



## Civil Aviation Employees' Guild (India)

Ref. No.: CAEG/01/03/15

Dated: 03-03-2015

To  
**Shri Anuj Aggarwal**  
**Member (HR), AAI**  
**Rajiv Gandhi Bhawan**  
**New Delhi-110003**

**Subject: Non-settlement of Pension cases under CCS Pension Rules, 1972.**

Sir,

Consequent upon conversion of Civil Aviation Department into National Airports Authority on 01.06.86, erstwhile Govt. employees presently working in Airports Authority of India (AAI) are eligible for Pension under CCS Pension Rules, on combined service rendered in Govt. & AAI. Denial of pension to retiring employees for not having completed 10 years of service in Govt. is violative of CCS Pension Rules. On 18.05.10, AAI referred this matter to Department of Pension & PW but reply received in favor of employees vide O.M No. 4/2/2010-P&PW (D) dated 30.08.10 is not implemented till date. This matter is also settled by CAT Delhi in OA 1442/2008. Thus AAI is violating CCS Pension Rules, statutory O.M. 30.08.10 binding on AAI and Constitution Bench Judgment referred by another Constitution Bench in **D S Nakara & ors. v. UOI [(1983) 1 SCC 305]**, as reproduced below:-

20. "The antiquated notion of pension being bounty a gracious payment depending upon the sweet will or grace of the employer not claimable as a right and, therefore, no right to pension can be enforced through Court has been swept under the carpet by the decision of the Constitution Bench in **Deoki Nandan Prasad V. State of Bihar & Ors. (1971) Supp. SCR 634**, wherein this Court authoritatively rules that Pension is a right and payment of it does not depend upon the discretion of the Government, but it is governed by the rules and Govt. servants coming within those rules are entitled to claim pension. Grant of pension does not depend upon any one's discretion. It is only for the purpose of quantifying amount having regard to service and other allied matters that it may be necessary for the authority to pass an order to that effect, but right to receive pension flows to officer not because of such order but **by virtue of the rules!**"

We pray your kind intervention in this matter, so that pension cases of erstwhile Civil Aviation Department employees, on retirement are settled under CCS Pension Rules.

**Thanking You.**

**Yours faithfully**

  
**(Sanjive Chamoli)**

**President**

**Enclosed : As Above**

Office of the Minister of State for Civil Aviation

A delegation representing Civil Aviation Employees Guild (India) met the Hon'ble Minister of State for Civil Aviation, Shri K. C. Venugopal and submitted a memorandum regarding the settlement of pension to Central Govt Employees belonging to CPWD & DGCA who were absorbed in National Airports Authority of India. Hon'ble Minister desires that their grievance be heard and take appropriate action to redress their grievance at the earliest. Copy of the memorandum along with enclosures is attached herewith.




(P. G. Kaladharan)  
OSD to HMoS(CA)

11-02-14

To,

Member(HR) - AAI



11/2/2014

MOSCA/OSD/2014/001  
11-02-2014

AIRPORTS AUTHORITY OF INDIA

Dated: 19.07.2001

A.60011/7/95-IR. PP.(Pt.)

The Regional Executive Director  
Airports Authority of India  
Eastern Region  
Kolkatta

Subject: Payment of pension to transferred employees of the Director General of Civil Aviation (DGCA) who had been absorbed in the Airports Authority of India (AAI) w.e.f 2.10.89

Sir,

Please find enclosed a copy of letter No AV 11018/01/2000-AAI dated 26<sup>TH</sup> June, 2001 on the subject noted above for further necessary action at your end.

Yours faithfully

Sd/-  
(JAI RAM)  
MANAGER (PERS)

ENCL: AS ABOVE.

NO. AV. 11018/01/2000-AAI  
Government of India  
Ministry of Civil Aviation  
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B' Block,  
Rajiv Gandhi Bhawan,  
Safdarjung Airport,  
New Delhi-110003

Dated 26th June, 2001

To

The Principal Accounts Office,  
Ministry of Civil Aviation & Tourism,  
52B, Sardar Patel Bhawan,  
New Delhi.

Subject:- Payment of pension to transferred employees of the Director General of Civil Aviation (DGCA) who have been absorbed in the Airports Authority of India (AAI) w.e.f. 2.10.89.

Sir,

I am directed to say that various clarifications sought by the Principal Accounts Office in the case of pensioners who have been transferred from the DGCA and absorbed in the AAI who opt for Government pension were under consideration in this Ministry.

2. After detailed consultation with the Department of Pension & Pensioners' Welfare, Department of Public Enterprises and the Integrated Finance Division of this Ministry the following decisions have been taken.

(i) Pension will be paid on IDA Scales.

(ii) Special Pay will not be taken into account for calculation of emolument for pension. But increments will be taken into account.

(iii) The DR will be paid on the basis of IDA rates. The D. has been requested for the DR slabs. A copy of the Ministry's O.M. of even No. dated 15.5.2001 is enclosed. The Principal Accounts Office may also follow up the matter.

The above procedure may be continued as an interim measure till a final decision is taken in the matter.

AAI has been separately advised to take necessary action for creation of Pension Fund in accordance with D/O Pensioners & PW No. 4/14/2000-P&PW(D) dated 01st June, 2000 so that pension liability in respect of all such pensioners is eventually taken over by AAI.

Yours faithfully,

*Sd/-*

K. Ramakrishnan  
Under Secretary to the Government of India  
Telephone No. 4610 600

Under Secretary to the

2157/4M/P  
12/7/01

254/EDPA/MCA  
4/7

PL dissem.

8/10/01

7418/ACW/CP  
13/7

Sh. O.P.  
13/7/01

Discussed  
discussed

J.M. Gupta

Recd  
12/7/01

**No.4/61/99-P&PW (D)**  
**Government of India**  
**Ministry of Personnel, Public Grievances & Pensions**  
**(Department of Pension & Pensioners' Welfare)**

New Delhi, dated the 20<sup>th</sup> December, 2002

**OFFICE MEMORANDUM**

**Subject:-Terms and conditions of payment of pensionary benefits in respect of Central Government employees transferred to autonomous bodies/public sector undertakings consequent upon conversion of Govt. Dept./Office into autonomous body/public sector undertaking.**

Sub-rule (9) of Rule: 37A of CCS (Pension) Rules provides that the pension of an employee under sub-rule (8) shall be calculated on the basis of his last 10 months average pay. References have been received by this Dept. seeking clarification as to whether the pay of an employee in PSU in the IDA scale should be taken into consideration for calculating average emoluments under sub-rule (9). It is hereby clarified that for the calculation of pensionary benefits under sub-rule (9) of rule 37 A, average emoluments will be calculated on the basis of pay drawn by the absorbed employee during the last 10 months in the PSU prior to retirement and wherever the absorbed employee is drawing pay in IDA scale during this period, his pay in IDA scale will be taken into account for calculation of average emoluments. In addition to the pension or family pension, as the case may be, such absorbed employee shall also be eligible to receive dearness relief as per Industrial DA pattern as per the provisions of sub-rule (10) of Rule 37 A.

(Sujit Datta)  
Director (PW)

To

1. All Ministries/Depts. Of the Government of India
2. Comptroller & Auditor General of India (with 200 spare copies)
3. CGA/CGDA (with 200 spare copies)

*[Govt restores pro-rata Pension retrospectively w.e.f. 30.09.2000]*

**MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS  
(Department of Pension and Pensioners Welfare)**

**NOTIFICATION**

**New Delhi, the 25<sup>th</sup> October 2007.**

S.O 1821 (E) – In exercise of the powers conferred by the proviso to article 309 and clause (5) of Article 148 of the Constitution and after consultation with the Comptroller and Auditor General of India in relation to persons serving in the Indian Audit and Accounts Department and in supersession of the notification number S.O. 1487 (E) dated 14<sup>th</sup> October, 2005 except as respects things done or omitted to be done before such supersession, the President hereby makes the following rules further to amend the Central Civil Services (Pension) Rules, 1972, namely:-

1. (1) These rules may be called the Central Civil Services (Pension) (Amendment) Rules, 2007.  
(2) They shall be deemed to have come into force from the 30<sup>th</sup> day of September, 2000 i.e. date from which provision of pro-rata pension was withdrawn.
2. In the Central Civil Service (Pension) Rules, 1972, in rule 37A, for sub-rule (8), the following sub-rule shall be substituted, namely:-

“(8) A permanent Government servant who has been absorbed as an employee of a public sector undertaking or autonomous body shall be eligible for pensionary benefits on the basis of combined service rendered by him in the Government and in the public sector undertaking or autonomous body in accordance with the formula for calculation of pension/family pension under these rules as may be in force at the time of his retirement from the public sector undertaking or autonomous body, as the case may be or at his option to receive pro-rata retirement benefits for the service rendered under the Central Government in accordance with the orders issued by the Central Government.

**EXPLANATION –** The amount of pension / family pension of the absorbed employee on superannuation from Public Sector Undertaking/ Autonomous Body shall be calculated in the same way as would be the case with a Central Government servant, retiring on superannuation, on the same day”

[F.No.4/66/2005-P&PW (D)]  
RAJNI RAZDAN Secy.

**EXPLANATORY MEMORANDUM**

Option to draw pro-rata monthly pension available to the Government servants who were transferred and absorbed in Public Sector Undertaking or Autonomous Bodies set up consequent upon conversion of a Government Department under Department of pension and Pensioner's Welfare's O.M.No.4/18/87-P& PW (D) dated 5-7-1989 was withdrawn w.e.f. 30-9-2000 vide Notification No.S.O. 904 (E) dated 30-9-2000. The same provision was restored through Notification No. S.O. 1487 (E) dated 14.10.2005 w.e.f. 14-10-2005. The same provision has been restored through this notification w.e.f.30.9.2000. This is certified that no one shall be adversely affected by giving retrospective effect to this notification.

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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P. (C.) No.5/2010**

% **Date of Decision: 27.01.2010**

Union of India ..... Petitioner  
Through Mr. H.K.Gangwani, Advocate

Versus

Shri Kultar Chand Rana ..... Respondent  
Through Mr.Amit Gaurav, Advocate.

**CORAM:**  
**HON'BLE MR. JUSTICE ANIL KUMAR**  
**HON'BLE MR. JUSTICE MOOL CHAND GARG**

1. *Whether reporters of Local papers may be allowed to see the judgment?* YES
2. *To be referred to the reporter or not?* NO
3. *Whether the judgment should be reported in the Digest?* NO

**ANIL KUMAR, J.**

\*

The petitioner, Union of India through Secretary (Power), Ministry of Power and Ors challenges the order dated 21<sup>st</sup> April, 2009 passed by the Central Administrative Tribunal, Principal Bench, New Delhi in O.A No.1442/2008 titled Sh.Kultar Chand Rana v. Union of India and ors partly allowing the prayer of the respondent to grant pro-rata pension to him on his work charged benefits with arrears.

The respondent was appointed as wireless operator on whole time employment service in erstwhile NREB (Northern Regional Power Committee) and was performing monitoring and co-ordination for

maintenance of uninterrupted electric supply to Northern Region of India. The respondent continued as such on monthly basis till his absorption in regular employment when he was appointed with effect from 5<sup>th</sup> September, 1986 and his pay was fixed in the revised scale with effect from 1<sup>st</sup> January, 1986.

Pursuant to the decision to transfer five Regional Load Dispatch Centres to the Power Grid Corporation of India Ltd, NRLDC, New Delhi was transferred to Power Grid Corporation of India Ltd with effect from 31<sup>st</sup> December, 1995 and the personnel posted in RLDCs were absorbed with effect from the actual date of transfer of the respective RLDCs. The respondent was transferred from NRLDC (NREB) to Power Grid Corporation of India on 31<sup>st</sup> December, 1995 and an option was obtained from the respondent for pensionary benefits available to him under the Central Government Rules in force at the time of his retirement.

The respondent superannuated with effect from 30<sup>th</sup> April, 2007 and requested for release of pension and service gratuity which were denied to him on the ground that his services prior to his absorption were not computable for the purpose of ascertaining his entitlement for the pensionary benefit.

The Tribunal has relied on Union of India v. O.P.Sharma, 2002 (1)



CLR 1088 where a Division Bench had held that for claiming pro-rata pension it is nowhere stated that an employee should have rendered ten years of service as a permanent employee. In O.P.Sharma (supra) respondent No.1 had joined CPWD on 8<sup>th</sup> November, 1947 and had rendered approximately 14 years of service before his absorption in ONGC and he was declared quasi permanent with effect from 1<sup>st</sup> February, 1951. The Division Bench had also referred to DOPT's O.M dated 21<sup>st</sup> April, 1972 and had held that the rule does not distinguish between the Government servant absorbed in public interest and on his own application.

The learned counsel for the petitioner has not disputed that if the previous service of the respondent is taken into consideration, his service on attaining superannuation would be more than 10 years and he would be entitled for pro-rata pension. The respondent was transferred from NRLDC to Power Grid Corporation of India Ltd on permanent absorption basis and an option of the respondent for pensionary benefits available to him under the Central Government Pension scheme was also obtained. In the circumstances, the petitioners are not entitled to contend that the service prior to absorption is not to be taken into consideration for computing his service pension. The Petitioners therefore, cannot contend that the respondent did not have more than 10 years of service on superannuating. Consequently the respondent is entitled for pro-rata

pension on his attaining the age of superannuation and the judgment of the Tribunal cannot be faulted in the facts and circumstances. There are no grounds to interfere with the order of the Central Administrative Tribunal dated 21<sup>st</sup> April, 2009 in O.A No.1442/2008 and order dated 20<sup>th</sup> November, 2009 in C.P No.373/2009. The writ petition is without any merit and it is, therefore, dismissed.

**ANIL KUMAR, J.**

**JANUARY 27, 2010**

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**MOOL CHAND GARG, J.**