To

The Chief of the Army Staff
The Chief of the Naval Staff
The Chief of the Air Staff

Subject: Revision of restored 43% and 45% commuted portion of pension after 15 years from the date of commutation of Armed Forces absorbees who had drawn lump sum payment on absorption in Public Sector Undertakings/Autonomous bodies –Implementation of Hon’ble Supreme Court judgement dated 24.7.2007 in Review Petition NO.643 of 2007.


2. In view of the above, the provisions of the Deptt.of Pension & Pensioners Welfare OM dated 6th September, 2007, are to be modified to the extent they suit the Defence absorbees in regard to the procedure to be followed by them as set out below:–

3. The Public Sector Undertakings (PSUs)/Autonomous body’s absorbees belonging to Armed Forces may apply for revision of their restored pension on a prescribed format enclosed as Appendix to this letter, through their Pension Disbursing Agency (PDAs) who, in turn, will forward the same to the Pension Sanctioning Authorities (PSAs) concerned. All the application received from the officers and Personnel Below Officer Rank (PBOR) of all three services will be forwarded to Principal Controller of Defence Accounts (Pensions) Allahabad except in case of Naval/Air Force Officers & PBOR absorbed on or after 1.11.1985, whose applications will be forwarded to their respective PSAs ie. PCDA(N) Mumbai and CDA(AF) New Delhi.

4. On receipt of applications from the PDAs, the PSAs concerned will audit the claim with reference to original records held in their office and revise the restored 43% and 45% of pension, as the case may be, through a corrigendum PPO in terms of DP&PW aforesaid OM dated 6.9.2007 and forward the same to the PDA/Bank of the applicant through usual channel, for further necessary action under intimation to the applicant.

5. PSAs may, however, also identify the affected cases and take necessary action without waiting for application from the pensioners.

6. This issues with the concurrence of Ministry of Defence (Finance) vide their UO NO.4308/Fin/Pen dated 28.11.2007.

Under Secretary to the Government of India

(Ajay Saxena)

Copy to –
As per standard Distribution list.
1. President Secretariat.
2. Vice President’s Secretariat
3. Prime Minister’s Office
4. The Controller General of Defence Accounts
5. The Principal Controller of Defence Accounts (Pensions), Allahabad
6. Controller of Defence Accounts (Pension Disbursement), New Delhi
7. Controller of Defence Accounts (Navy), Mumbai
8. Controller of Defence Accounts (Air Force), New Delhi
9. Controller of Defence Accounts (O), Pune
10. The Director of Audit, Defence Services, New Delhi
11. Army Hqrs/AG/PS 5
12. Naval Hqrs/DPA
13. Air Hqrs/DPP&R and DPA
14. TA Directorate/AHQ
15. Director General of Resettlement
16. Department of Pensions and Pensioners’ Welfare
17. Department of Expenditure/Ministry of Finance (E-5)

Internal Distribution :-
1. PS to RM/PS to RRM
2. SO to Defence Secretary/Secretary (DP)/SA to RM
3. AS(N)
4. Addl FA(H)
5. Dir (Fin/Pen)/DFA(Pen)
6. D(Civ)/D(GS-VI)/D(Res)/D(PG)/D(Pen/Legal)/D(Pen/A)
7. Director of Public Relations
8. Editor-in-Charge, Sainik Samachar
OFFICE MEMO

Subject: Restoration of 1/3rd commuted portion of pension in respect of Government servants who had drawn lump sum payment on absorption in public sector undertaking - implementation of Andhra Pradesh High Court Judgement dated 24.12.03 in Writ Petition No. 8532 of 2003 followed by the Supreme Court Judgement dated 29.11.06 in Civil Appeal No. 5269 of 2006 arising out of SLP Nos. 21847-848 of 2005 and the Supreme Court Judgement dated 24.7.07 in Review Petition No. 643 of 07.

The undersigned is directed to say that the government servants who had drawn lump sum payment in respect of pro-rata pension (1/3rd as well as 2/3rd) on absorption in a PSU/Autonomous Body and have become entitled to restoration of 1/3rd commuted portion of pension as per the provisions of this Department's O.M. No. 34/2/86-P&PW dated 5th March 87 after 15 years from the date of commutation or 1.4.85 whichever is later, are regulated vide this Department O.M. No. 45/97-P&PW(D) dated 14th July 1998 as clarified from time to time.

2. Andhra Pradesh High Court in its judgement dated 24.12.03 in Writ Petition No. 8532 of 2003 followed by the Supreme Court Judgement dated 29.11.06 in Civil Appeal No. 5269 of 2006 arising out of SLP Nos. 21847-848 of 2005 and the Supreme Court Judgement dated 24.7.07 in Review Petition No. 643 of 07 has decided as under:-

"..........the public sector undertaking absorbs are also entitled for dearness relief etc. but not on entire pension commuted as on the date of retirement. Moreover they received lump sum amount by way of terminal benefits on surrendering on 2/3rd pension. In that way, they have already parted with 2/3rd pension, it cannot be said to revive after 15 years. But in case of Central government pensioners 2/3rd pension was continued to be received by them. Therefore, what is restored is 1/3rd pension which means full pension. But the same principle cannot be applied to say that the absorber will get full pension after 15 years only those who had commuted 1/3rd pension and received terminal benefits for 2/3rd pension had he not surrendered, he continue to receive 2/3rd pension, the same principle apply as in case of Central government employee. But having received cash compensation in respect of the surrender value of 2/3rd, he cannot be allowed to say that this is also a pensioner so far as 2/3rd pension is concerned. Such absorber stand on a different footing and they fall in a different class by themselves on this issue. Under these circumstances, the inescapable conclusion is that 1/3rd pension has to be arrived at only on the basis of the basic pension divided by three after completion of 15 years which becomes drawable as on the date of respective dates and not to be arrived by deducting Rs. 403/- from the pension. Therefore, the petitioner will be entitled to as follows:-

**Restorable Pension:**

**From 28.08.97 to 31.12.1995**

- Basic Pension (904/1/3rd) Rs. 201/-
- Rs. 53/- Dearness Relief
- Rs. 12/- Additional Benefits
- Total Rs. 864/-

**From 01.01.96 onwards (5th Pay Commission)**

- 1/3rd of Basic Pension (1,350/1/3rd) Rs. 350/-
- Rs. 85/- Interim Relief
- Rs. 1,090/- Dearness Relief
- Rs. 340/- Fringe
- Total Rs. 3,173/-

In this case the employee had commuted minimum permissible pension i.e. 1/3rd. But, even if lesser portion is commuted, the pro-rata commuted portion has to be deducted from the basic pension to arrive at restorable pension, but however, he will get dearness relief, interim relief etc. on full basic pension."
3. The modalities of implementation of above judgement have been under active consideration of the Government. The President is pleased to decide that, in partial modification of this Department's O.M. No. 4/59/97-P&PW (D) dated 14\textsuperscript{th} July 1998, the Government servants who had drawn lump sum payment in respect of pro-rata pension (1/3\textsuperscript{rd} as well as 2/3\textsuperscript{rd}) on absorption in a PSU/Autonomous Body and have become entitled to restoration of 1/3\textsuperscript{rd} commuted portion of pension as per the provisions of this Department's O.M. No. 34/2/88-P&PW dated 5\textsuperscript{th} March 87 after 15 years from the date of commutation or 1.4.96 whichever is later, shall be entitled to the benefit of revision of restored amount of 1/3\textsuperscript{rd} commuted portion of pension as explained hereunder-

(i) As on 01.01.1986

(a) The full pension of the absorbpees shall be notionally revised w.e.f. 1.1.1986 based on full pension on absorption in accordance with the instructions for revision of pension, issued for implementing the 4\textsuperscript{th} Pay Commission Recommendations.

(b) The restorable 1/3\textsuperscript{rd} pension shall be the sum of the following:-

I. 1/3\textsuperscript{rd} of full pension as on 31.12.1985.
II. Dearness Relief on full pension as on 31.12.1985.
III. Additional benefits on full pension as per this Department O.M. No. 21/87- P & WC dated 16.4.1987 relating to implementation of the 4\textsuperscript{th} Pay Commission Recommendations.

(ii) As on 01.01.1986

(a) The full pension of the absorbpees shall be notionally revised w.e.f. 1.1.1986 based on full pension as on 31.12.85 in accordance with the instructions for revision of pension, issued for implementing the 5\textsuperscript{th} Pay Commission Recommendations

(b) The restorable 1/3\textsuperscript{rd} pension shall be the sum of the following:-

I. 1/3\textsuperscript{rd} of full pension as on 31.12.1995.
II. Dearness Relief on full pension as on 31.12.1995.
III. IR-I and IR-II
IV. Fitment @ 40\% of the full pension as on 31.12.1995

(* in terms of this Deptt. OM No.45/86/97-P&PW(A)-pt.II Dated 27.10.1997)

4. Payment of DR shall be on full pension and is subject to the condition that the absorbed employee was not re-employed/employed under the Central Government or State Government or a Corporation/Company/Body/Bank under them in India or abroad, including permanent absorption in such Corporation/Company/Body/Bank at the time of restoration.

5. The benefit of revision of restored amount of 1/3\textsuperscript{rd} commuted portion of pension shall be admissible from the date the commuted portion of pension is restored.


7. Hindi version will follow.

Under Secretary to the government of India

To

All Ministries/Departments of the Government of India
(As per mailing list)
PROFORMA
(to be submitted in duplicate by Armed Forces absorbrees or his family)

To,
The Pr. CDA(Pensions) Allahabad-211014
The Pr. CDA(Navy), Mumbai-
The Dy. CDA(Air Force), New Delhi-110010.
(through pension disbursing authority)

Subject: Revision of restored 43% and 45% of commuted portion of pension after 15 years from the date of commutation in respect of Armed Forces Absorbrees who had drawn lump sum amount on their absorption in a Public Sector Undertaking/Autonomous Body – Implementation of the Hon'ble Supreme Court Judgement.

Sir,
Kindly revise my restored amount of commuted portion of pension in terms of Ministry of Personnel, Public Grievances and Pension (Deptt. of P&PW) OM No. 4/79/2006-P&PW(D) dated 6th September, 2007 and Ministry of Defence letter No. dated .10.2007. Requisite particulars are given below:

1. Name, Rank and Regt. No/
   IC No. (In block letters) :

2. Name of Corps/RO from where retired/discharged :

3. Date of retirement/discharge on permanent absorption :

4. Original PC/PPO No. and year :

5. Date of receipt of lump sum amount:

6. First corr. PPO No through which pension was restored :

7. Amount of restored pension :

8. Particulars of subsequent corrigendum PPO(s) issued, if any, and amount of revised restored pension :
9. Place and channel of present payment of pension
(Postal address of Paying Bank Branch with A/c No./Treasury/DPDO/PAO/
Post offices, as the case may be)

10. Name of applicant if the application is made on behalf of pensioner for life time arrears (LTA) when the pensioner is not alive

11. Postal address of the pensioner/applicant:

Date:
Place:

Signature of pensioner/applicant

*Particulars Verified*

*SIGNATURE WITH RUBBER STAMP OF THE PENSION DISBURSING AUTHORITY (PDA)*