

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH**

OA No.1008/2016

Order Reserved on 14.07.2017

Pronounced on:25.08.2017

**Hon'ble Mr. K.N. Shrivastava, Member (A)**

Professor Shri U.C. Jindal,  
S/o late Shri Shyam Lal Jindal,  
R/o B-94 Sec.40, Noida (UP)-201303.

-Applicant

(By Advocate: Shri Sachin Chauhan)

**Versus**

1. Chief Secretary,  
Govt. of NCT of Delhi  
Delhi Secretariat,  
I.P. Estate, New Delhi.
2. Principal Secretary (Technical Education)  
Directorate of Training and Technical Education,  
Govt. of NCT, Muni Maya Ram Marg,  
Pritampura, Delhi.
3. Director,  
Delhi Technical University,  
(Formerly Delhi College of Engg.),  
Bawana Road, Rohini, Sec.16-17,  
Delhi.
4. The Pay & Accounts Officer,  
Govt. of NCT of Delhi,  
2 Level, C-Wing, Delhi Secretariat,  
I.P. Estate, New Delhi.

-Respondents

(By Advocate: Shri N.K. Singh)

**ORDER**

Through the medium of this Original Application, filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for the following main relief:

“1. The respondents may be directed to revise the pension amount of the applicant and fix it at Rs.27,350/- and or at least higher than Rs.24,295/- w.e.f. 01.01.2006 and the arrears be directed to be released with interest at the rate of 18% per annum with all consequential benefits.”

2. The factual matrix of this case is as under:

2.1 The applicant joined the Delhi College of Engineering (DCE), now known as Delhi Technological University (DTU)-respondent no.3, as a Lecturer in Mechanical Engineering Department, in September, 1965. He became Professor on 01.01.1984 and was made permanent Professor on 11.09.1989. He finally retired from the service of respondent no.3 on 31.12.2000 from the post of Professor (Mechanical Engineering). At the time of his retirement he was in the pay scale of Rs.14300-450-22400/- and accordingly was sanctioned pension of Rs.9400/- per month.

2.2 The Ministry of Human Resource Development (MHRD) vide notification dated 09.10.1998 placed the Professors of Universities in the pay scale of Rs.16400-22400, whose replacement scale under the 6<sup>th</sup> Central Pay Commission (CPC) became PB-4 [Rs.37400-67000] with Academic Grade Pay (AGP) of Rs.10,000/-.

2.3 The applicant had retired on 31.12.2000 itself from the post of Professor. He was not getting the pensionary benefits commensurate with the revised pay scale of Professor in terms of MHRD notification dated 09.10.1998.

2.4 The applicant requested the respondents for re-fixing his pension in terms of the revised pay scale of Professor prescribed by the MHRD through his letter dated 23.10.2000 which was followed by two reminders. As there was no action taken by the respondents on his representation, the applicant approached this Tribunal in OA-2707/2000, which was allowed vide order dated 05.04.2002 (Annexure A-1). The operative part of the order reads as under:

“The respondents are directed to treat the applicant as having become entitled for being placed in the higher pay scale of Rs.16400- to Rs.22,400- w.e.f. 1.1.96 as the University Teacher (Professor) with all consequential benefits of pay and arrears. Direction for this shall have to be issued by the respondents within two months from the date of receipt of a copy of this order.”

2.5 The order of the Tribunal dated 05.04.2002 in OA-2707/2000 was implemented by the respondents and accordingly applicant's pension was fixed at Rs.10,000/- per month, considering his basic pay as Rs.20,000/- in the Professor's pay scale of Rs.16400-22400/- togetherwith eight increments that he had earned, i.e.,  $Rs.16400+Rs.3600=Rs.20,000/-$ .

2.6 The GNCTD acting on the notification dated 09.10.1998 of MHRD and AICTE notification dated 15.03.2000, with the approval of its Cabinet, decided to implement the new pay scales prescribed

by AICTE for the teaching faculty of engineering colleges. Accordingly, DTTE (respondent no.3) issued Annexure A-2 office order dated 11.12.2003 whereby the pay scale of Professor of DCE became Rs.16400-22400.

2.7 With the implementation of the 6<sup>th</sup> CPC recommendations vide Central Government order dated 01.09.2008 w.e.f. 01.01.2006, the pay scale of Professor from Rs.16400-22400 was revised to PB-4 Rs.37400-67000+AGP Rs.10,000/-.

2.8 The respondent no.2 acting on a communication dated 01.07.2010 of MHRD, with the approval of the competent authority in GNCTD, implemented the Pension Scheme for the pre-2006 pensioners/family pensioners for teaching faculty and other staff of universities and colleges under it. Accordingly, office order dated 28.12.2015 (pages 28-29) came to be issued as per which the retired Professors were allowed minimum pension at Rs.23,700/- p.m..

2.9 The applicant has also been granted the revised pension of Rs.23,700/-. His claim is that in terms of Department of Pension and Pensioners' Welfare (DPPW) of the Central Government OM dated 28.01.2013 and the fitment table provided therewith, the minimum of basic pay to be considered, in his case for fixation of his pension, comes to Rs.54700/- and accordingly @50% of it, he is entitled for getting pension @ Rs.27,350/- per month. As this

claim has not been considered by the respondents, the applicant has filed the present OA, praying for the relief as indicated hereinabove.

3. Pursuant to the notices issued, the respondents entered appearance. A common reply has been filed by the respondents no.1, 2 & 4. The respondent no.3, however, has filed a separate reply. Respondents 1,2 & 4 in their reply have broadly made the following averments:

i) The applicant retired on 31.12.2000 on attaining the age of superannuation of 60 years, from the post of Professor in the pay scale of Rs.14300-22400. Accordingly his pension was fixed at Rs.9400/-. This Hon'ble Tribunal's order dated 05.04.2002 in OA No.2707/2000 filed by the applicant (Annexure A-1) was implemented by the respondents and accordingly his pay was fixed, for the purpose of grant of pension, at Rs.20,000/- per month (page 63) and he was sanctioned pension @ Rs.10,000/- per month (page 64).

ii) Pursuant to the implementation of the 6<sup>th</sup> CPC recommendations, the pay scale of Rs.16400-22400 of Professor was replaced by a new pay scale, i.e., PB-4 Rs.37400-67000+AGP Rs.10,000/-. In terms of the office order dated 28.12.2015, the minimum pension of pre-2006 Professor-retirees was fixed at Rs.23,700/- and the same has been given to the applicant.

Hence, the applicant's claim for grant of higher pension of Rs.27,300/- is not justified.

4. The respondent no.3 in its reply has stated that the erstwhile DCE has now become DTU and that no notification has yet been issued by the Government to bring DTU under the jurisdiction of this Hon'ble Tribunal. Thus, it is stated that this OA is liable for dismissal on the ground of lack of jurisdiction of this Tribunal.

4.1 On the merit aspect, the respondent no.3 has also, by and large, stated the same things which have been stated by the other respondents in their common reply.

5. Arguments of learned counsel for the parties were heard on 03.07.2017 and 14.07.2017.

6. Shri Sachin Chauhan, learned counsel for the applicant submitted that respondents vide office order dated 28.12.2015 (Annexure-1 of MA) have revised the pension of the pre-2006 pensioners on the basis of the letter dated 01.07.2010 of MHRD. The DCE, now DTU, is one of the AICTE approved colleges of GNCTD and thus respondent no.2 office order dated 28.02.2015 became applicable to DCE as well. He said that the Central Government revised pension of pre-2006 pensioners in terms of OM dated 28.01.2013. He further submitted that the Department of Expenditure, Ministry of Finance vide OM dated 30.08.2008 (Annexure A-4 of MA), to facilitate the implementation of 6<sup>th</sup> CPC

recommendations for fixation of pay and payment of arrears, have issued certain instructions and have also enclosed a fitment table with it. He further stated that the MHRD vide its letter dated 04.06.2009, addressed to UGC (Annexure A-6 of the MA) has also prescribed fitment tables for revision pension of teachers and equivalent cadres in universities and colleges. He thus argued that the applicant's pension is required to be fixed in terms of the fitment table provided in the MHRD letter dated 04.06.2009.

7. Shri N.K. Singh, learned counsel for the respondents on the other hand submitted that the respondents have already implemented the Government of India's instructions in respect of revision of pension of pre-2006 pensioners vide order dated 2.12.2015, according to which the minimum pension payable to a retired Professor is Rs.23700/-, which has already been granted to the applicant. He thus argued that the applicant's claim for higher pension is not justified.

8. I have considered the rival arguments of the parties. Admittedly, the applicant had retired from the post of Professor in DCE on 31.12.2000. He was then in the pay scale of Rs.14300-22400/-. Accordingly, his pension was fixed at Rs.9400/-. The pay scale of Professor subsequently was revised to Rs.16400-22400/- vide order dated 11.12.2003 of respondent no.3. The applicant, however, was given the benefit of the revised pay scale in the matter

of fixation of his pension at Rs.10,000/- per month in compliance with the Tribunal's order dated 05.04.2002 in OA No.2707/2009 filed by the applicant. Hence, it can be construed that the revised pay scale of Professor of Rs.16400-22400/- (5<sup>th</sup> CPC) had become applicable to the applicant for his pensionary benefits.

9. Following the implementation of the 6<sup>th</sup> CPC recommendations, the pay scale for the post of Professor was revised from Rs.16400-22400 to PB-IV (Rs.37400-67000)+AGP Rs.10,000/-. In accordance with DPPW's OM dated 28.01.2013 on the subject of revision of pension of pre-2006 pensioners, the minimum pension payable to a pre-2006 Professor-retiree became Rs.23700/-. Accordingly, the applicant has been granted pension of Rs.23700/- per month.

10. It is pertinent to note that MHRD in its letter dated 04.06.2009, addressed to UGC, has provided fitment tables for fixation of pension of teachers and equivalent cadres in the universities and colleges. In the table 5, it has described the revised basic pay for Professors who would have retired holding different basic pay in the same pay scale. This table indicates that it is applicable to Professors who were in the pre-revised pay scale of Rs.16400-22400 (5<sup>th</sup> CPC) for which the replacement scale under the 6<sup>th</sup> CPC became PB-4 Rs.37400-67000/-+AGP Rs.10,000/-. The minimum basic pay of Rs.37400/- is revised to Rs.50,890/-

comprising of Rs.40,890 as pay in the pay band+AGP Rs.10,000/-. Thus, as per this table, the minimum pension payable to a Professor becomes Rs.25,445/-. Hence, it would be just and equitable that the benefit of this fitment table is allowed to the applicant. Pertinent to mention that the letter dated 04.06.2009 of MHRD to UGC clearly states that the fitment tables enclosed with the *ibid* letter are indeed authenticated ones.

11. Indisputably, DCE, now called DTU, was an institution of GNCTD. Hence the Tribunal has jurisdiction to adjudicate this O.A. The National Capital Territory of Delhi is a Union Territory and all the laws and rules relating to service matters, as applicable to the employees of the Central Government and its entities are also applicable to the employees of GNCTD and its entities. The letter dated 04.06.2009 of MHRD to UGC is not only applicable to the universities and colleges directly controlled by the Central Government but is also equally applicable to the universities and colleges of GNCTD. Hence, the equality principle enshrined in Article 14 of the Constitution and as interpreted by the Hon'ble Supreme Court in its various judgments comes in play. The Hon'ble Supreme Court in its landmark judgment in the case of **D.S. Nakara & Others v. Union of India**, [AIR 1983 SC 130], wherein its earlier judgments on the principle of equality have also been considered, has held as under:

“HELD: [Article 14](#) strikes at arbitrariness in State action and ensures fairness and equality of treatment. It is attracted where equals are treated differently without any reasonable basis. The principle underlying the guarantee is that all persons similarly circumstanced shall be treated alike both in privileges conferred and liabilities imposed. Equal laws would have to be applied to all in the same situation and there should be no discrimination between one person and another if as regards the subject-matter of the legislation their position is substantially the same.

[Article 14](#) forbids class legislation but permits reasonable classification for the purpose of legislation. The classification must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from those that are left out of the group and that differentia must have a rational nexus to the object sought to be achieved by the statute in question. In other words, there ought to be causal connection between the basis of classification and the object of the statute. The doctrine of classification was evolved by the Court for the purpose of sustaining a legislation or State action designed to help weaker sections of the society. Legislative and executive action may accordingly be sustained by the court if the State satisfies the twin tests of reasonable classification and the rational principle correlated to the object sought to be achieved. A discriminatory action is liable to be struck down unless it can be shown by the Government that the departure was not arbitrary but was based on some valid principle which in itself was not irrational, unreasonable or discriminatory.”

As discussed in the foregoing paras, DCE/DTU as well as central universities/colleges are all on the same footing and thus following the principle of equality it would be prudent to conclude that the fitment tables mentioned in MHRD letter dated 04.06.2009 are also applicable to the teachers and equivalent cadres of DCE/DTU.

12. In the conspectus of the discussions in the foregoing paras, the respondents are directed to grant pension of Rs.25,445/- to the applicant in terms of the fitment table prescribed by the MHRD in its letter dated 04.06.2009 to UGC. This shall be done within a period of three months from the date of receipt of a copy of this

order. It is further clarified that the applicant would be entitled for consequential arrears of pension. He, however, would not be entitled for any interest on the arrears of pension.

13. In terms of the above direction, the OA stands disposed of.

14. No order as to costs.

***(K.N. Shrivastava)***  
***Member (A)***

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