No. 12(16)/2007-D(Pen/Pol)
Government of India
Ministry of Defence
Department of Ex-Servicemen Welfare

New Delhi
Dated 28th August, 2012

To
The Chief of the Army Staff,
The Chief of the Naval Staff,
The Chief of the Air Staff.

Subject: Implementation of Judgement of Supreme Court of India dated 26th April, 2007 in civil appeal No. 2737 of 2002 filed by UOI against the Mumbai High Court Judgement in civil appeal filed by Gp Capt A.S. Gangoli and others.

Sir,

I am directed to refer this Ministry’s letter No. 1(5)/87/D(Pen/Sers) dated 30.10.87 wherein vide note (i) below para 5(b), it is stated that there will be no weightage for officers and PBOR, who retire prematurely for permanent absorption in PSUs and autonomous bodies. However, while revising pension under V-CPC this rules has not been applied uniformly in few cases by Pension Sanctioning Authorities.

2. Gp Capt A.S. Gangoli and a few others challenged the above provisions in the Hon’ble Mumbai High Court which allowed the Writ petition by declaring the ibid Note (i) as illegal and inoperative vide their order dated 14 March 01 against which an SLP was filed by the Union of India. The Hon’ble Supreme Court, while allowing the SLP, set aside the order of Mumbai High Court and consequently, Writ Petition stands dismissed. Hence Note (i) below para 5 (b) of this Ministry’s letter dated 30.10.1987 referred above and Note (i) below para 5 (b) (1) of letter No. 1(6)/98/D(Pen/Sers) dated 03.02.1998 holds good and remain effective.

3. The competent authority has decided that in cases where the payment of pension has been made as per direction of Hon’ble CAT/High Court, such orders are required to be challenged before the Higher Court and in cases where payment has been made erroneously by the department then in such case the department has the right to recover the same with due administrative procedure.

4. This issues with the concurrence of Ministry of Defence (Fin/Pen) vide their I.D. No. 3899/Fin/Pen dated 27.08.2012.


(Malathi Narsayanan)
Under Secretary to the Govt. of India

Copy to:
1. Office of the CGDA, New Delhi
2. PCDA(P), Allahabad
3. PCDA(Navy), Mumbai
4. CDA(AF), New Delhi
5. As per standard mailing list.