you that in exercise of the powers conferred on it by Article VIII of the Constitution of NUTA, the Executive Committee has decided to have the meeting of General Body at **12.00 Noon** on the date and at the place mentioned below.

2. Agenda of the General Body meeting is printed in this NUTA Bulletin. If you propose to suggest any amendments to any of the proposals/Resolutions included in the Agenda, you may send it to me within a period of one week from the date of the posting of this Bulletin. It will not be possible for the amendments received after the due date to be included in the additional agenda. Please send one copy of your amendment to Prof. P.B. Raghuvanshi, President NUTA, Buty Plot, Near Mahajan wadi, Rajapeth, Amravati 444 601

3. Rules for proposing amendments to the proposals/resolutions are printed on page 97 of 1977 NUTA Bulletin. You are requested to kindly make it convenient to attend the meeting.

Yours faithfully  
Sd/- **Dr.A.W.DHAGE,**  
Secretary, NUTA.

**Date and Place of the  
meeting**

**at 12.00 Noon on, Sunday, the**  
**11 th October, 2015 at**  
**Bharatiya Mahavidyalaya, Rajapeth,**  
**Amravati**

**सन २००६ पूर्वी सेवानिवृत्त झालेल्या प्राध्यापकांचे सेवानिवृत्ती वेतन ठरवितांना  
भेदभावपूर्ण वागणूक : २**

सन २००६ पूर्वी सेवानिवृत्त झालेल्या प्राध्यापकांचे सेवानिवृत्ती वेतन ठरवितांना भेदभावपूर्ण वागणूक देण्याच्या संदर्भात काही महत्त्वपूर्ण दस्तऐवज व कागदपत्रे नुटा बुलेटीन मध्ये प्रकाशित करण्यात आलेली आहेत. नुटा बुलेटीनच्या कोणत्या वर्षीच्या कोणत्या पृष्ठार कोणता दस्तऐवज प्रकाशित करण्यात आलेला आहे याचे तपशील पुढीलप्रमाणे आहेत - **संपादक**

**(1) Date of Decision : 01/11/2011** : Central Administrative Tribunal Principal Bench. (1) OA No.0655/2010 With (2) OA No.3079/2009 (3) OA No.0306/2010 (4) OA No.0507/2010 OA NO.655/2010 : (1) Central Government SAG (S-29) Pensioners Association through its Secretary Shri Sant Bhushan Lal, R/o C5/21, Grant Vasant, Vasant Kunj, New Delhi-110 070. VERSUS (1) Union of India through the Secretary to the Govt. of India, Honble Mr. Justice V.K. Bali, Chairman, Honble Mr. M.L. Chauhan, Member (J), Honble Dr. (Mrs.) Veena Chhotray, Member (A). (Circulated on page 127 of 2015 NUTA Bulletin)

**(2) Date of Decision : 25/07/2012** : IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH C.W.P.No.19266 of 2010 : Satyapal Yadav and another ....Petitioner(s) vs. State of Haryana and another ....Respondent(s) CORAM : HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASHI. (Circulated on page 122 of 2015 NUTA Bulletin)

**(3) Date of Decision : 01/08/2012** : IN THE HIGH COURT OF JUDICATURE AT BOMBAY, BENCH AT AURANGABAD. W. P. NO. 2630 OF 2010. Chandrakant Janardan Dangre Petitioner VERSUS The State of Maharashtra & ors. Respondents CORAM : B.P. Dharmadhikari and Sunil P. Deshmukh, JJ. (Circulated on page 140 of 2015 NUTA Bulletin)

**(4) Date of Decision :14/01/2013** : IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH, LPA No.1955 of 2012. State of Haryana and another ...Appellants VERSUS Satyapal Yadav and another...Respondents CORAM : Hon'ble Mr. Justice A.K.Sikri, Chief Justice Hon'ble Mr. Justice Rakesh Kumar Jain. (Circulated on page 176 of 2014 NUTA Bulletin)

**(5) Date of Decision : 29/04/2013** : IN THE HIGH COURT OF DELHI AT NEW DELHI. W.P.(C) 1535/2012 UNION OF INDIA & ANR.....Petitioners Represented by: Mr.Rajeev Mehra, ASG with Mr.Ruchir Mishra and Mr.Ashish Virmani, Advocates VERSUS CENTRAL GOVT. SAG & ORS..... Respondents CORAM : HON'BLE MR. JUSTICE PRADEEP NANDRAJOG HON'BLE MR. JUSTICE V. KAMESWAR RAO PRADEEP NANDRAJOG, J. (Oral) (Circulated on page 136 of 2015 NUTA Bulletin)

**(6) Date of Decision : 12/11/2013** : IN THE SUPREME COURT OF INDIA **REVIEW PETITION** (C) NO(s).2492 OF 2013 IN SLP(C) 23055/2013, Union Of India And Another ..Petitioner (S) VERSUS Central Govt.Sag (S-29) And Another Respondent (s). CORAM : Hon'ble Mr. Justice Surinder Singh Nijjar, Hon'ble Mr. Justice Fakkir Mohamed Ibrahim Kalifulla. (Circulated on page 122 of 2015 NUTA Bulletin)

**(7) Date of Decision : 30/04/2014** : IN THE SUPREME COURT OF INDIA (Record Of Proceedings) **CURATIVE PETITION** (CIVIL) NO.126 OF 2014 IN REVIEW PETITION (CIVIL) NO. 2492 OF 2013 IN SPECIAL LEAVE PETITION (C) NO.23055 OF 2013 Union Of India And Another ..Petitioner (S) VERSUS Central Govt. Sag (S-29) And Another Respondent (s) CORAM : Hon'ble The Chief Justice Hon'ble Mr. Justice H.L. Dattu Hon'ble Dr. Justice B.S. Chauhan Hon'ble Mr. Justice Surinder Singh Nijjar Hon'ble Mr.Justice Fakkir Mohamed Ibrahim Kalifulla. (Circulated on page 119 of 2015 NUTA Bulletin)

**(8) Date of Decision : 02/05/2014** : IN THE HIGH COURT OF JUDICATURE AT BOMBAY CIVIL APPELLATE JURISDICTION : WRIT PETITION NO. 5466 OF 2006. (1) Shivaji University Teachers Association..Petitioners VERSUS (1) State of Maharashtra through Higher & Technical Department..Respondents CORAM : ANOOP V. MOHTA AND M. S. SONAK, JJ. JUDGMENT PER : M.S. SONAK, J. (Circulated on page 12 of 2015 NUTA Bulletin)

**(9) Date of Decision : 09/06/2015** : IN THE HIGH COURT OF JUDICATURE AT BOMBAY BENCH AT AURANGABAD. W. P. NO. 4292 OF 2013 . Association of college and University superannuated teachers Through its President and Convener, Principal Dr. M.A. Wahul. PETITIONER VERSUS (1) Union of India Through its Under Secretary, Department of Education, New Delhi . CORAM : S. S. SHINDE & P. R. BORA, JJ. (Circulated on page 117 of 2015 NUTA Bulletin)

**(10) Dated (Submitted on) 24th March, 2008** : Report of the Sixth Central Pay Commission (Circulated on page 13 of 2008 NUTA Bulletin)

PR : (1) P101 NB2015 (2) P126 NB2015 (3) P138 NB 2015

<p align="center"><b>SCHEDULE VIII (VIDE RULE 17 /1) :- TRUST REG. NO. F-1564</b>  <b>NAME OF THE PUBLIC TRUST : NAGPUR UNIVERSITY TEACHERS' ASSOCIATION</b>                      Place : Nagpur -- Taluka : Nagpur -- District : Nagpur  <b>BALANCE SHEET AS AT : 31ST MARCH 2015</b></p>					
<b>FUNDS &amp; LIABILITIES</b>	Amount Rs.	Amount Rs.	<b>PROPERTY &amp; ASSETS</b>	Amount RS.	Amount RS.
<b>I TRUST FUND OR CORPUS</b>			<b>I FIXED ASSETS</b> (Sch.C)	107,325.44	82,044.76
Life membership fee			Less : Depreciation	25,280.67	
Balance as per Last B/S ...	8,227,588.32	8,473,590.33	<b>II INVESTMENTS</b> (Sch.D)		18,336,518.00
Adjustment during the year ...	246,002.01		<b>III LOANS &amp; ADVANCES</b>		
<b>II OTHER EARMARKED FUND</b>			Other Loans ... ..		
Depreciation Fund ... ..		114,950.00	<b>B) Advances</b> (Sch.E) ... ..		220,108.00
Sinking Fund ... ..		10,273,046.35	To trustees ... ..		
Reserve Fund ... ..			To employees ... ..		
Any other Fund (Schedule 'A')			To contractors ... ..		
<b>III LOANS Secured or unsecured</b>			To lawyers ... ..		
From Trustees ... ..			To Other TDS ... ..		
From Others ... ..			<b>IV INCOME OUTSTANDING</b>		
<b>IV LIABILITIES</b>		1,932.00	House Rent ... ..		
As per schedule 'B' ... ..			Land Rent ... ..		
For expenses Audit fees payable			Interest ... ..		
For advances ... ..			Other Income ... ..		
For rent/ other deposits ... ..			<b>V CASH AND BANK BALANCES</b>		
For Sundry credit balances ...			(a) Cash in hand		2,022,183.57
<b>V INCOME AND EXPENDITURE ACCOUNT</b>			(b) Bank Balance (Sch.F) ... ..		
Balance as per Last B/S ... ..	1,079,578.06	1,797,335.65			
Less appropriation if any					
add/less :surplus/deficit	717,757.59				
as per I/E Account ... ..					
<b>TOTAL RS.</b>		<b>20,660,854.33</b>	<b>TOTAL RS.</b>		<b>20,660,854.33</b>
<p>The above Balance sheet to the best of my belief contains a true account of the Funds and Liabilities and Assets of the trust</p> <p>Trustee: <span style="float:right">Place : Nagpur</span>                      S/d. B. T. Gawande <span style="float:right">Date : 24.06.2015</span>                      Trust Address : Nagpur University Teachers Association Trust</p> <p align="right">As per Our report of even date                      For <b>C.R.SAGDEO &amp; CO</b>                      Chartered Accountants                      FRN 108959W                      Sd/-<b>Anup C.Sagdeo</b> (Partner)                      Membership No. : 104659</p>					

# CENTRAL ADMINISTRATIVE TRIBUNAL

## PRINCIPAL BENCH

(1) OA No.0655/2010 **With** (2) OA No.3079/2009 (3) OA No.0306/2010 (4) OA No.0507/2010

**New Delhi this the 1st day of November, 2011**

Honble Mr. Justice V.K. Bali, Chairman

Honble Mr. M.L. Chauhan, Member (J)

Honble Dr. (Mrs.) Veena Chhotray, Member (A)

**OA NO.655/2010 :** (1) Central Government SAG (S-29) Pensioners Association through its Secretary Shri Sant Bhushan Lal, R/o C5/21, Grant Vasant, Vasant Kunj, New Delhi-110 070. (2) Shri Satish Verma, Retd. Chief Engineer, Central Water Commission, Ministry of Water Resources, Govt. of India, R/o B-6/8, Vasant Vihar, New Delhi-110 057.-Applicants **VERSUS** (1) Union of India through the Secretary to the Govt. of India, Department of Pension and Pensioners Welfare, Ministry of Personnel, Public Grievances and Pensions, Lok Nayak Bhawan, Khan Market, New Delhi-110 003. (2) Secretary to the Government of India, Department of Expenditure, Ministry of Finance, North Block, New Delhi. -Respondents

**OA NO.3079/2009 :** (1) Central Govt. Pensioners Association of Additional/Joint Secretary & Equivalent Officers, D-603, Anandlok CGHS Ltd., Mayur Vihar-Phase I, Delhi-110091. (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 the Secretary to the Govt. of India, Department of Pension and Pensioners Welfare, Ministry of Personnel, Public Grievances and Pensions, Lok Nayak Bhawan, Khan Market, New Delhi-110 003. (2) Secretary to the Government of India, Department of Expenditure, Ministry of Finance, North Block, New Delhi. -Respondents

**OA NO.306/2010 :** (1) D.L. Vhora, Chief Surveyor of Works MES (Retd.) R/o 1020, Pocket D-1, Vasant Kunj, New Delhi-110070. (2) Om Prakash Chopra, Chief Surveyor of Works MES (Retd.) R/o B-111, Chander Nagar, Janakpuri, New Delhi-110057. (3) R.D. Mirza, Chief Surveyor of Works MES (Retd.), R/o 7178, Pocket D-7, Vasant Kunj, New Delhi-110070. (4) S.S. Agarwal, Chief Surveyor of Works MES (Retd.), R/o 263, Rajouri Apartments, Rajouri Garden, New Delhi-110064. (5) G.S. Mehta, Chief Surveyor of Works MES (Retd.), R/o B1A, 42 C, DDA Flats, Janakpuri, New Delhi-110058. (6) H.R. Rajani, Chief Engineer, MES (Retd.), R/o 1005, Sector-A, Pocket-B, Vasant Kunj, New Delhi-110070. (7) L.C. Chawla, Chief Engineer, MES (Retd.), R/o 75, Kiran Vihar, New Delhi-110092. (8) Pooran Mal, Chief Engineer, MES (Retd.), R/o 63, Amaltas Lane, Green Park, K-5, Scheme Queens Road, Jaipur-302021. (9) S.K. Shangari, Chief Engineer, MES (Retd.), R/o 318, SFS DDA Flats, Ashok Vihar, Phase-IV, New Delhi-110052. (10) B.K. Sharma, Chief Engineer, MES (Retd.), R/o B-401, Munirka Apartments, Plot No.11, Sector-9, Dwarka, New Delhi-110075. (11) Ramchander Tripathi, Chief Engineer, MES (Retd.), R/o X-03, Suraksha Enclave, S. No.161, New DP Road, Aundh, Pune-411007.(12) Banwari Lal Singhal, Chief Engineer, MES (Retd.), R/o X-05, Suraksha Enclave, S.No. 161, New D.P. Road, Aundh Pune-411007. (13) M.D. Khera, Chief Architect, MES (Retd.), R/o A-2/123, Janakpuri, New Delhi-110058. (15) K.K. Mitra, Chief Architect MES (Retd.), R/o 40/197, C.R. Park, New Delhi. (16) V.K. Razdan, Chief Architect MES (Retd.), R/o 2/262, Kudi Bhagtasni Housing Board, Jodhpur-342005.-Applicants **VERSUS** Union of India through: (1) Secretary, Ministry of Personnel, Public Grievances and Pensions, Dept. of Pension and Pensioners Welfare, Lok Nayak Bhawan, New Delhi-110003. (2) Secretary, Dept of Expenditure, Ministry of Finance, North Block, Central Secretariat, New Delhi-110001. (3) Secretary, Ministry of Defence, South Block, Central Secretariat, New Delhi-110011.-Respondents

**OA NO.507/2010 :** (1) PPS Gumber, Chief Engineer, MES (Retd.), R/o C-23-B, Gangotri Enclave, Alaknanda, New Delhi-110019. (2) Namoo Narayan, Chief Surveyor of Works MES (Retd.), R/o 21, Part-3, Suresh Sharma Nagar, Bareilly UP. (3) Rajendra Prasad, Chief Surveyor of Works MES (Retd.), R/o 29, Anupam Apartments, Vasundhara Enclave, Delhi-110096. (4) Jasbir Singh Khanna, Chief Surveyor of Works MES (Retd.), R/o E-5/H, DDA Flats, Munirka, New Delhi-110067. (5) Devendra Gupta, Chief Surveyor of Works MES (Retd.), R/o B1/1, River Bank Colony, Lucknow. (6) Surya Mohan Bajpai, Chief Surveyor of Works MES (Retd.), R/o F-110, Indralok, Krishna Nagar, Lucknow-226023 Uttar

Pradesh.-Applicants **VERSUS** Union of India through: (1) Secretary, Ministry of Personnel, Public Grievances and Pensions, Dept. of Pension and Pensioners Welfare, Lok Nayak Bhawan, New Delhi-110003. (2) Secretary, Dept of Expenditure, Ministry of Finance, North Block, Central Secretariat, New Delhi-110001. (3) Secretary, Ministry of Defence, South Block, Central Secretariat, New Delhi-110011.-Respondents

**MEMO OF APPEARANCES: For the Applicants:** Mr. Nidhesh Gupta, Senior Advocate with Mr. Tarun Gupta, Counsel for applicants in OA Nos.655/2010.\* Shri L.R. Khatana, Counsel for applicants in OA No.3079/2009.\* Shri S.K. Malik, Counsel for applicants in OA No.306/2010 and 507/2010.\* **For the Respondents:** Shri Ritesh Kumar, Shri Piyush Sanghi, Shri Simranjeet Singh, Shri Sumit Goel, Shri Krishan Kumar, Shri Rajesh Katyal, counsel for the officials respondents.\* Shri R.K. Sharma, counsel for respondents in OA No.306/2010 and 507/2010.\*

## ORDER

**Honble Mr. M.L. Chauhan,**  
**Member (J)**

By this common order we propose to dispose of four connected Original Applications, as the issues involved in all are same, as is also suggested by the learned counsel representing the parties. Pleadings to the extent the same may be required to be mentioned are, however, extracted from OA No.655/2010 in the matter of Central Government SAG (S-29) Pensioners Association and another v. Union of India & Others.

**2. Applicants, who are pre-2006 retirees, are claiming pension at par with post-2006 retirees based on the recommendations of the VI Central Pay Commission, which became effective from 1.1.2006.** Considering that the issues involved have great ramifications and in the meanwhile Bombay Bench and Patna Bench of the Tribunal rendered judgment(s) against their cause., the matter was referred to the Full Bench vide order dated 29.04.2011. The grievance projected by the applicants in these OAs are that the employees, who retired prior to 1.1.2006 (specified date) and those who retired thereafter form one class of pensioners. The attempt to classify them into separate classes/groups for the purpose of pensionary benefits was not found on intelligible differentia, which has a rationale nexus with the object sought to be achieved. **To substantiate this argument reliance has been placed on the judgment of the Apex Court in the case of D.S. Nakara and others v. Union of India, (1983) 1 SCC 305 and Union of India v. S.P.S. Vains, (2008) 9 SCC 125.** The further grievance raised by the applicants is that their notional pay fixation and consequent pension should not be lower than 50% of the sum of the minimum of the pay in the pay band and the grade pay thereon corresponding to scale of pay from which they had retired, as accepted by the Government vide resolution dated 29.08.2008 and the clarification issued by the respondents vide impugned OM dated 3.10.2008 and 14.10.2008 contrary to the Resolution dated 29.08.2008 and OM dated 1.9.2008 in regard para 4.2, are illegal, arbitrary, discriminatory, unreasonable and unjust, as according to the applicants in the clarification/modification order dated 3.10.2008 respondents had added and deleted certain words, which completely changed its meaning as per the recommendations of the Commission as accepted by the Government. In other words, the grievances raised by the applicants are that the respondents have not revised pension of the pre-2006 retirees even as per the modified parity/formula recommended by the Pay



Commission and adopted by the Government vide resolution dated 29.08.2008. It may be stated that challenge has been made only to the aforesaid issues though the additional points raised by the applicants in OA-2087/2009 and 2101/2011 have not been pressed by the learned counsel for the applicants.

**3.** In order to decide the aforesaid issue, few relevant facts may be noticed. **The Government of India constituted VI Central Pay Commission (VI CPC) on 05.10.2006**, inter alia, 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 1.1.2004. **The report was submitted by the Commission on 24.03.2008. The Pay Commission made separate recommendations for revision of pension of the past pensioners and for determination of pension of those retiring after implementation of its recommendations.** In regard to determination of pension of those retiring after implementation of its recommendations, the Commission recommended linkage of full pension with 33 years of qualifying service should be dispensed with. Once an employee renders the minimum pensionable service of 20 years, pension should be paid at 50% of the average emoluments received during the past 10 months or the pay last drawn, whichever is more beneficial to the retiring employee. Simultaneously, the extant benefit of adding years of qualifying service for purposes of computing pension/related benefits should be withdrawn as it would no longer be relevant. However, regarding revision of pension of past pensioners the Commission made recommendations as per para 5.1.47 of the report which recommendation of the Commissioner was accepted by the Government with certain modifications to which we will advert at a later stage. Thus, this modified formula formed basis for revision of the pension of the pre-2006 retirees, as adopted by resolution dated 29.08.2008, which according to applicants has not even been followed by the respondents in its true letter and spirit. **Since the VI CPC has made separate recommendations for pre-2006 retirees and post-2006 retirees as such the Government issued two different OMs based upon the recommendations of the Central Pay Commission, i.e., one regarding revision of pension of**

past pensioners and second regarding post-2006 retirees. It is in the light of the aforesaid factual aspects the matter is required to be examined.

**4. We may first examine the challenge of the applicants made on the basis of the judgment of the Apex Court in the case of D.S. Nakara (supra).**

It is not disputed that the Central Government employees on retirement from service are entitled to receive pension under the Central Civil Services (Pension) Rules, 1972. In D.S. Nakaras case (supra) there was no dispute regarding implementation of the liberalized scheme from a cut off date. Rather the Apex Court in the said case in para-47 has categorically held that undoubtedly when an upward revision is introduced a date from which it becomes effective has to be provided. The challenge was made only to that part of the scheme by which the benefit of Liberalized Pension Formula was made applicable to government servants who were in service on March 31, 1979 and retired from service on or after that date. What was the Liberalized Pension Formula has been mentioned in para-37 of the judgment. As can be seen from this para, under the earlier pension scheme the pension was related to average emoluments during 36 months just preceding retirement. On May, 25, 1979 the Government of India, Ministry of Finance issued OM No.F.19(3)EB-79 whereby the formula for commutation of pension was liberalized but it was made applicable to government servants who were in service on 31.03.1979 and retired from service on or after the specified date. The liberalized scheme introduced a slab system for commutation of pension, raised pension ceiling and provided for average emoluments with reference to the last 10 months service. Consequently, the pensioners who retired prior to the specified date had to earn pension on the average 36 months salary just preceding the date of retirement. Thus, they suffered triple jeopardy viz. lower average emoluments, absence of slab system and lower ceiling. It was in this context that the Apex Court held that pensioners form a class as a whole and cannot be micro-classified by arbitrary, manipulated and unreasonable eligibility criteria for the purpose of grant of revised pension. The Apex Court held that the words who were in service on or after are words of limitation introducing the mischief and are vulnerable as denying equality and this part of the sentence was declared as unconstitutional and struck down. It was held that liberalized pension

<b>SCHEDULE IX (VIDE RULE 17 /1) :- TRUST REG. NO. F-1564</b> <b>NAME OF THE PUBLIC TRUST : NAGPUR UNIVERSITY TEACHERS' ASSOCIATION</b> Place : Nagpur * Taluka : Nagpur * : District Nagpur <b>INCOME AND EXPENDITURE ACCOUNTS FOR THE YEAR ENDING ON 31st MARCH 2015</b>			
EXPENDITURE	Amount Rs.	INCOME	Amount Rs.
<b>To Expenditure in respect of Properties</b>		<b>By House Rent</b> ... ..	
Rate, taxes, cesses ... ..		<b>By Agriculture Income</b> ... ..	
Repairs and maintenance ... ..		<b>By Hospital Receipt</b> ... ..	
Building Maintenance ... ..		<b>By land Rent Accrued/Realised</b> ... ..	
Insurance ... ..		<b>By Interst</b>	
Depreciation ... ..	25,280.67	On MIDS ...	729,118.00
<b>Other expenses (Sch 'G')</b>		On Fixed Deposit ... ..	635,328.00
To Establishment expenses	129,018.00	On Loans	
To Remuneration to trustees (in the case of a math) to the head of the math including his house hold expenditure, if any		On Bank account	100,528.00
To Electricity Expenses		<b>By Divident</b> ... ..	---
To Audit fee ... ..		<b>By Donation</b> in cash or Kind ... ..	40,000.00
To Contribution and fees ... ..	---	<b>By Grants</b> ... ..	
To Printing and Stationery ... ..	40,859.00	<b>By Income</b> from other sources ... ..	
<b>To amount Written of</b>		<b>By Subscription &amp; Membership</b> ... ..	
(a) Bad debts ... ..		<b>By Profit</b> on sale of Investment ... ..	
(b) Loan Scholarship ... ..		<b>By Transfers</b> from Reserve ... ..	
(c) Irrecoverable rents... ..		Deficite carried over to Balance Sheet... ..	---
(d) Other items... ..			
To Miscellaneous Expenses (Sch G) ... ..			
To Depreciation ... ..			
To Amount transferred to Reserve or Specific F.			
To Loss on Sale of Investment ... ..			
To Golden Jubilee Prog. Exp. Ac	145,948.74		
<b>To Expenditure on objects of the trust</b>		<b>TOTAL RS.</b>	<b>1,504,974.00</b>
(a) Religious ... ..		Trustee/	<b>As per Our report of even date</b>
(b) Educational (NUTA Bulletin) ... .. 446,110.00	446,110.00	Sd/-B. T. Gawande	For C.R.SAGDEO & CO
Bulletin Postages Exp. ...		Trust Address :	Chartered Accountants
(c) Medical Relief ... ..		Nagpur University Teachers Association	FRN 108959W
(d) Relief of Poverty ... ..		Date : 24.06.2015	sd/ <b>Anup C.Sagdeo (Partner)</b>
(e) Other Charitable objects ... ..		Place : Nagpur	Membership No. 104659
Surplus Carried over to B/S ... ..	717,757.59		
<b>TOTAL RS.</b>	<b>1504,974.00</b>		

scheme will become operative to all pensioners governed by 1979 rules, irrespective of date of retirement. **At this stage it will be useful to quota relevant portions of paras 47 to 49 of the judgment in D.S. Nakaras case** (supra), which thus read :

“47.Undoubtedly when an upward revision is introduced, a date from which it becomes effective has to be provided. It is the event of retirement subsequent to the specified date which introduces discrimination in one otherwise homogeneous class of pensioners. This arbitrary selection of the happening of event subsequent to specified date denies equality of treatment of persons belonging to the same class, some preferred and some omitted. Is this eligibility qualification severable?”

48. It was very seriously contended, remove the event correlated to date and examine whether the scheme is workable. We find no difficulty in implementing the scheme omitting the event happening after the specified date retaining the more humane formula for computation by applying the rule of average emoluments as set out in Rule 34 and introducing the slab system and the amount worked out within the floor and the ceiling.

49. But we make it abundantly clear that arrears are not required to be made because to that extent the scheme is prospective. All pensioners wherever they retired would be covered by the liberalised pension scheme, because the scheme is a scheme for payment of pension to a pensioner governed by 1972 Rules. The date of retirement is

irrelevant. But the revised scheme would be operative from the date mentioned in the scheme and would bring under its umbrella all existing pensioners and those who retired subsequent to that date. In case of pensioners, who retired prior to the specified date, their pension would be computed afresh and would be payable in future commencing from the specified date. No arrears would be payable. And that would take care of the grievance of retrospectivity. In our opinion, it would make a marginal difference in the case of past pensioners because the emoluments are not revised—” (Emphasis added)

**5. Thus the Apex Court in the case of D.S. Nakara (supra) has not held that the cut off date when an upward revision is introduced cannot be prescribed and is arbitrary** At this stage it may also be useful to notice the decision of the Constitution Bench of the Apex Court in the case of Indian Ex-Servicemen League and others v. Union of India, (1991) 2 SCC 104, whereby the Apex Court explained the ratio laid down in the case of D.S. Nakara (supra) and has also relied upon its earlier constitution Bench decision in the case of Krishena Kumar v. Union of India, (1990) 4 SCC 207 and held that the Courts decision in D.S. Nakara (supra) has to be read as one of limited application and its ambit cannot be enlarged to cover all claims made by the pension retirees or a demand for an identical amount of pension to every retiree from the same rank irrespective of the date of retirement, even though the

**STATEMENT REGARDING THE FIXED SECURITIES OF THE ASSOCIATION  
AS ON 31ST MARCH, 2015.  
STATEMENT NO.26**

**A) LIFE MEMBERS**

1. No.Of Members as on the day of Constitution amendement (9th May, 1976 i.e. to put membership fee in fixed deposits.) ... 214
2. Total No. of Members as on the Date (9th Oct. 1988) of increasing the L.M.fees from Rs. 151 to 501) .... 2846
3. No. of Members from 9th May 1976 to 9th Oct. 1988 (2-1) = (2846-214) =... 2632
4. Total No. of Members as on the date (30th April 1991) of increasing the L.M. fees (from Rs. 501 to 2001) 3279
5. No. of Members from 9th Oct. 1988 to 30th April 1991 (4-2)=(3279-2846)= ... 433
6. Total No. of members as on the date (31st December 2000) of increasing the L.M.fees from (Rs. 2001 to 4001) ... 4723
7. No. of Members from 30 April, 1991 to 31st March, 2002 (6-4) = (4723-3279) = ...1444
8. Total No. of members as on the date (30 th September 2006) of increasing the L.M.fees from (Rs. 4001 to 10001) ... 5195
9. No. of Members from 1st January, 2001 to 31st March, 2008 (9-6) = (5195-4723) = ...472
10. Total No. of members as on 31st March 2015... 5470
11. No. of memebers from 1st October 2006 to 31st March 2015... (10-8) (5470 - 5195) = 275

**B) TEACHERS WHO MADE PART  
PAYMENT OF L.M.FEES**

12. a) No.of Teachers who have paid 3001/3000...02
- b) No.of Teachers who have paid 4001/4000...14
- c) No.of Teachers who have paid 5001/5000...33
- d) No.of Teachers who have paid 6001/6000...01

**C) AMOUNT OF L.M. FEES  
RECEIVED....Rupees**

13. Amount Received from Members mentioned at Sr.No.1 above Rs. .... 00-00
- 14.Amount Received from members at Sr.No.3 above (2632 x 151) ... 3,97,432-00
15. Amount Received from members mentioned at Sr.No.5 above (433 x 501) ... 2,16,933-00
16. Amount Received from members mentioned at Sr. No.7 above. (1444 x 2001) ..... 28,89,444.00
17. Amount Received from members mentioned at Sr. No.9 above (472 x 4001) ... 18,88,472.00
18. Amount Received from members mentioned at Sr.No.11 above (275 x 10001) ... 27,50,275.00
19. Amount Received from members mentioned at Sr.No.12 above ( 6002 + 56014 + 165033 + 6001) = 233050.00
20. Total amount of L.M.Fund received from all the members mentioned at Sr.No. 14 +15+16+17+18+19 above. and hence expected to have been invested in fixed Securities ..... 83,75,606.00

**D) TOTAL AMOUNT IN FIXED SECURTIES.**

21. Total amount invested in fixed securities(Details as per Appendix A & B ) (1,16,025 +83,50,000 ) = 84,66,025.00
- 22.Total Balance in life membership Ac.(A/c.20127044843) .. 11769.20
23. Total amount in fixed Securities and cash in the Bank (21+22)... ..84,77,794.20
24. Amount of cheques under Realisation since they are deposited recently .....
25. Total of 23 and 24 above..... 84,77,794.20
26. Surplus/deficit of 25 over 20 ... ..1,02,188.20

**APPENDIX ‘A’**

Statement regarding the Fixed Securities of the Association as on 31st March, 2015  
(See Item at Serial No.21 in the statement).  
**UNITS OF UNIT TRUST OF INDIA**

- (1) Sr. No. (2) Folio Certificate No.:- 526218293593 (3) No. of Units :- 9409.976 (4) Face Value of Each Unit :- 12.33 (5) Amount of Investment :- 1,16,025 (6) Date of Investment :- 25.2.2008 (7) Period of Investment :- 6 Years (8) Rate of Dividend :- Total : 1,16,025

**APPENDIX ‘B’**

Statement regarding the Fixed Securities of the Association as on 31st March, 2015  
(See Item at Serial No.21 in the statement).  
**BANK OF MAHARASHTRA,**

**MIDS SCHEMES**

Sr. No.	MIDS Certificate	Amount of Investment	Date of Investment	Period of Investment	Rate of interest
1.	107382	7,00,000	08.02.2014	36 Months	9.15%
2.	107953	5,00,000	17.08.2014	12 Months	9.00%
3.	107954	20,00,000	27.08.2014	12 Months	9.00%
4.	107155	3,00,000	14.12.2014	12 Months	8.75%
5.	314813	4,00,000	18.02.2015	12 Months	8.75%
6.	315127	25,00,000	20.03.2015	12 Months	8.75%
7.	314920	3,50,000	23.03.2015	12 Months	8.75%
8.	315128	6,00,000	28.04.2015	444 Days	8.51%
9.	315126	10,00,000	08.05.2015	12 Months	8.50%
<b>Total</b>		<b>83,50,000</b>			

Date : 24.06.2015 Dr. B. T. Gawande, Treasurer,  
Note : Statement No.25 was printed on page 173 of 2014 NUTA Bulletin.



reckonable emoluments for the purpose of computation of their pension be different.

6. Further the Apex Court in the case of Govt. of Andhra Pradesh and others v. N. Subbarayudu and others, (2008) 14 SCC 702 has held that even if no reason is forth-coming for fixation of particular date it should not be interfered with by the Court unless the cut off date leads to some blatantly capricious or outrageous result. At this stage, it will be useful to quota paras 5-9 of the judgment, which read thus:

“5. In a catena of decisions of this Court it has been held that the cut off date is fixed by the executive authority keeping in view the economic conditions, financial constraints and many other administrative and other attending circumstances. This Court is also of the view that fixing cut off dates is within the domain of the executive authority and the Court should not normally interfere with the fixation of cut off date by the executive authority unless such order appears to be on the face of it blatantly discriminatory and arbitrary. (See State of Punjab & Ors. Vs. Amar Nath Goyal (2005) 6 SCC 754).

6. No doubt in D.S. Nakara & Ors. vs. Union of India 1983(1) SCC 305 this Court had struck down the cut off date in connection with the demand of pension. However, in subsequent decisions this Court has considerably watered down the rigid view taken in Nakara's Case (supra), as observed in para 29 of the decision of this Court in State of Punjab & Ors. vs. Amar Nath Goyal.

7. There may be various considerations in the mind of the executive authorities due to which a particular cut off date has been fixed. These considerations can be financial, administrative or other considerations. The Court must exercise judicial restraint and must ordinarily leave it to the executive authorities to fix the cut off date. The Government must be left with some leeway and free play at the joints in this connection.

8. In fact several decisions of this Court have gone to the extent of saying that the choice of a cut off date cannot be dubbed as arbitrary even if no particular reason is given for the same in the counter affidavit filed by the Government, (unless it is shown to be totally capricious or whimsical) vide State of Bihar vs. Ramjee Prasad 1990(3) SCC 368, Union of Indian & Anr. vs. Sudhir Kumar Jaiswal 1994(4) SCC 212 (vide para 5), Ramrao & Ors. vs. All India Backward Class Bank Employees Welfare Association & Ors. 2004 (2) SCC 76 vide para 31), University Grants Commission vs. Sadhana Chaudhary &

Ors. 1996(10) SCC 536, etc. It follows, therefore, that even if no reason has been given in the counter affidavit of the Government or the executive authority as to why a particular cut off date has been chosen, the Court must still not declare that date to be arbitrary and violative of Article 14 unless the said cut off date leads to some blatantly capricious or outrageous result.

9. As has been held by this Court in Divisional Manager, Aravali Golf Club & Anr. vs. Chander Hass & Anr. 2008(3) 3 JT 221 and in Government of Andhra Pradesh & Ors. vs. Smt. P. Laxmi Devi 2008(2) 8 JT 639 the Court must maintain judicial restraint in matters relating to the legislative or executive domain.”

7. Yet in another decision in the case of Union of India v. S.R. Dhingra and others, (2008) 2 SCC 229 the Apex Court relying upon its earlier decision in para-25 has made the following observations:

“25. It is well settled that when two sets of employees of the same rank retire at different points of time, one set cannot claim the benefit extended to the other set on the ground that they are similarly situated. Though they retired with the same rank, they are not of the same class or homogeneous group. Hence Article 14 has no application. The employer can validly fix a cut-off date for introducing any new pension/retirement scheme or for discontinuance of any existing scheme. What is discriminatory is introduction of a benefit retrospectively (or prospectively) fixing a cut-off date arbitrarily thereby dividing a single homogenous class of pensioners into two groups and subjecting them to different treatment (vide Col B.J. Akkara (Retd) vs. Govt of India, (2006) 11 SCC 709, D.S. Nakara vs. Union of India (1983) 1 SCC 305, Krishna Kumar vs. Union of India (1990) 4 SCC 207, Indian Ex-Services League vs. Union of India (1991) 2 SCC 104, V. Kasturi vs. Managing Director, State Bank of India (1998) 8 SCC 30 and Union of India vs. Dr. Vijayapurapu Subbayamma (2000) 7 SCC 662).”

8. If the matter is seen in the light of the law laid down by the Apex Court, as noticed above, it cannot be said that fixation of cut off date of 1.1.2006 for the purpose of extending retiral benefits is arbitrary and it is permissible for the Government to fix a cut off date for introducing any new pension/retirement scheme or for discontinuing of any existing scheme. **Thus, the challenge made by the applicants based upon the judgment in D.S. Nakara (supra) that pre-2006 retirees should be extended the same pensionary benefits as that of post-2006 retirees cannot be accepted.**

9. Yet for another reason, pre-1.1.2006 and post-2006 retirees cannot be extended the same pensionary benefits inasmuch as the respondents on the basis of the recommendations of **the VI CPC have issued two different Schemes for pre-2006 and post-2006 retirees**. As regards, post-2006 retirees respondents have issued OM dated 2.9.2008 (Annexure R-1) as to how the pension has to be computed. As can be seen from this scheme, emoluments have to be computed on the basis of the revised pay structure and further as can be seen from paras 5.2 and 5.3 of the said OM □qualifying service for the purpose of pension has been reckoned as 20 years as against 33 years, which was prevalent in respect of the employees who retired before 1.1.2006 and also that emoluments for the purpose of pensionary benefits have to be determined on the basis of 10 months average emoluments or emoluments last drawn by the employee before his retirement, whichever is more beneficial. Applicants have not challenged the validity of the OM dated 2.9.2008. As such, on these grounds pre-2006 retirees cannot claim benefit at par with post-2006 retirees, who are governed by the separate set of Scheme.

10. **We may now consider the claim made by the applicants based upon the decision of the Apex Court in the case of S.P.S. Vains (supra).** As already stated above, the Government of India has issued OM dated 01.09.2008 (Annexure A-1) in respect of pre-2006 pensioners/family pensioners pursuant to acceptance of recommendations made by the VI CPC. Para 2.1 of this OM stipulates that these orders shall apply to all pensioners/family pensioners who were drawing pension/family pension on 1.1.2006 under the Central Civil Services (Pension) Rules, 1972. CCS (Extraordinary Pension) Rules and the corresponding rules applicable to Railway pensioners and pensioners of All India Services, including officers of the Indian Civil Service retired from service on or after 1.1.1973. Para 2.2 stipulates that separate orders will be issued by the Ministry of Defence in regard to Armed Forces pensioners/family pensioners. Thus, reading of this OM clearly stipulates that the OM dated 1.9.2008 has been made applicable to the employees of the Central Government who are granted pension under CCS

### CHANGE OF ADDRESS ACKNOWLEDGEMENT NO.30

Requests for changes in address for the purpose of mailing and correspondence, have been reaching us frequently from the members. So to record these changes in Life Member's Register systematically, and to follow up these changes effectively, steps have been taken by The President.

2. We hereby acknowledge the receipt of the requests for change in address from members whose Life Membership Numbers and changed addresses are included in List No. 36 of Changed Addresses of Life Members of NUTA. Details of the said list are as follows :-

**LIST NO. 36** :- Serialized Nos. of the changed Addresses from 1637 to 1644 (Notified in 2015 Ex. File on Page 38). The Life membership Numbers of those requesting members are as follows :-

737, 3277, 3586, 4338, 4532, 4680, 4815, 4819=Total 08

3. No separate and individual acknowledgement shall be issued in this regard.

4. Hereafter requests for change in address shall be sent only to the president NUTA on his e-mail address which is as follows :-

**pbraghuwanshi@gmail.com**

Every such e-mail communication must contain (1) Life Member No. and (2) New (changed) address of the requesting member.

5. Members may please note that such requests sent by any other mode and to any other office bearer of NUTA Executive may not be speedily and effectively followed up. We hope that the members shall continue to co-operate with us to serve them better.

6. Acknowledgement No. 29 was published on page No 171 of 2014 NUTA Bulletin, containing address changes from 1623 to 1636 in List No. 35 of changed addresses.

01.09.2015

**Dr.Pravin Raghuvanshi**  
President, NUTA

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(Pension) Rules, 1972. Admittedly, the Armed Forces pensioners are not governed by the family pension Rules, 1972 but they are governed by different set of Rules. It may be stated here that in terms of the Pension Rules, 1972 the pension in the case of existing pensioners and future pensioners have to be computed by applying the rule of "average emoluments" as set out in Rule 34, whereas in the case of the defence pensioners, they are regulated in terms of the Special Army instructions issued in that regard based on the concept of "one rank one pension," which is not applicable in respect of the employees serving in the Central Government. That apart the Government of India has also issued instructions dated 18.11.2009 based upon the judgment of the Apex Court in the case of S.P.S. Vains (supra) thereby clarifying that the judgment of the Apex Court in the case of S.P.S. Vains (supra) will not apply in the case of petitioners who retired from the civil departments and who, before their retirement, were governed by the CCS (Pension) Rules, 1972. **That apart, in the case of S.P.S. Vains (supra) the Court was dealing with entirely a different issue. The issue involved in the said case was whether there could be a disparity in payment of pension to officer of the same rank, who had retired prior to the introduction of the revised pay scale, with those who retired thereafter.** It was further noticed that an anomaly has arisen with the acceptance of the recommendations of the V CPC, which has created a situation whereby Brigadiers began drawing more pay than Major Generals and were, therefore, receiving higher pension and family pension than Major Generals. It was in this context that the judgment was rendered. In order to remove that anomaly Government stepped up pension of Major Generals who had retired prior to 1.1.1996, giving them pension as was given to the Brigadiers. Before the High Court it was urged on behalf of the writ petitioners that while the writ petitioners and the other similarly placed officers who had retired while holding the rank of Major Generals prior to 1.1.1996 were given the same pension as that of Brigadier. However, in the case of Major Generals who retired after 1.1.1996 their pay was initially fixed according to clause 12 (c) of Special Army instructions 2/S/1998 which enabled them to draw higher pension than those retired before 1.1.1996 despite holding the same rank. It was in this context that the Writ Petition was allowed by the High Court, directing the Government to fix minimum pay scale of the Major General above that of the Brigadier and grant pay above that of a Brigadier as has been done in the case of post 1.1.1996

retirees and consequently fix pension and family pension accordingly. **Thus, according to us applicants cannot take any assistance from this judgment, which was rendered in the different facts and circumstances of the case and relates to the Army personnel and based on the premise of one rank one pension.**

**11.** Thus, we agree with the reasoning given by the Bombay and Patna Benches of the Tribunal as regards fixation of pension of pre-2006 retirees at par with post-2006 retirees, based on the decisions of the Apex Court in D.S. Nakara and S.P.S. Vains (supra).

**12.** Now let us advert to last grievance raised by the applicants viz. that even if the modified parity, as recommended by the Pay Commission and accepted by the resolution dated 29.08.2008 is to be taken as criteria for determining pension of pre-2006 retirees, **still on account of subsequent clarification issued to para 4.2 of the OM dated 1.9.2008 by the officers of the respondents vide OM dated 3.10.2008 and 14.10.2008 criteria and principles for determining the pension has been given a complete go-bye. Thus, these clarificatory OMs are illegal, arbitrary, discriminatory, unreasonable, unjust and are required to be quashed and set aside.** At this stage, we wish to mention that this issue was not raised and considered by the Patna and Bombay Benches of the Tribunal, as such no finding on this aspect was given. However, in paras 66 and 67 of the judgment Patna Bench has given a direction that the Government should examine this aspect of S-29 pay scales retirees being able to retire at the maximum of the pay band 4 pay scale with the grade pay of Rs.10,000/- which would bring their pension to Rs.38,500/-. Suffice it to say that the observation made by the Patna Bench was given

#### नुटाच्या आमसभेच्या वेळी करावयाच्या व्यवस्थेसंबंधी सूचना

आमसभा ठरलेल्या वेळी म्हणजे बरोबर दुपारी १२.०० वाजता सुरु होत असते, हे लक्षात ठेऊनच एकूण व्यवस्था असावी. सभा सुरु होण्याच्या पूर्वीच्या एक तासात सर्व सदस्य आपापल्या सोबत आणलेल्या जेवणाच्या डब्यांचा एकमेकासोबत आस्वाद घेत असतांना त्यांच्या बसण्यासाठी बगीच्यात, झाडाखाली, सावलीत किंवा उन असल्यास खोल्यातून स्वच्छतायुक्त व्यवस्था व सोबत पिण्याच्या पाण्याची निट व्यवस्था ही आमसभेच्या आयोजकांनी करावी एवढीच याबाबत अपेक्षा असते. - डॉ.अनिल ढगे, सचिव, नुटा

## UNIVERSITY GRANTS COMMISSION

(Ministry of Human Resource Development, Govt, of India)

10002 Bahadur Shah Zafar Marg, New Delhi-110002

Ph.:011-23239337,23236288, Fax: 011-23238858, email.- jssandhu.ugc@nic.in

**D.O.F.No. 3-2/2009(PS) : 4th August. 2015**

**Prof. Dr.Jaspal S.Sandhu**

MBBS, MS (Orrho), OSM, FA1S, FASM, FAFSM, FFIMS, FAMS,

**SECRETARY**

**SUB :** Clarification to Clause 3.2 of Schedule for Clause 6.8.0 of UGC Regulations on Minimum Qualifications for Appointment of Teachers and other Academic staff in Universities and Colleges and measures for the maintenance of standards in Higher Education, 2010

Dear Sir/Madam,

UGC has notified the UGC Regulations on Minimum Qualifications for Appointment of Teachers and other Academic staff in Universities and Colleges and measures for the maintenance of standards in Higher Education, 2010. The Clause 3.2 of Schedule for Clause 6.8.0 of these Regulations states as under: -

*"Incumbent Readers and Lecturers (Selection Grade) who had not completed three years in the pay scale of Rs.12000-Rs. 18300 on or after 1<sup>st</sup> January, 2006 shall be placed at the appropriate stage in the Pay Band of Rs. 15600-Rs.39100 with AGP of Rs. 8000 till they complete three years*

*of service in the grade of Lecturer (Selection Grade)/Reader and thereafter, shall be placed in the higher Pay Band IV of Rs.37400 -Rs.67000 and accordingly re-designated as Associate Professor."*

UGC has received queries from some stakeholders seeking clarification as to whether the API based PBAS system will be applicable in such placements.

In this connection, it is clarified that the Readers appointed on or after 01.01 2006 till the issue of aforementioned UGC Regulations, 2010 i.e. 30.06.2010, shall move to Pay Band -4 with Academic Grade Pay of Rs.9000 after completing three years of service without insisting on the requirement of API based PBAS system. This shall also apply to the Lecturers (Selection Grade) promoted during the above period.

This may also be brought into the notice of affiliated Colleges of your University. With kind regards,

Yours sincerely,  
(Jaspal S. Sandhu)

The Vice-Chancellor of all Universities.

**Copy to :** Secretary (Higher Education)/ Principal Secretary (Higher Education) of all States and Union Territories



without taking into consideration the modified parity as recommended by the Pay Commission and accepted by the Central Government vide its resolution dated 29.08.2008, which formed the basis to grant pension to pre-2006 retirees.

**13.** In order to determine the issue, at this stage, it will be useful to quote item No.12 of the Resolution No.38/37/08-P&PW (A) dated **29.08.2008** whereby recommendations of the VI CPC, as contained in para 5.1.47, was accepted with certain modifications and thus reads:

Sr. No. : 12	
Recommendation	Decision of Government
<p>.....</p> <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 01.04.2004) and dearness pension (for other pensioners) respectively. The increase will be allowed by subsuming the effect of multiplication 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 01.01.2006. This is consistent with the fitment benefit being allowed in case of the existing employees. <b>The fixation of pension will be subject to the provision that the revised pension, in no case, shall be lower than fifty per cent 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)</b></p> <p>.....</p>	<p>Accepted with the modification that fixation of pension shall be based on a factor of i.e. basic pension + Dearness Pension (wherever applicable) + Dearness Relief of 24% as on 01.01.2006, instead of 1.74.</p>

Based on this resolution, respondents issued OM of even number dated 1.9.2008. Para-4.2 whereof, which is relevant for the purpose, reads as follows:

*“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.”*

**14. On the basis of the recommendations made by VI CPC, which stood validly accepted by the Cabinet, it has been argued that principle for determining the pension has been completely altered under the garb of clarification.** According to the learned counsel for the applicants on the basis of the aforesaid resolution/modified parity revised pension of the pre-2006 pensioners shall not be less than 50% of the minimum of the pay band + grade pay, corresponding to the pre-revised pay scale from which the pensioner had retired.

**15.** Applicants in para-11 of the Additional-Affidavit have explained how the Note prepared by a junior functionary (at the level of an Under Secretary) in the Department of Pension & Pensioners Welfare in regard to para-4.2 of the OM dated 1.9.2008 has been given a go-by to the resolution dated 29.08.2008. The Note so prepared has been extracted in this para, which thus reads:

*“Whether the pension calculated at 50% of the minimum pay in the pay band would be calculated (i) 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, or (ii) at the minimum of pay pay in the pay band which an employee in the pre-revised scale of pay will be getting as per the fitment tables at Annex I of the CCS (Revised Pay) Rules, 2008 plus the grade pay corresponding to the pre-revised pay scales.”*

**16.** It is pleaded that first the need for such a doubt being raised is not clear as both the formulation of the CPC in para 5.1.47 as well as in Government Resolution dated 29.8.2008 (Annexure A-7 of the OA) is clear that **“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.” (emphasis added). The use of words **“sum of,”** and **“thereon”** leaves no doubt that both the minimum of the pay in the pay band and the grade pay have to correspond to the pre-revised pay scale. Second, without bringing out merits or demerits of either formulation, the lower functionary in DOP & PW incorporates in the clarification against item 4.2 in the OM dated 1.9.2008, the first option about **“minimum of pay in the pay band (irrespective of the pre-revised scale of pay)”**. What is worse is that there is no application of mind even at the level of Director and Secretary who merely sign the note and the clarification is issued after obtaining finance concurrence and approval of MOS (PP), without going back to the Cabinet for such a modification.

**17.** The learned counsel has further argued that the resultant injustice done to the pre-1-1-2006 pensioners had even been recognized by MOS (F) and MOS (PP) in their letters to the PM and MOS (F) respectively, copies of which are at Annexures A-11 (page 169) and A-12 (page 170) of the OA. A formal proposal was also sent by DOP & PW to Department of Expenditure seeking rectification but was not accepted by the latter. It was also incorrectly mentioned that the earlier provision in para 4.2 of OM dated 1.9.2008 has been issued in pursuance of the approval of the Cabinet granted to the Report of the Sixth CPC and any change would entail substantial financial implications and this was done only with the approval of the Secretary (Expenditure) without putting up the note to MOS (F) who had himself supported the change. A copy of this Note dated 2.1.2009 is enclosed as Annexure 5.

**18. As regards the grievance to OM dated 14.10.2008 based on the OM dated 1.9.2008 (as clarified by OM dated 3.10.2008) whereby a revised table** (Annexure A-1) of the pre-2006 pensioners pay scale/pay was finalized to facilitate payment of the revised pension/family pension, applicants have prepared a chart in respect of minimum of the pre-revised scales (modified parity) of S 29 along with 5 scales included in PB-4 works out as under and thus reads:

Min of Prerevised scale	Pay in the Pay Band	Grade Pay	Revised Basic Pay (2+3) Rs	Pension 50% of (2+3) Rs
(1)	(2)	(3)	(4)	(5)
S-24 (14300)	37400	8700	46100	23050
S-25 (15100)	39690	8700	48390	24195
S-26 (16400)	39690	8900	48590	24295
S-27 (16400)	39690	8900	48590	24295
S-28 (14300)	37400	10000	47400	23700
S-29 (18400)	44700	10000	54700	27350

The first 4 columns of the above table have been extracted from the pay fixation annexed with MOF OM of 30th August 2008 (referred to in para 4.5 (iii) above). Revised pension of S 29 works out to Rs.27350 which has been reduced to Rs.23700 as per DOP OM of 3-10-2008 (para 4.8 (B) below).

It was explained during arguments that pay in the Pay Band indicated in column No.2 above table relates to the pay in the revised pay scale corresponding to the minimum pay in the pre-revised pay scale.

**19.** On the basis of this chart it has been pleaded that as per the impugned OM dated 14.10.2008 in the case of S-24 officers the corresponding pay in the Pay Band against 14300/- is shown as 37400. In addition, Grade Pay of Rs.8700/- was given totaling Rs.46,100/-. Similarly, revisions concerning all the other pay scales were accepted by the aforementioned OM dated 14th October, 2008. The illegality which has been perpetrated in the present matter is apparent from the fact that whereas an officer who was in the pre-revised scale S-24 and receiving a pay of Rs.14,300/- would now receive



Rs.37,400/- plus grade pay of Rs.8700 and his full pension would accordingly be fixed at Rs.23050 (i.e. 50% of 37400 pay plus grade pay Rs.8700) pursuant to the implementation of VI CPC recommendations after 1.1.2006, whereas a person belonging to the Applicant Association, who was drawing a pay of Rs.18,400/- or even Rs.22,400/- (maximum of scale) in the pre-revised S-29 scale will now be getting pension as only 23700/- (i.e. 50% of pay of Rs.37,400/- plus grade pay of Rs.10000). **However, the misinterpreted revised basic pay of Rs.37400 has caused a grave miscarriage of justice since those officers who belong to a much higher grade have now been equated with those who were working under them in a lower rank/grade.** It is further relevant to note that those officers belonging to S-29 who would retire after 1.1.2006 would, however, be placed in the revised pay scale differently. For instance, a person who was in the pre-revised pay scale of 18000-22400 (S29) at Rs.18,400/- would now get Rs.44,700/- in addition to Grade Pay of Rs.10,000/- i.e. the revised basic pay of Rs.61,850/-. However, a person who retired only one day prior i.e. on 31st December 2005, even if he had received pre-revised pay of Rs.22400/- would now be placed in the revised pay of Rs.37400/- only in addition to the Grade Pay of Rs.10,000. Thus the illegality which has been committed in the present matter also relates to equating the pre-revised pay scale of Rs.18,400-22,400/- with the pre-revised pay scale of Rs.14,300-18,300/-.

**20. In order to buttress the aforesaid submission applicants have given specific instance of an officer in para-6 of the Additional Affidavit who retired at a higher pay on 31.12.2005 getting a much higher pension at that time than another officer who retired only 5 days later, i.e., on 5.1.2006 at a lower pay.** After implementing the VI CPC recommendations, as illegally modified by the Department of Personnel, the result is that the concerned person who retired on 31.12.2005 is getting far lower pension than the person who retired 5 days later. A copy of the said chart amplifying the above position has also been reproduced, which is to the following effect:

Name	Ashok K. Ghosh	R.K. Goel
Department	Railways	Heavy Water Board
Scale of Pay	18400-500-22400	18400-500-22400
Date of Retirement	31.12.2005	05.01.2006 i.e. only 5 days
Last Pay Drawn	Rs.22900 (incl. one Stagnation increment)	Rs.21400
Average 10 months Emoluments incl. Dearness Pay	Rs.34350	Rs.31737.50 or 31738
Original Pension fixed	Rs.17175	Rs.15869
Revised Pension Fixed after 6th CPC implementation	Rs.2587 (i.e. Rs. 22900x2.26) 2	Rs.29435

**21.** Applicants have also explained as to how the disparity has resulted on account of implementation/ acceptance of VI CPC recommendations by the Government vide resolution dated 29.08.2008. As can be seen from the clarificatory order dated 30.08.2008 (Annexure A-6 at pages 139-147) regarding pay scale of S-24 to S-29, the pay scales of the V CPC of Rs.14300-18300 in respect of S-24 employees, the VI CPC has placed them in Pay Band-3 and recommended the Pay Band of Rs15,600-39100/- plus Grade Pay of Rs.7600 per month. However, the Government has upgraded the said S-24 category to Pay Band 4 and placed them in the pay Band of Rs.37,400-67,000/- plus Grade Pay of

Rs.8700/- per month. It is, therefore, absolutely clear that the Government authorities have increased the pay of S-24 employees by far more than double. Further, it is very relevant to note that the said impact would be not only on the retired S-24 officers but also on the large base of serving employees. Similarly, the same is the position with regard to S-25, S-26 and S-27 all of whom were recommended by the Sixth Pay Commission to be in the pay band of Rs.15,600-39,100/- but were placed by the Government in the pay band of Rs.37,400-67,000/-. Similarly in the case of employees who were placed in S-29 pay scale they were recommended Pay Band of Rs.39,200-67000/- plus Grade Pay of Rs.9,000/- per month by the VI CPC, whereas the Government has revised pay structure to Rs.37,400-67000/- plus Grade Pay of Rs.10,000/- per month. This has resulted in the anomaly which is essentially to be rectified.

**22.** It is submitted that the applicants are in the category of retired employees and are a diminishing category. In contrast, the serving employees of S-29 category are being given the benefits of the recommendations of the VI CPC. Further, as explained earlier, the benefits available in S-24 to S-27 grade are available not only to retired employees but also to the large base of serving employees. The financial effect of the same is many-many times that of the small additional expenditure which will be incurred on account of the benefits sought by the Applicants. Therefore, the argument sought to be raised by the Union of India during the course of hearing regarding the so-called financial impact has no factual basis at all.

**23.** Thus, according to the applicants the aforesaid disparity, which has been caused on account of granting enhanced scales in S-24 to S-27 grade contrary to the recommendations of the VI CPC and further reducing the scales recommended by the Pay Commission in respect of S-29 grade to be at par with the employees who were placed in S-24 to S-27 grade is required to be set right. According to the learned counsel of applicants even if the cut off date of 1.1.2006 for revision of the pay scale and grant of pensionary benefits on the basis of VI CPC is to be upheld, even then the applicants are entitled to relief based upon the Resolution dated 29.08.2008 whereby the recommendations of the Pay Commission was accepted and on account of disparity, which has resulted in granting different pay scales, as recommended by the VI CPC, which has caused prejudice

#### TREASURER'S EXPLANATORY NOTE

GIVING DETAILS OF EXPENDITURE ON  
ESTABLISHMENT EXPENSES FOR  
THE YEAR ENDED ON  
31ST MARCH 2015

In the Income and Expenditure Account of the Audit Report for the year ended on 31st March 2015 an amount of Rs.1,29,018 is shown as expenditure towards establishment expenses. The General Body meeting of NUTA dated 15.4.79 while discussing the audit report for the year ending on 31st March 1978 had resolved (vide item no.(3) (c) on page no. 109 of 1979 NUTA Bulletin.) that "the treasurer will circulate a brief explanatory note regarding income and expenditure giving details of expenditure as far as possible along with financial statements hereinafter". Hence the details of the break up of establishment expenses are given here.

#### ESTABLISHMENT EXPENSES FOR THE YEAR ENDED ON 31ST MARCH 2015

Particulars	Amount Rs.P.
Travelling Expenses	13,219.00
Telephone & Trunk Call	2,568.00
Meeting Expenses	13,238.00
Bank Commission	619.00
Postage	2,389.00
Miscellaneous Expenses	8,371.00
Income Tax Return Fees	14,606.00
Clerks/Peon's Salary	45,000.00
Audit Fees	8,427.00
Legal Fees	2,360.00
Affiliation Fees	11,000.00
TDS receivable	7,221.00
<b>Total</b>	<b>129,018.00</b>

Date: 25.06.2015

Sd/- B. T. Gawande  
Treasurer

to the applicants and thus has to be set right.

**24.** The stand taken by the respondents is that the recommendations of the VI CPC, as accepted by the Government vide Resolution dated 29.08.2008 and further clarification issued by the respondents is in consonance with the recommendations so accepted. It is stated that there may be a slight change in the word used in the clarification issued by the Government subsequently but has the same meaning as in the latter part of para 5.1.47 of the report of the VI CPC as accepted by Government. The phrase **“minimum of the pay in the Pay Band”** has been used and this phrase carries the same meaning i.e., the pay from which a pay band starts. It is stated that **the clarification on OM dated 3.10.2008 was issued after due exercise** in Department of Pension and Pensioners Welfare and Ministry of Finance and with the approval of the Honble Minister of State. It is further stated that VI CPC has

not made any recommendation for complete parity between the pre-1996 and post-1-1-1996 pensioners. Therefore, question of allowing complete parity between pre-1996 and post 1.1.1996 pensioners would not arise. It is stated that the OM dated 1.9.2008 has been further clarified on 3.10.2008 that pension calculated at 50% of the minimum of the 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 sale of pay) plus the grade pay corresponding to the pre-revised pay scale.

**25.** In order to decide the matter in controversy, at this stage, it will be useful to extract the relevant portions of para 5.1.47 of the VI CPC recommendation, as accepted by the Resolution dated 29.08.2008, para 4.2 of the OM dated 1.9.2008 and subsequent changes made in the garb of clarification dated 3.10.2008, which thus read:

**UNIVERSITY GRANTS COMMISSION**

(Ministry of Human Resource Development, Govt, of India)  
10002 Bahadur Shah Zafar Marg, New Delhi-110002  
Ph.:011-23239337,23236288, Fax: 011-23238858,  
email.- jssandhu.ugc@nic.in

**D.O. NO.F.12-L/2010(PS) : 17THAUGUST, 2015**

Prof. Dr.Jaspal S.Sandhu,

MBBS, MS (Orrho), OSM, FA1S, FASM, FAFSM, FFIMS, FAMS  
Secretary

**BY SPEED POST**

Dear Sir/Madam,

UGC had framed UGC Regulations (Minimum Qualifications for Appointment of Teachers and other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education), 2010, which have been notified in the Gazette of India dated 18th-24th September, 2010. The UGC has been receiving a number of queries from Universities, Colleges and stakeholders seeking clarification regarding the date of eligibility of candidates, who acquire Ph.D./M.Phil. after four years but within six years from the date of their appointment, for their promotion from Stage I to Stage II (AGP Rs.6000 to AGP Rs.7000). The matter has been examined by UGC with regard to the provision contained in the Clause 1.1 of Schedule for Clause 6.8.0 of these Regulations which states as under :-

*1.1 An Assistant Professor with completed service of four years, possessing Ph. D. Degree in the relevant discipline shall be eligible, for moving to AGP of Rs. 7,000.*

It is clarified that an Assistant Professor who completes Ph.D. or M.Phil. Degree within 4 or 5 years from the date of his/her appointment shall also be eligible for moving from the AGP of Rs.6000/- to AGP of Rs.7000/- after completion of 4 and 5 years of his/her service respectively. Further, if the incumbent acquires Ph.D./M.Phil. after completion of 4 years of service/5 years of service and before 6 years of service respectively, he/she shall be eligible to move to Stage II (AGP Rs.7000) from the date of award of Ph.D./M.Phil. Degree subject to the fulfillment of other conditions stipulated in UGC Regulations (Minimum Qualifications for Appointment of Teachers and other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education), 2010, for the same. Provided; that the Ph.D./M.Phil. Degree awarded by the University is in the relevant subject, following the process of admission, registration, course work and external evaluation as per above regulations.

However, the claim of advance increments for possessing Ph.D./M.Phil. Degree as mentioned above shall be strictly as per clause 9.4(i) and 9.7 of schedule for clause 6.8.0 of UGC Regulations, 2010.

This may be brought to the notice of the Colleges affiliated to your University. With regards,

Yours sincerely  
(Jaspal S. Sandhu)

**TO :** The Vice-Chancellor of all the Universities as per list attached. **COPY TO :** (1) The Education Secretaries of All the State Governments. (2) The Publication Officer, UGC New Delhi for uploading on UGC Website.

\*\* AF : P 59 \*\*

Resolution NO.38/37/8-P&PW (A) dated 29.08.2008 – Para 5.1.47 (page 154-155)	Para 4.2 of OM DOP&PW OM No.38/37/8-P&PW (A) dated 1.09.2008 (page 38 of OA)	OM DOP & PW OM No.38/37/8-P&PW (A) dated 3.10.2008
The fixation as per above will be subject to the provision that the revised pension, in no case, shall be lower than 50% of the sum of the minimum of the pay in the payband and the grade pay thereon corresponding to the pre-revised pay scale form which the pensioner had retired.	The fixation as per above will be subject to the provision that the revised pension, in no case, shall be lower than 50% of the (sum of the) minimum of the pay in the pay band plus (and) the grade pay (thereon) corresponding to the pre-revised pay scale from which the pensioner had retired.	The Pension Calculated at 50% 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] plus grade pay would be calculated (i) 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. For example, if a pensioner had retired in the pre-revised scale of pay of 18400-22400, the corresponding pay band being 37400- 67000 and the corresponding grade pay being 10000 p.m., his minimum guaranteed pension would be 50% of 37400+10000 (i.e. 23700)
	Strike out are deletions and bold letter addition	Strike out are deletions and bold letters addition.

**26.** As can be seen from the relevant portion of the resolution dated 29.8.2008 based upon the recommendations made by the VI CPC in paragraph 5.1.47, it is clear that the revised pension of the pre-2006 retirees **should not be less than 50% 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** held by the pensioner at the time of retirement. However, as per the OM dated **3.10.2008** revised pension at 50% of the sum of the minimum of the pay in the pay band and the grade pay thereon, corresponding to pre-revised scale from which the pensioner had retired has been given a go-by by **deleting the words “sum of the” “and grade pay thereon corresponding to the pre-revised pay scale” and adding “irrespective of the pre-revised scale of pay plus”** implying that the revised pension is to be fixed at 50% of **the minimum of the pay**, which has substantially changed the modified parity/formula adopted by the Central Government pursuant to the recommendations made by the VI CPC and has thus caused great prejudice to the applicants. **According to us, such a course was not available to the functionary of the Government in the garb of clarification thereby altering the recommendations given by the VI CPC, as accepted by the Central Government.** According to us, deletion of the words “sum of the” “and grade pay thereon corresponding to the pre-revised scale” and addition of the words “irrespective of the pre-revised scale of pay plus”, as introduced by the respondents in **the garb of clarification vide OM dated 3.10.2008**



amounts to carrying out amendment to the resolution dated 29.08.2008 based upon para 4.1.47 of the recommendations of the VI CPC as also the OM dated 1.9.2008 issued by the Central Government pursuant to the aforesaid resolution, which has been accepted by the Cabinet. Thus, such a course was not permissible for the functionary of the Government in the garb of clarification, that too, at their own level without referring the matter to the Cabinet.

**27.** We also wish to add that the Pay Commissions are concerned with the revision of the pre-revised "pay scales" and also that in terms of Rule 34 of the CCS (Pension) Rules, 1972 the pension of retirees has to be fixed on the basis of the average emoluments drawn by them at the time of retirement. Thus, the pre-revised scale from which a person has retired and the emoluments which he was drawing at the time immediately preceding his retirement are a relevant consideration for the purpose of computing revised pension and cannot be ignored. As such, it was not permissible for the respondents to ignore the pre-revised scale of pay for the purpose of computing revised pension as per the modified parity in the garb of issuing the clarifications, thereby altering the modified parity/ formula, which was accepted by the Central Government vide its resolution dated 29.08.2008.

**28.** The above view is also fortified by paras 137.15, 137.20 and 137.21 of the V CPC recommendations, as reproduced below, leading to modified parity, which were also accepted by the VI CPC and accepted by the Central Government and thus read:

**"Immediate relief to pensioners**

*137.15 While the work relating to revision of pension of pre 1.1.1986 retirees by notional fixation of their pay shall have to be undertaken by the pension sanctioning authorities to be completed in a time-bound manner, we suggest that the pensioners should be provided some relief immediately on implementation of our recommendations. The pension disbursing authorities may be authorized to consolidate the pension by adding (a) basic pension; (b) personal pension, wherever admissible; (c) dearness relief as on 1.1.1996 on basic pension only; (d) Interim Relief (I and II) and (e) 20% of basic pension. The consolidated pension shall be not less than 50% of the minimum pay, as revised by the Fifth CPC, of the post held by the pensioner at the time of retirement. This may be stepped up by the pension disbursing authorities, wherever feasible, to the level of 50% of the minimum pay of the post held by the pensioner at the time of retirement. (emphasis supplied)*

xxx xxx xxx xxx xxx

**Modified parity conceded**

*137.20 We have given our careful consideration to the suggestions. While we do not find any merit in the suggestion to revise the pension of past retirees with reference to maximum pay of the post held at the time of retirement, as revised by the Fifth CPC, there is force in the argument that the revised pension should be not less than that admissible on the minimum pay of the post held by the retiree at the time of retirement, as revised by the Fifth CPC. We have no hesitation in conceding the argument advanced by pensioners that they should receive a pension at least based on the minimum pay of the post as revised by Fifth Pay Commission in the same way as an employee normally gets the minimum revised pay of the post he holds. We recommend acceptance of this principle, which is based on reasonable considerations. (emphasis supplied).*

**Principle enunciated**

*137.21 The Commission has decided to enunciate a principle for the future revision of pensions to the effect that complete parity should normally be conceded up to the date of last pay revision and modified parity (with pension equated at least to the minimum of the revised pay scale) be accepted at the time of each fresh pay revision. This guiding principle which we have accepted would assure that past pensioners will obtain complete parity between the pre-86 and post-86 pensioners but there will be only a modified parity between the pre-96 and post-96 pensioners. The enunciation of the principle would imply that at the time of the next pay revision say, in the year 2006, complete parity should be given to past pensioners as between pre-1996 and post-1996 and modified parity be given between the pre-2006 and post-2006 pensioners." (emphasis supplied)*

**29.** From the above extracted portion it is clear that the principle of modified parity, as recommended by the V CPC and accepted by the VI CPC and accepted by the Central Government provides that revised pension in no case shall be lower than 50% of the sum of the minimum of the pay in the pay band and grade pay corresponding to revised pay scale from which the pensioner had retired. **According to us, as already stated above, in the garb of clarification,**

**respondents interpreted minimum of pay in the pay band as minimum of the pay band. This interpretation is apparently erroneous, for the reasons :**

a) if the interpretation of the Government is accepted it would mean that pre-2006 retirees in S-29 grade retired in December, 2005 will get his pension fixed at Rs.23700/- and another officer who retired in January 2006 at the minimum of the pay will get his pension fixed at Rs.27350/-. **This hits the very principle of the modified parity, which was never intended by the Pay Commission or by the Central Government;**

b) The Central Government improved upon many pay scales recommended by the VI CPC. The pay scale in S-29 category was improved from Rs.39200-67000/- plus Grade Pay of Rs.9,000/- with minimum pay of Rs.43280/- to Rs.37,400-67000/- with grade pay of Rs.10,000/- with minimum pay of Rs.44,700/- (page 142 of the paper-book). If the interpretation of the Department of Pension is accepted, this will result in reduction of pension by Rs.4,00/- per month. **The Central Government did not intend to reduce the pension of pre-2006 retirees while improving the pay scale of S-29 grade;**

c) If the erroneous interpretation of the Department of Pension is accepted, it would mean that a Director level officer retiring after putting in merely 2 years of service in their pay band (S-24) would draw more pension than a S-29 grade officer retiring before 1.1.2006 and that no S-29 grade officer, whether existing or holding post in future will be fixed at minimum of the pay band, i.e., Rs.37,400/-. **Therefore, fixation of pay at Rs.37,400/- by terming it as minimum of the pay in the pay band is erroneous and ill conceived; and**

d) That even the Minister of State for Finance and Minister of State (PP) taking note of the resultant injustice done to the pre-11.2006 pensioners (pages 169-170) had sent formal proposal to the Department of Expenditure seeking rectification but the said proposal was turned down by the officer of the Department of Expenditure on the ground of financial implications. **Once the Central Government has accepted the principle of modified parity, the benefit cannot be denied on the ground of financial constraints and cannot be said to be a valid reason.**

**30.** In view of what has been stated above, we are of the view that the clarificatory OM dated 3.10.2008 and further OM dated 14.10.2008 (which is also based upon clarificatory OM dated 3.10.2008) and OM dated 11.02.2009, whereby representation was rejected by common order, are required to be quashed and set aside, which we accordingly do. **Respondents are directed to re-fix the pension of all pre-2006 retirees w.e.f. 1.1.2006, based on the resolution dated 29.08.2008 and in the light of our observations made above.** Let the respondents re-fix the pension and pay the arrears thereof within a period of 3 months from the date of receipt of a copy of this order. OAs are allowed in the aforesaid terms, with no order as to interest and costs.

**(Dr. Veena Chhotray) (M.L. Chauhan) (V.K. Bali)**

Member (A)

Member (J)

Chairman

\*\*\*\*\*

**RULES FOR PROPOSING AMENDMENTS**

(Reproduced from page 97 of 1977 NUTA Bulletin )

1. Any proposal before the meeting may be amended
  - (a) by leaving out a word or words or
  - (b) by leaving out a word or words in order to add or insert a word or words or
  - (c) by adding or inserting a word or words.
2. An amendment to be in order shall :
  - (a) not constitute a direct negative to the original resolution :
  - (b) be relevant to and within the scope of the resolution to which it is moved.

# IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: April 29, 2013

**W.P.(C) 1535/2012** UNION OF INDIA & ANR.....Petitioners Represented by: Mr.Rajeeve Mehra, ASG with Mr.Ruchir Mishra and Mr.Ashish Virmani, Advocates **VERSUS** CENTRAL GOVT. SAG & ORS..... Respondents Represented by: Mr.Nidhesh Gupta, Sr.Advocate with Mr.M.K.Ghosh and Mr.Tarun Gupta, Advocates

**W.P.(C) 2348/2012** UNION OF INDIA & ANR.....Petitioners Represented by : Mr.Rajeeve Mehra, ASG with Mr.Ruchir Mishra and Mr.Ashish Virmani, Advocates **VERSUS** D.L.VHORA & ORS..... Respondents Represented by: Mr.Sushil Kumar Malik, Advocate

**W.P.(C) 2349/2012** UNION OF INDIA & ANR.....Petitioners Represented by: Mr.Rajeeve Mehra, ASG with Mr.Ruchir Mishra and Mr.Ashish Virmani, Advocates **VERSUS** PPS GUMBER & ORS..... Respondents Represented by: Mr.Sushil Kumar Malik, Advocate

**W.P.(C) 2350/2012** UNION OF INDIA & ANR.....Petitioners Represented by: Mr.Rajeeve Mehra, ASG with Mr.Ruchir Mishra and Mr.Ashish Virmani, Advocates **VERSUS** CENTRAL GOVERNMENT PENSIONERS ASSOCIATION & ORS..... Respondents Represented by: Mr.Sushil Kumar Malik, Advocate

## CORAM

**HON'BLE MR. JUSTICE PRADEEP NANDRAJOG,  
HON'BLE MR. JUSTICE V. KAMESWAR RAO  
PRADEEP NANDRAJOG, J. (Oral)**

1. We note that on January 28, 2013 the petitioners have issued an office order dated January 28, 2013 which reads as under:-

### "OFFICE MEMORANDUM

**Sub : Revision of pension of pre-2006 pensioners –reg.**

The undersigned is directed to say that in pursuance of Government's decision on the recommendations of Sixth Central Pay Commission, orders were issued for revision of pension/family pensioners vide this Department's O.M. No.38/37/08 P&PW(A) dated 1.9.2008, as amended from time to time.

2. It has been decided that the pension of pre 2006 pensioners are revised w.e.f. 1.1.2006 in terms of para 4.1 or para 4.2 of the aforesaid OM dated 1.9.2008, as amended from time to time, **would be further stepped up to 50% of the sum of minimum of pay in the pay band and the grade pay correspondent to the pre-revised pay scale from which the pensioner had retired**, as arrived at with reference to the fitment tables annexed to the Ministry of Finance, Department of Expenditure OM No.1/1/2008-IC dated 30th August, 2008. In the case of HAG and above scales, this will be 50% of the minimum of the pay in the revised pay scale arrived at with reference to the fitment tables annexed to the above-referred OM dated 30.8.2008 of Ministry of Finance, Department of Expenditure.

3. The normal family pension in respect of pre-2006 pensioners/family pensioners as revised w.e.f. 01-01-2006 in terms of para 4.1 or para 4.2 of the OM dated 01-09-2008 would also be further stepped up to 30% of the sum of minimum of pay in pay band and the grade pay corresponding to the pre-revised pay scale from which the Government servant had retired, as arrived at with reference to the fitment tables annexed to the Ministry of Finance, Department of Expenditure OM No.1/1/2008 – IC dated 30-08-2008. In case of HAG and above scales, this will be 50% of the minimum of the pay in the revised pay scale arrived at with reference to the fitment tables annexed to the above referred OM dated 30-08-2008 of Ministry of Finance (Department of Expenditure).

4. A revised concordance table ( Annexure ) of the pre – 1996, pre-2006 and post 2006 pay scales/pay bands indicating the pension/family pension (at ordinary rates) payable under the above provisions is enclosed to facilitate payment of revised pension/family pension.

5. The pension so arrived at in accordance with para 2 above and indicated in Col.9 of Annexure will be reduced pro-rata, where the pensioner had less than the maximum required service for full pension as per rule 49 of the CCS (Pension) Rules, 1972 as applicable before 1.1.2006 and in no case it will be less than Rs. 3500/-p.m.

6. The family pension at enhanced rates (under sub rule (3) (a) of Rule 54 of the CCS (Pension) Rules, 1972 of pre-2006 pensioners/family pensioners revised w.e.f. 1.1.2006 in terms of para 4.1 or this Department's OM No.1/3/2011- P&PW(E) dated 25.5.2012 would be further stepped up in the following manner:-

(i) In the case of Government servants who died while in service before 01-01-2006 and in respect of whom enhanced family pension is applicable from the date of approval by the Government i.e.24.9.2012, **the enhanced family pension will be stepped up to 50% of the sum of minimum of pay in the pay band and the grade pay corresponding to the pre-revised pay scale in which the Government servant had died,**

**as arrived at with reference to the fitment table annexed to the Ministry of Finance, Department of Expenditure OM No.1/1/2008-IC dated 30-08-2008. & In the case of HAG and above scales, this will be 50% of the minimum of the pay in revised pay scale arrived at with reference to the fitment table annexed to the above referred OM dated 30-08-2008 of Ministry of Finance, Department of Expenditure.**

(ii) In the case of a pensioner who retired before 01-01-2006 and in respect of whom enhanced family pension is applicable from the date of approval by the Government, i.e.24-09-2012, **the enhanced family pension will be stepped up to the amount of pension as revised in terms of para 2 read with para 5 above. In case the pensioner has died before the date of approval by the Government, i.e. 24.09, 2012 the pension will be revised notionally in terms of para 2 read with para 5 above. The amount of revised enhanced family pension will, however, not be less than the amount of family pension at ordinary rates as revised in terms of Para 3 above.**

7. In case the pension consolidated pension/family pension/enhanced family pension calculated as per Para 4.1 of OM No. 38/37/08-P&PW (A) dated 01-09-2008 is higher than the pension/family pension calculated in the manner indicated above, the same ( higher consolidated pension/family pension ) will continue to be treated as basic pension/family pension.

8. All other conditions as given in OM No.38/37/08-P & PW(A) dated 1.9.2008 as amended from time to time shall remain unchanged.

9. **These orders will take effect from the date of approval by the Government, i.e. 24-09-2012. There will be no change in the amount of revised pension/family pension paid during the period 01-01-2006 and 23-09-2012, and, therefore, no arrears will be payable on account of these orders for that period.**

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. All the Ministries/Departments are requested to bring the contents of these orders to the notice of Controller of Accountants/Pay and Accounts Officer s and attached and subordinate Offices under them on a top priority basis. All pension disbursing officers are also advised to prominently display these orders on their notice boards for the benefit of pensioners.

12. Hindi version will follow.

Sd/- (Tripti P.Ghosh) Director

TO : All Ministries/Departments of Government of India As per mailing list."

2. The only issue therefore which survives is, with respect to paragraph 9, of the office memorandum aforesaid which makes it applicable with effect from September 24, 2012, and thereby denying arrears to be paid to the pensioners with effect from January 01, 2006.

3. In short, the Government of India has tacitly admitted that it was in the wrong and that the Tribunal is correct.

4. As is well known, the recommendations of the 6th Pay Commission did away with the hitherto fore applicable pay scales; replacing the same with pay bands having grade pay. For example, pay band I (PB-I) was '5200-20200 and embraced 12 previous pay scales between '2750-4400 and '8000-13500, but with 12 grade pays between '1800-5400.

5. How would the existing pensioners get pension was decided by the Government as per a resolution dated August 29, 2008 which accepted para 5.1.47 of the recommendations of the 6th Pay Commission to the following effect:-

"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.**"

6. The respondents had made many submissions in their favour; two of which pertained to the law declared



by the Supreme Court in the decision reported as 1990 (4) SCC 270 D.S.Nakara Vs. UOI and (2008) 9 SCC 125 UOI Vs. S.P.S.Vains. The Tribunal has negated said pleas. However, reasoning of the respondents on other plea pertaining to resolution No.12 aforesaid has found favour with the Tribunal.

**7. We find that a Division Bench of the Punjab & Haryana High Court deciding W.P.(C) No.19641/2009 R.K.Aggarwal & Ors. Vs. State of Haryana & Ors. has referred to the decision impugned by the Tribunal, with reference to an identical question which arose in the State of Haryana because Government of Haryana had adopted the same policy decision of the Central Government. In the decision dated December 21, 2012, in paragraphs 21 to 26, the Division Bench of the Punjab & Haryana High Court has reasoned as under :-**

“21. On the recommendations made by VI CPC, which stood validly accepted by the Cabinet, it was argued before the Tribunal that principle for determining the pension has been completely altered under the garb of clarification. It was argued that on the basis of the aforesaid resolution/modified parity revised pension of the pre-2006 pensioners shall not be less than 50% of the minimum of the pay band + grade pay, corresponding to the pre-revised pay scale from which the pensioner had retired.

22. The Tribunal has accepted this contention and because of this reason, it is held that subsequent OMs dated 03.10.2008 and 14.10.2008 purportedly issued to clarify para 4.2 of OM dated 01.09.2008 were contrary to the plain meaning of the said para and whereby the criteria and principle for determination of the pension had been completely

changed that too when these two subsequent OMs dated 03.10.2008 and 14.10.2008 were issued by the lower authorities having no power to issue such clarification.

23. After considering the arguments of learned counsels for all the parties, we are of the opinion that it is not even necessary to go into the various nuances and nitty gritty, which are insisted by learned counsels for the petitioners based on D.S. Nakara line of cases and N. Subbarayudu and others and S.R. Dhingra and others (supra), wherein ratio of D.S. Nakara is explained. We proceed on the basis that fixation of cut off date by the government was in order and to this extent we agree with the reasoning given by the Tribunal where similar arguments, as advanced by the petitioners before us, were rejected. The issue can be resolved on the interpretation of OM dated 29.08.2008 itself. It is not in dispute that vide resolution dated 29.08.2008, recommendations of the 6th Central Pay Commission were accepted by the government and the pension was also to be fixed on the basis of formula contained therein. We have already reproduced the recommendations of the 6th Central Pay Commission, as contained in para 5.1.47, which was accepted by the government vide Item No. 12 of resolution dated 29.08.2008 with certain modifications. Based on this resolution, OM dated 01.09.2008 was issued. We have also reproduced para 4.2 thereof. This states in unequivocal terms that “revised pension in no case shall be lower than 50% of the minimum of pay in the pay band plus grade pay corresponding to the pre-revised pay scale——”. The clear purport and meaning of the aforesaid provision is that those who retired before 01.01.2006 as well were ensured that their revised pension after enforcing recommendations of the 6th Central Pay Commission, shall not be less than 50% of the minimum of the pay band plus grade pay corresponding to the pre-revised pay scale from which the pensioners had retired. However, notwithstanding the same

उच्च शिक्षण संचालनालयाच्या अधिपत्याखालील शासकीय/अशासकीय महाविद्यालयांशी संबंधित न्यायालयीन प्रकरणे हाताळण्याबाबत...

**महाराष्ट्र शासन : उच्च व तंत्र शिक्षण विभाग**

मादाम कामा मार्ग, हुतात्मा राजगुरु चौक, मंत्रालय विस्तार,  
मुंबई-४०० ०३२

**शासन परिपत्रक क्रमांक : संकीर्ण-२०१५(प्रक.२९१/१५) मशि १  
: दिनांक : १ जुलै, २०१५**

वाचा : शासन परिपत्रक क्र. न्यायाप्र-२००९/प्र.क्र.२२०/०९/मशि-५ दिनांक ०८.१०.२००९

महाराष्ट्र प्रशासकीय न्यायाधिकरण, मुंबई येथे दाखल करण्यात आलेल्या मूळ अर्ज क्र.३४०/२०११ व इतर प्रकरणांमध्ये मा.न्यायाधिकरणाने धोरणात्मक निर्णयाच्या संदर्भात योग्य स्तरावरून शपथपत्र दाखल केले जात नसल्याने निर्णय देण्यास मर्यादा पडत असल्याने मा.महाराष्ट्र प्रशासकीय न्यायाधिकरण, मुंबई यांनी दिनांक २७.०४.२०१५ रोजी दिलेल्या न्यायनिर्णयाद्वारे तीव्र नाराजी व्यक्त केली आहे. या पार्श्वभूमीवर यापूर्वी शासन परिपत्रक क्र. न्यायाप्र-२००९/प्र.क्र.२२०/०९/मशि-५ दिनांक ०८.१०.२००९ अन्वये दिलेल्या सूचनांचे पुनर्विलोकन करून पुढीलप्रमाणे सुधारित सूचना देण्यात येत आहेत :-

१. शासनाच्यावतीने शपथपत्र दाखल करण्यासाठी प्राधिकृत करण्यात आलेल्या प्राधिकरणाने कोणत्याही परिस्थितीत संबंधित प्रकरणी शपथपत्र दाखल करण्यासाठी अन्य प्राधिकरणास प्राधिकृत करण्यात येऊ नये.

२. उच्च न्यायालयाच्या खंडपीठासमोर अथवा महाराष्ट्र प्रशासकीय न्यायाधिकरणाच्या खंडपीठासमोर दाखल होणाऱ्या न्यायालयीन प्रकरणात बरीचशी प्रकरणे ही धोरणात्मक निर्णयातील तरतुदीच्या अंमलबजावणी संदर्भात दाखल होतात. अशा प्रकरणी धोरणात्मक निर्णयास आढान देण्यात आले असल्यास अशी प्रकरणे शासन स्तरावर सादर करण्यात यावे.

३. प्रस्थापित धोरणाच्या अंमलबजावणीच्या संदर्भात वेगवेगळ्या खंडपीठासमोर न्यायालयीन प्रकरणे दाखल झाली असल्यास अशा प्रकरणी शासनाच्या भूमिकेमध्ये एकवाक्यता असणे आवश्यक आहे. तसेच अशा प्रकरणांमध्ये एखाद्या खंडपीठासमोर निर्णय झाला असल्यास सदर निर्णयाचा किंवा सदर निर्णयात उपस्थित करण्यात आलेल्या मुद्द्यांचाही विचार दुसऱ्या खंडपीठात दाखल झालेल्या न्यायालयीन प्रकरणी विचारात घेणे आवश्यक आहे. यास्तव अशा प्रकरणी संचालनालयाच्या स्तरावरून परिच्छेदनिहाय अभिप्रायास मान्यता देऊन संबंधित सहसंचालकांना शपथपत्र दाखल करण्यासाठी प्राधिकृत करण्यात यावे. कोणत्याही परिस्थितीत प्राचार्यांना शपथपत्र दाखल करण्यास प्राधिकृत करण्यात येऊ नये.

४. संबंधित न्यायालयीन प्रकरणी शपथपत्र दाखल झाल्यानंतर सुनावणी दरम्यान पाठपुरावा करणे व वेळोवेळी उपस्थित होणाऱ्या मुद्द्यांच्या अनुषंगाने शासकीय अभियोक्ता/सादरकर्ता अधिकारी यांना माहिती उपलब्ध करून देण्यासाठी आवश्यकतेनुसार शासन अथवा संचालनालयाकडे दूरध्वनी/ई-मेल यांसारख्या माध्यमाद्वारे तात्काळ संपर्क साधून वेळीच पूर्तता करण्याची जबाबदारी संबंधित सहसंचालकांची राहिल.

५. मा.उच्च न्यायालये/प्रशासकीय न्यायाधिकरणे यांनी दिलेल्या निर्णयांमध्ये अनेकवेळा अंमलबजावणीसाठी कमी वेळ दिलेला असतो. तसेच काही प्रकरणी असेही निदर्शनास आले आहे की, न्यायनिर्णयाविरुद्ध अपिल/पुनर्विलोकन याचिका दाखल करण्यासाठी न्यायनिर्णयात विहित केलेल्या कालावधी उलटून गेल्यानंतर किंवा सदर कालावधी संपण्याच्या आसपास संचालनालयाकडून शासनास प्रस्ताव प्राप्त होत असतात. अशा प्रकरणी निर्णय घेण्यास पुरेसा अवधी हातात रहात नसल्याने

नाईलाजास्तव न्यायनिर्णयांची अंमलबजावणी करावी लागण्याची स्थिती निर्माण होते. यास्तव अशा प्रकरणी मा.उच्च न्यायालये/प्रशासकीय न्यायाधिकरणे यांच्याकडून देण्यात येणाऱ्या निर्णयांच्या प्रती मा.उच्च न्यायालये/प्रशासकीय न्यायाधिकरण यांच्या प्रबंधक कार्यालयांकडून प्राप्त होण्याची प्रतिक्षा न करता सदर न्यायनिर्णयांच्या प्रती लवकरात लवकर प्राप्त करून घेण्याची जबाबदारी संबंधित सहसंचालकांची राहिल.

६. मा.उच्च न्यायालय/मा.महाराष्ट्र प्रशासकीय न्यायाधिकरण यांच्या खंडपीठांनी दिलेल्या न्यायनिर्णयाच्या संदर्भात संबंधित न्यायालयाने विहित केलेल्या कालमर्यादेत सदर निर्णयाची अंमलबजावणी होणे किंवा त्याविरुद्ध पुनर्विलोकन याचिका/अपिल याचिका दाखल होणे आवश्यक आहे. यास्तव ज्याप्रकरणी अंमलबजावणी करावयाची आहे अशा प्रकरणी अंमलबजावणीच्या कारणमीमांसेसह व सदर अंमलबजावणीमुळे होणाऱ्या संभाव्य आर्थिक व प्रशासकीय परिणामांच्या तपशीलासह आवश्यकतेनुसार प्रस्ताव संचालक, उच्च शिक्षण यांना किंवा संचालक, उच्च शिक्षण यांच्यामार्फत शासनास सादर करण्याची जबाबदारी संबंधित सहसंचालकांची राहिल.

७. ज्या न्यायालयीन निर्णयांविरुद्ध पुनर्विलोकन याचिका/अपिल याचिका दाखल होणे आवश्यक आहे, अशा प्रकरणी संबंधित शासकीय अभियोक्ता/सादरकर्ता अधिकारी यांचे अभिप्राय तसेच पुनर्विलोकन याचिका/अपिल याचिका दाखल करण्यासाठी न्याय निर्णयात उपस्थित करण्यात आलेल्या मुद्द्यांशिवाय इतर नवीन मुद्दे तसेच न्याय निर्णय उल्लेख करण्यात आलेल्या मुद्द्यांच्या उदाहरणसह स्वयंस्पष्ट अभिप्राय व मूळ अर्ज/याचिकेची प्रत व त्याअनुषंगाने शासनाच्या वतीने दाखल करण्यात आलेल्या शपथपत्राच्या प्रतीसह परिपूर्ण प्रस्ताव संचालक, उच्च शिक्षण यांच्यामार्फत शासनास सादर करण्याची जबाबदारी संबंधित सहसंचालकांची राहिल.

८. वरील ५ व ६ मध्ये उल्लेख करण्यात आलेले प्रस्ताव संबंधितांकडे पाठवितांना प्रस्तुत प्रकरणी निर्णय घेण्यास सक्षम असलेल्या प्राधिकरणास मा.उच्च न्यायालय/महाराष्ट्र प्रशासकीय न्यायाधिकरण यांनी विहित केलेल्या कालमर्यादेत निर्णय घेण्यास पुरेसा कालावधी उपलब्ध राहिल याची दक्षता घेण्याची जबाबदारी संबंधित सहसंचालक तसेच संचालक, उच्च शिक्षण, महाराष्ट्र राज्य, पुणे यांची राहिल.

९. कालमर्यादेअभावी अथवा योग्य पाठपुरावाअभावी विहित कालमर्यादेत न्यायालयीन आदेशांच्या अनुषंगाने अंमलबजावणी अथवा पुनर्विलोकन याचिका/अपिल याचिका दाखल करण्यासंदर्भात कार्यवाही न झाल्याने अवमान याचिका दाखल झाल्यास संबंधित सहसंचालकांविरुद्ध जबाबदारी निश्चित करून त्यांच्याविरुद्ध विभागीय चौकशीचा प्रस्ताव सादर करण्याची जबाबदारी संचालकांची राहिल. तसेच अशा प्रकरणी शासनावर अनावश्यक आर्थिक भार पडत असल्यास/पडणार असल्यास सदरची वसुली संबंधित सहसंचालकांकडून करण्यात येईल.

सदर शासन परिपत्रक महाराष्ट्र शासनाच्या [www.maharashtra.gov.in](http://www.maharashtra.gov.in) या संकेतस्थळावर उपलब्ध करण्यात आला असून त्याचा संकेतांक २०१५०७०११२९४३५६०८ असा आहे. हे परिपत्रक डिजिटल स्वाक्षरीने साक्षात्कृत करून काढण्यात येत आहे.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

Niwrutti Digitally signed by Niwrutti B Marale  
DN : c=IN, o=Government of  
B Marale Maharashtra, ou=Under Secretary,  
postal Code=400 032, st=Maharashtra,  
cn=Niwrutti B Marale  
Date : 2015.07.01 11:32:25+05'30'

(नि. भा. मराळे)

अवर सचिव, महाराष्ट्र शासन

and without any provocation, the junior functionaries in the Department of Pension nurtured a doubt "though there was none" and note was prepared on that basis, which led to issuance of OMs dated 03.10.2008 and 14.10.2008. The effect of these two OMs was to make revision in the pension of pre-2006 retirees by giving them less than 50% of the sum of minimum of the pay in the pay band. To demonstrate this, Mr. H.L. Tikku, learned senior counsel appearing in some of these cases drew our attention to the following chart :-

Min of Prerevised scale	Pay in the Pay Band	Grade Pay	Revised Basic Pay (2+3) Rs	Pension 50% of (2+3) Rs
(1)	(2)	(3)	(4)	(5)
S-24 (14300)	37400	8700	46100	23050
S-25 (15100)	39690	8700	48390	24195
S-26 (16400)	39690	8900	48590	24295
S-27 (16400)	39690	8900	48590	24295
S-28 (14300)	37400	10000	47400	23700
S-29 (18400)	44700	10000	54700	27350

The first 4 columns of the above table have been extracted from the pay fixation annexed with MOF OM of 30th August, 2008 (referred to in para 4.5 (iii) above). Revised pension of S 29 works out to '27,350 which has been reduced to '23,700 as per DOP OM of 03.10.2008 (para 4.8 (B) below).

24. As per the impugned OM dated 14.10.2008 in the case of S-24 officers the corresponding pay in the Pay Band against 14,300/- is shown as 37,400/-. In addition, Grade Pay of '8700/- was given totaling '46,100/-. Similarly, revisions concerning all the other pay scales were accepted by the aforementioned OM dated 14th October, 2008. The illegality which has been perpetrated in the present matter is apparent from the fact that whereas an officer who was in the pre-revised scale S-24 and receiving a pay of '14,300/- would now receive '37,400/- plus grade pay of '8700/- and his full pension would accordingly be fixed at '23,050/- (i.e. 50% of 37,400/- pay plus grade pay '8700/-) pursuant to the implementation of VI CPC recommendations after 01.01.2006, whereas a person retiring before 01.01.2006, who was drawing a pay of '18,400/- or even '22,400/- (maximum of scale) in the prerevised S-29 scale will now be getting pension as only 23,700/- (i.e. 50% of pay of ' 37,400/- plus grade pay of '10,000/-).

25. This has arisen because of resolution dated 29.08.2008 and has resulted because of deletion of certain words in para 4.2 of the OM dated 01.09.2008 or 03.10.2008. This aspect is beautifully demonstrated by the Tribunal in its Full Bench judgement in the

following manner with which we are entirely agree:

"25. In order to decide the matter in controversy, at this stage, it will be useful to extract the relevant portions of para 5.1.47 of the VI CPC recommendation, as accepted by the Resolution dated 29.08.2008, para 4.2 of the OM dated 1.9.2008 and subsequent changes made in the garb of clarification dated 3.10.2008, which thus read :

Resolution	Para 4.2 of OM	OM DOP & PW OM No.38/37/8-P&PW(A) dated 3.10.2008
NO.38/37/8-P&PW(A) dated 29.08.2008 - Para 5.1.47 (page 154-155)	DOP&PW OM No.38/37/8-P&PW(A) dated 1.09.2008 (page 38 of OA)	
The fixation as per above will be subject to the provision that the revised pension, in no case, shall be lower than 50% of the sum of the minimum of the pay in the payband and the grade pay thereon corresponding to the prerevised pay scale from which the pensioner had retired.	The fixation as per above will be subject to the provision that the revised pension, in no case, shall be lower than 50% of the (sum of the) minimum of the pay in the pay band plus (and) the grade pay (thereon) corresponding to the prerevised pay scale from which the pensioner had retired.	The Pension Calculated at 50% 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] plus grade pay would be calculated (i) 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 prerevised pay scale. For example, if a pensioner had retired in the pre-revised scale of pay of 18400-22400, the corresponding pay band being 37400- 67000 and the corresponding grade pay being 10000 p.m., his minimum guaranteed pension would be 50% of 37400+10000 (i.e. 23700)
	Strike out are deletions and bold letter addition	Strike out are deletions and bold letters addition.

26. As can be seen from the relevant portion of the resolution dated 29.8.2008 based upon the recommendations made by the VI

### सन २००६ पूर्वी सेवानिवृत्त झालेल्या प्राध्यापकांचे सेवानिवृत्ती वेतन ठरवितांना भेदभावपूर्ण वागणूक : ३

सन २००६ पूर्वी सेवानिवृत्त झालेल्या प्राध्यापकांचे सेवानिवृत्ती वेतन ठरवितांना भेदभावपूर्ण वागणूक देण्याच्या संदर्भात काही महत्त्वपूर्ण दस्तऐवज व कागदपत्रे नुटा बुलेटीन मध्ये प्रकाशित करण्यात आलेली आहेत. नुटा बुलेटीनच्या कोणत्या वर्षांच्या कोणत्या पृष्ठावर कोणता दस्तऐवज प्रकाशित करण्यात आलेला आहे. याची एक यादी पृष्ठ क्रमांक १२६ वर प्रसृत केलेली आहे. त्यापुढचे तपशील पुढीलप्रमाणे आहेत - **संपादक**

(11) Dated the 1st September, 2008 : F.No.38/37/08-P&PW(A) GOVERNMENT OF INDIA Ministry of Personnel, Public Grievances & Pensions Department of Pension & Pensioners' Welfare Lok Nayak Bhawan, New Delhi-110003 OFFICE MEMORANDUM Sub: Implementation of Government's decision on the recommendations of the Sixth Central Pay Commission - Revision of pension of pre-2006 pensioners/family pensioners etc. (Circulated on page 122 of 2008 NUTA Bulletin)

(१२) दिनांक २३ सप्टेंबर २००८ : राज्य वेतन सुधारणा समिती, २००८ ची स्थापना, महाराष्ट्र शासन : वित्त विभाग : शासन निर्णय क्रमांक : वेपूर १२०८/प्र.क्र. ७२/ सेवा - ९ मंत्रालय मुंबई ४०० ०३२. (Circulated on page 131 of 2008 NUTA Bulletin)

(13) Dated : 3 October 2008 : Report of the Committee to Review the Pay Scales and Service Conditions of University and College Teachers, 2008 (Circulated on page 133 of 2008 NUTA Bulletin)

(14) Dated the 31st December, 2008 : Scheme of revision of pay of teachers and equivalent cadres in universities and colleges following the revision of pay scales of Central Government Employees on the recommendations of the Sixth Central Pay Commission. Government Of India Ministry Of Human Resource Development Department Of Higher Education No.1-32/2006-U.II/ U.I (i) New Delhi, (Circulated on page 17 of 2009 NUTA Bulletin)

(१५) दि. २७ फेब्रुवारी, २००९ : राज्य वेतन सुधारणा समिती, २००८ शिफारशी स्विकृत करण्याबाबत, महाराष्ट्र शासन, वित्त विभाग, शासन निर्णय क्रमांक, वेपूर-१२०९/प्र.क्र.२०/सेवा-९, मंत्रालय, मुंबई- ४०० ०३२, राज्य

वेतन सुधारणा समिती, २००८ च्या अहवालातील शिफारशी व त्यावर शासनाने घेतलेले निर्णय, अ.क्र. (परिच्छेद क्रमांक) राज्य वेतन सुधारणा समिती, २००८ च्या अहवालातील शिफारशी : शासनाने घेतलेला निर्णय (Circulated on page 81 of 2009 NUTA Bulletin)

(16) Dated 5th May 2009 : Revision of Pension of pre 1.1.2006 Pensioners. GOVERNMENT OF MAHARASHTRA. Finance Department : Resolution No. PEN 1009/CR29/SER-4 Mantralaya, Mumbai 400 032 (Circulated on page 151 of 2009 NUTA Bulletin)

(17) Dated 15th November 1999 : Revision of Pension/Family Pension of pre-1-1-1996 Pensioners/Family Pensioners. Government of Maharashtra : finance department Resolution No.PEN-1099/303/SER-4 : Mantralaya, Mumbai-400 032, (Circulated on page 164 of 1999 NUTA Bulletin)

(18) Date: 12th August 2009 : Revision of pay Scales of teachers and equivalent cadres in Higher Education as per UGC Scheme (6th Pay commission) Universities, Affiliated Colleges, Government Colleges/ Institutes of Science etc. GOVERNMENT OF MAHARASHTRA Higher & Technical Education Department, Resolution No. NGC 2009/(243/09)-UNI-1, Mantralaya Annex, Mumbai - 400 032. (Circulated on page 123 of 2009 NUTA Bulletin)

(19) Dated the 15th December 2009 : F-NO. 15-1/2009-IFD/ U.II : GOVERNMENT OF INDIA Ministry of Human Resource Development : Department of Higher Education New Delhi, (Circulated on page 3 of 2010 NUTA Bulletin)

PR : (1) P101 NB2015 (2) P126 NB2015 (3) P138 NB 2015

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CPC in paragraph 5.1.47, it is clear that the revised pension of the pre-2006 retirees should not be less than 50% 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 held by the pensioner at the time of retirement. However, as per the OM dated 3.10.2008 revised pension at 50% of the sum of the minimum of the pay in the pay band and the grade pay thereon, corresponding to pre-revised scale from which the pensioner had retired has been given a go-by by deleting the words 'sum of the' 'and grade pay thereon corresponding to the pre-revised pay scale' and adding 'irrespective of the pre-revised scale of pay plus' implying that the revised pension is to be fixed at 50% of the minimum of the pay, which has substantially changed the modified parity/formula adopted by the Central Government pursuant to the recommendations made by the VI CPC and has thus caused great prejudice to the applicants. According to us, such a course was not available to the functionary of the Government in the garb of clarification thereby altering the recommendations given by the VI

CPC, as accepted by the Central Government. According to us, deletion of the words 'sum of the' 'and grade pay thereon corresponding to the pre-revised scale' 'and addition of the words 'irrespective of the pre-revised scale of pay plus', as introduced by the respondents in the garb of clarification vide OM dated 3.10.2008 amounts to carrying out amendment to the resolution dated 29.08.2008 based upon para 4.1.47 of the recommendations of the VI CPC as also the OM dated 1.9.2008 issued by the Central Government pursuant to the aforesaid resolution, which has been accepted by the Cabinet. Thus, such a course was not permissible for the functionary of the Government in the garb of clarification, that too, at their own level without referring the matter to the Cabinet."

26. It is for the aforesaid reasons, we remark that there is no need to go into the legal nuances. Simple solution is to give effect to the resolution dated 29.08.2008 whereby recommendations of the 6th Central Pay Commission were accepted with certain modifications. We find force in the submission of learned counsel for the petitioners that subsequent OMs dated 03.10.2008 and 14.10.2008 were not in consonance with that resolution. Once we find that this resolution ensures that "the fixation of pension will be subject to the provision that the revised pension, in no case, shall be lower than 50% 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", this would clearly mean that the pay of the retiree i.e. who retired before 01.01.2006 is to be brought corresponding to the revised pay scale as per 6th Central Pay Commission and then it has to be ensured that pension fixed is such that it is not lower than 50% of the minimum of the pay in the band and the grade pay thereon. As a result, all these petitions succeed and mandamus is issued to the respondents to re-fix the pension of the petitioners accordingly within a period of two months and pay the arrears of pension within two months. In case, the arrears are not paid within a period of two months, it will also carry interest @ 9% w.e.f. 01.03.2013. There shall, however, be no order as to cost."

**8. We are in complete agreement with the reasoning of the Division Bench of the Punjab & Haryana High Court and adopt the same and do not burden ourselves any further.** We conclude by noting that as regards the substance of the view taken by the Tribunal, even the Central Government accepts its correctness, but insists to make the same applicable prospectively.

**9.** The writ petitions are dismissed. The decision of the Full Bench of the Tribunal is upheld but without any order as to costs.

**(Pradeep Nandrajog) Judge**

**(V. Kameswar Rao) Judge**

**APRIL 29, 2013**

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## GOVERNMENT OF MAHARASHTRA

Directorate of Higher Education,

Maharashtra State, Pune-411 001

Web : www.dhepune.gov.in : E-mail : scholarshipd@gmail.com

Phone No : 020-26126939 : Fax No. 020-26111153

### NOTICE

It is hereby informed to all concerned college teachers that in obedience of the order passed by the Supreme Court of India on 25-03-2015 in the case of State of Maharashtra V/s Asha Ramdas Bidkar (Civil Appeal No. 10759 of 2013), all the pending petitions of Non NET/SET college teachers have been transferred from the Nagpur and Aurangabad Bench of the High Court of Bombay to the Principal Bench of the said High Court and a special Division Bench consisting of Hon'ble Shri. Justice A.V.Mohata and Hon'ble Shri. Justice V.L.Achliya has been constituted, as per the orders passed by the Hon'ble orders passed by the Hon'ble Chief Justice of Bombay High Court.

Hence please take notice that these petitions clubbed together will be listed before the Division Bench headed by Hon'ble Shri. Justice A.V.Mohata, on 16th July, 2015. Any such college teacher who is interested/concerned in these matters, may appear before the said Div.Bench and take appropriate steps to participate in the hearings, if so desired.

The website of the Bombay High Court (Principal Bench) will also give the next date of hearing.

Dr. Dhanraj Mane  
Director, Higher Education,  
Maharashtra State, Pune

ITEM NO.301

COURT NO.12

SECTION IX

## SUPREME COURT OF INDIA

(Record Of Proceedings)

### I.A. 16/2015 in Civil Appeal No.10759/2013

State of Maharashtra & Ors.Appellant(s) **VERSUS** Asha Ramdas Bidkar & Ors. Respondent(s) (for directions)

**Date : 01/09/2015**

This application was called on for hearing today.

### CORAM

**HON'BLE MR. JUSTICE VIKRAMAJIT SEN**  
**HON'BLE MR. JUSTICE ABHAY MANOHAR SAPRE**

**For Appellant(s) :** Mr. Kunal A. Cheema, Adv.\* Mr.Nishant Ramakantrao Katneshwarkar, Adv.\* **For Respondent(s) Applicant :** Mr.V. Giri, Sr.Adv.\* Mr. Amol Nirmalkumar Suryawanshi, Adv.\* Mr. Chander Shekhar Ashri, Adv.\* Mr. Nishant Ramakantrao Katneshwarkar, Adv.\* Mr. Sachin Patil, Adv.\* Mrs Sarla Chandra, Adv.\* Mr. Sudhanshu S. Choudhari, Adv.\* Mr. Manoj R. Sinha, Adv.\* Mr. T. Mahipal, Adv.\* Mr. Uday B. Dube, Adv.\* Ms. Anagha S. Desai, Adv.\*

UPON hearing the counsel the Court made the following

### ORDER

#### ISSUE NOTICE.

We have perused the Orders passed by this Court from time to time. When the Appeal came up for consideration, on 18.11.2013, it had been clarified that "those teachers who have not passed the SET Examination but who have completed six years of service as on that date should be entitled to the benefits of Career Advancement Scheme only for the purposes of pay-scale."

In the Order dated 25.03.2015 we had again clarified, while staying operation of the Impugned Order, that it should not cause any disadvantage to any of the parties who are the beneficiaries to the Impugned Judgment.

**Prima facie, the Respondents have disregarded the directions, which may border on Contempt of Court.**

As prayed, Reply be filed within four weeks. Rejoinder, if any, be filed within four weeks thereafter.

**The pendency of this Application should not deter the Appellants from taking requisite action.**

(Usha Bhardwaj) AR-cum-PS (Saroj Saini) Court Master

IN THE HIGH COURT OF JUDICATURE AT BOMBAY, : BENCH AT AURANGABAD.  
**WRIT PETITION NO. 2630 OF 2010**

Chandrakant Janardan Dangre Petitioner **VERSUS** The State of Maharashtra & ors. Respondents **WITH WRIT PETITION NO. 2957 OF 2010** Shrinivas s/o Shankar Patwardhan Petitioner **VERSUS** The State of Maharashtra and others Respondents  
 Shri D.V. Soman, Advocate for the Petitioners Shri V.D. Rakh AGP for Respondents No.1 to 3.

**CORAM**

**B.P. Dharmadhikari and Sunil P. Deshmukh, JJ.**  
**Date : August 01, 2012**

**P.C. :** Rule, returnable forthwith and heard finally.

2. The matter was heard on 13.6.2012 and thereafter on 18.7.2012. In the order passed on 18.7.2012, this Court has specifically noted extension of liberalized pension formula/scheme to pensioners who are drawing their pension from the office of the Accountant General, Bombay, but same is not being extended to those who are drawing pension from the office of the Accountant General, Nagpur. **Thus, a grievance is made in the petition regarding discrimination, and in the reply by State, said grievance is not stated to be incorrect. The only submission made is, the facts are being looked into.**

3. Shri Soman, learned Advocate for the Petitioner in both matters has pointed out that both the petitioners have retired in 1993 i.e. prior to 1.1.1996 and liberalized pension scheme or formula became applicable from 1.1.1996. As the pension calculations are linked with revised wages, wages of both the petitioners have been revised accordingly and their pay has been fixed at minimum in revised pay scale. Revised pay-scale of Rs.12000-420-18300 and the petitioners' wage has been fixed at Rs.12000/-. Therefore, 50 per cent of this revised basic i.e. Rs.6,090/- per month has been sanctioned to the petitioners as pension. Contention of Mr. Soman is, revised pay formula itself requires the lecturer (selection grade) like the present petitioners, to be fixed at Rs.14,940/-, if they have completed five years service in the grade. He contends that the petitioners had already completed five years in earlier pre-revised scale of Rs.3700-5700 and hence, on 1.1.1996, **wage of the petitioners needed to be fixed at minimum i.e at Rs.14,940/- in revised pay scale and 50 percent of it i.e. Rs.7,470/- , ought to have been given as pension .**

4. The learned A.G.P. has invited our attention to the affidavit i reply filed on behalf of Respondent No.3 on 3.7.2012, particularly to paragraph 5 thereof, to show that as last pay of the petitioners in earlier pay-scale was Rs.4700/-, accordingly in revised pay-scale of Rs.12000-18300, their pension has been calculated and fixed at Rs.6,690. Petitioners basic pension could not have been fixed at Rs.14,940/- as they were not in employment on 1.1.1996. For said purpose, reliance is also placed on paragraphs 7 and 8 of the said affidavit.

5. In relation to the alleged discrimination by the Accountant General, Nagpur in not releasing pension as per revised formula, attention is invited to subsequent affidavit dated 3.7.2012 filed by Respondents No. 1 and 2, particularly its paragraph 7. Learned A.G.P. submits that benefit extended by the office of Accountant General, Mumbai, is being verified and after verification, on its basis, proposals of the petitioners would be forwarded to the government for consideration.

6. The facts show that revised pay scale of Rs.12,000-18300 is relevant only for the purpose of computing pension as revised pay fixation formula links pension with wages. Remarks in this respect, as can be seen in column 6 of Appendix- I to **Govt. Resolution dated 11.12.1999 issued by the Department of Higher and Technical Education, Govt. of Maharashtra, which mandates fixation of wages of lecturers (senior grade) at Rs.14,940/- after they have completed five years in the grade, reads as under :**

“The fixation of pay of Lecturers (Selection Grade)/Readers in the pre-revised scale of Rs.3700-125-4950-150-5700 who were selected strictly in accordance with the rules and regulations framed by the UGC and who were in position as Lecturers made in a manner that they get their pay fixed at the minimum of Rs.14490/

- in the revised scale of Rs.12000-420-18300 as and when they complete five years in the grade.”

7. The respondents have, accordingly, extended benefit of wage revision to the petitioners and their pension has also been calculated by revising their earlier wages in revised scale of Rs.12000-18300/. **The only question is whether their pay should have been fixed at Rs.14,940/- as observed in the remarks quoted above, because they had put in five years service in the said grade or selection grade in pre-revised scale of Rs.3700-5700.**

8. The issue is squarely covered by the decision in the case of **D.S. Nakara vs Union of India - AIR 1983 SC 130**, wherein the Hon'ble Apex Court has found that **all pensioners constitute a single homogeneous class and no norm can be inserted or used to discriminate amongst them.**

9. Here, it is apparent that the office of the Accountant General, Mumbai has correctly interpreted afore-quoted remarks and has accordingly fixed basic pension of concerned pensioners after accepting minimum wage at Rs.14,940/-. However, the Office of the Accountant General, Nagpur appears to have adopted different policy. In scale of Rs. 12000-420-18300, if a person is fixed at stage of Rs.12000/, in five years he would reach stage of 14,100/. He would be required to earn two more increments of Rs. 420/ each to earn his wages at rs. 14,940/. Thus normally after 7 years that stage can be achieved. The stipulation or remark mandates that after 5 years in selection grade, the lecturer has to get Rs.14,940/- therefore can be adhered to if one is fixed at Rs. 12,840/- on 1.1.1996. This grant of two advance increments is not expressly mentioned anywhere & that does not appear to be the spirit of the “remark”. Words “scale” & “grade” employed therein do not convey same concept. Thus “remark” puts emphasis on completion of 5 years in selection grade & eligibility to receive Rs.14,940/ in pay-scale at said completion. **Putting in 5 years service in revised scale of Rs.12000-420-18300 is not envisaged or expected at all. Hence, date 1.1.1996 on which revised pay structure comes into force is not significant at all.**

10. **The petitioners, whether they retire before or after 1.1.1996, in present facts, constitute only one class & have been recognized as such qua the pension computation exercise** and therefore only, respondents have revised petitioners' wages and extended to them the benefit of revised scale of Rs.12000-18300/. However, the more beneficial term which required the petitioners' pay to be fixed at Rs.14,940/- , when they put in five years service in selection grade which they claim to have put prior to their retirement; has not been extended to them. No reason is being assigned for not doing so.

11. **We, therefore, find that the denial by Respondents to fix petitioners' pay at minimum i.e. Rs.14,940/- is arbitrary, unfounded and hence, unsustainable.** In this situation, we direct the Respondents to undertake exercise of revising the wages of petitioners in accordance with remark appearing in appendix-I to Govt. Resolution dated 11.12.1999 quoted above and if they satisfy the terms & conditions in said “remark” , their pay be fixed at Rs.14,940/ - and thereafter their pension be calculated, accordingly. The said exercise shall be completed within four months from today and the revised pension along with arrears, if any, shall then be released within a period of four months to the petitioners.

12. With aforesaid directions and observations, we partly allow both the writ petitions and dispose of the same, accordingly. No costs.

13. Rule made absolute in above terms.

(Sunil P. Deshmukh, J.) (B.P. Dharmadhikari, J.)

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