



GOVERNMENT OF KERALA

Abstract

Finance Department – WP(C) No. 22269/12 filed by Prof. Sreenivasa Pai and others and WP(C) No. 20796/13 filed by Prof. G. Somanatha Pillai and others before the Hon'ble Kerala High Court – Common Judgement complied - orders issued.

FINANCE (PENSION-B) DEPARTMENT

G.O (Rt) No.2567/2018/Fin

Dated, Thiruvananthapuram 26/03/2018

Read:- (1) Judgment dated 22.05.2017 in WP(C) No. 22269/12 & WP(C) No. 20796/13

(2) Judgment in D S Nakara and others Vs. Union of India (1983 (1) SCC 305) of the Hon'ble Supreme Court

ORDER

Prof. Sreenivasa Pai and others retired from service as Selection Grade Lecturers from SD College, Alappuzha. Petitioners filed the Writ petition, WP(C) No. 22269/12 challenging the order GO(P)No. 211/2011/Fin dated 07.05.2011 regarding revision of the pension of persons under the UGC/AICTE/Medical Education Scheme to the extent the words 'existing basic pension' is clarified as 'the pension drawn before undergoing any revision'.

(2) Prof. Somanath Pillai and others are retired from service as Selection Grade Lecturers from various colleges affiliated to Mahatma Gandhi University, Kottayam and Calicut University. Petitioners have filed the Writ Petition WP(C) No. 20796/13 challenging the order GO(P) No. 211/2011/Fin dated 07.05.2011.

(3) In the judgment read 1st above the Hon'ble High Court of Kerala directed the State Government to consider Ext. P8 representation preferred by the petitioners untrammelled by Ext. P9 decision and also to hear the petitioners before orders are issued by the respondents. Accordingly hearing was scheduled on 17.08.2017, 12 noon, but the petitioners did not attend the hearing, Further chance was given to the petitioner for hearing on 13.09.2017, 16.10.2017 and 07.02.2018, but the petitioners did not attend the hearing. Instead they submitted a hearing note with a request please delete the term "which has not under gone any revision" from the clause 3(i) of the order GO(P) No. 211/2011/Fin dated 07.05.2011.

(4) Several requests are being received in Government requesting to delete the term 'which has not undergone any revision' from the clause 3(i) of the order GO(P) No. 211/2011/Fin dated 07.05.2011. UGC Scales of pay were implemented in the year

1986. The revision of the said scales of pay is carried out once in 10 years. The 1st revision in pay took place in 1996 accordingly. The next was in 2006. Pension of Government employees and teachers was revised consequent to 8th Pay Revision Commission recommendations vide G.O.(P) 180/06/Fin dated 18.04.2006. However those coming under UGC/ AICTE/Medical Education Schemes were excluded from the purview of G.O.(P)180/06/Fin. Since there was no corresponding revised scales of pay, pension was revised provisionally to the above category vide G.O.(P) 81/07/Fin dated 28.02.2007 to those who retired prior to 01.07.2004 by merging DR @ 59% and allowing fitment benefit @ 6% of basic pension as on 01.07.2004 with monetary effect from 01.04.2005. Para 3.13 of G.O.(P)180/06/Fin dated 18.04.2006 clearly states that in the case of those who retired / died while in service prior to 01.07.2004 after changing over to UGC/AICTE/MES/Central Judicial scales of Pay, orders on revision of pension shall be issued separately. Hence their demand to fix pension at 16875/- from 01.07.2004 vide para 1.1 of G.O.(P)180/06/Fin will not stand since the said Government Order is not applicable to the petitioners. In addition, due to the lack of revised scale of pay, only provisional pension revision was possible at that time.

(5) The argument that pension in respect of those who retired/expired prior to 01.01.96 under the above schemes revised w.e.f 01.07.2004 is against facts. Pension revision of the above category was carried out vide G.O.(P) 299/10/Fin dated 24.05.2010 w.e.f 01.04.2005. Para 1(f) of above G.O. stipulates that the pay in the revised scale shall be payable in cash w.e.f 01.03.2010. In view of above facts their demand to grant OROP from 01.07.2004 and arrears from 01.04.2005 with interest cannot be considered favorably. Petitioners' next demand was to delete the term 'pension drawn before undergoing any revision' from the formula of revision in the G.O.(P) 211/11/Fin dated 27.05.2011. The Pensioners under the above categories can be divided into three groups.

- a. Those who retired/expired while in service prior to 01.01.1996, and allowed provisional revision vide GO(P)No.81/2007/Fin dated 28.02.2007 by adding 59% DR and 6% fitment w.e.f 01.04.2005 and revision vide G.O.(P) No. 299/2010/Fin dated 24.05.10 reckoning 1996 pay scale, One Rank One Pension principle and adopting the above procedure w.e.f. 01.04.2005.
- b. Those who retired/expired while in service on or after 01.01.1996 but before 01.07.2004, had allowed provisional revision as per G.O.(P)No. 81/2007/Fin dated 28.02.07 by adding 59% DR and 6% fitment w.e.f. 01.04.2005.
- c. Those who have retired/expired while in service on or after 01.07.2004, and allowed provisional revision as per G.O.(P)84/2007/Fin dated 01.03.07 by merging 50% Dearness pay for computing emoluments.

(6) In order to avoid undue benefits the Accountant General in his letter to Government had suggested to reckon existing pension, specified in para 3.1 and 4.1 of GO(P)No.211/2011/Fin dated 07.05.2011 as pension prior to undergoing any revision vide GO(P)No.81/2007/Fin dated 28.02.2007, GO(P)No.84/2007/Fin dated 01.03.2007 and GO(P) No.299/2010/Fin dated 24.05.2010. Based on that Finance Department had incorporated the term 'pension drawn before undergoing any revision' in the formula of revision of pension vide GO(P)No.211/2011/Fin dated 07.05.2011. Otherwise there

would have been duplication as far as merging of DR was concerned. Moreover Government issued a clarification in this regard vide GO(P)No.712/2012/Fin dated 25.12.2012 by specifying Government orders.

(7) Another request of the petitioners is to revise pension by taking the pension obtained on 01.03.2010. The pay of the above categories was revised vide G.O.(P) 58/10/H.Edn dated 27.03.2010 w.e.f 01.01.2006 with monetary benefit from 01.03.2010. Revision of pension as per G.O.(P)211/11/Fin dated 07.05.2011 is based on the scale of pay implemented w.e.f 01.01.2006, eventhough monetary benefits was given only from 01.03.2010. In addition pension was fixed w.e.f 01.01.2006 even though monetary benefit was given only from 01.03.2010.

8) In view of the position stated above and also considering the existing pension rules and financial stringency of the Government and also taking into consideration of the judgement of Hon'ble apex Court in D.S.Nakara Case the request of the petitioners cannot be agreed to and is rejected. The order of Hon'ble High Court of Kerala thus stands complied with.

By Order of the Governor

**DR. SHARMILA MARY JOSEPH, IAS
SECRETARY (FINANCE EXPEDITURE)**

To

1. The Principal Accountant General (A&E), Kerala, Thiruvananthapuram
2. The Principal Accountant General (G&SSA), Kerala, Thiruvananthapuram
3. The Accountant General (E&RSA), Kerala, Thiruvananthapuram
4. The Advocate General, Kerala, Ernakulam
5. Prof. Sreenivasa Pai, Sreyas, Kaithavana, Alappuzha - 3
6. Prof. Jithendra Varma, Jyotsna, Kaithavana, Alappuzha - 688003
7. Prof. G. Somanath Pillai, Devika, Kottayam West (P.O), Kottayam Dist.
8. Prof. V. Radhakrishnan, Swapna, M.O. Ward, Alappuzha
9. Prof. A.S. Ramachandran, Sreevilas, Ramankary (P.O.) Alappuzha
10. Prof. G. Bhaskarakurup, Ushus, Champakara (P.O.) Karukachal, Kottayam
11. Prof. K.K. Rajan Panicker, Manjima, Uthimood (P.O.), Rani,
Pathanamthitta
12. Prof. K.G. Soman Nair, Koikkanathu, Thumpamon P.O., Pandalam,
Pathanamthitta
13. Liaison Officer, O/o of the Advocate General, Kerala, Ernakulam
14. The Nodal Officer, www.finance.kerala.gov.in for publishing on the website
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Forwarded /By Order


Section Officer