

No. 4(110)07/D(Pen/Legal)
Ministry of Defence
Department of Ex-Servicemen Welfare
Sena Bhawan, New Delhi

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Dated : 15th July 2009

To

The Chief of Army Staff
✓ The Chief of Naval Staff
The Chief of Air Staff

**Subject: Implementation of Supreme Court judgement dated 9/9/2008
in SLP No. 12357/2006 filed by UOI Vs Maj Gen SPS Vains
(Retd) & others.**

Sir,

The undersigned is directed to refer to the aforesaid judgement,
the operative portion of which is as under :

"The pay of all pensioners in the rank of Major General and its equivalent in rank in the two other Wings of the Defence Services be notionally fixed at the rate given to the similar officers of the same rank after the revision of pay scales with effect from 1.1.96, and, thereafter, to compute their pensionary benefits on such basis with prospective effect from the date of filing of the Writ Petition and to pay them the difference within three months from date with interest at 10% per annum".

2. The modalities for implementation of the above judgement have been under active consideration of the Government. The President is pleased to decide that in partial modification of this Ministry's letters No. 1 (2)/97/D(Pens/Sers) dated 24.11.1997, No. 1 (3)/98/D (Pens/Sers) dated 27.5.1998 and No. 1 (1)/99/D (Pen/Sers) dated 7.6.1999 so far as they relate to Pre 1.1.1996 retired Major Generals in the Army and its equivalent in Navy and Air Force and who were in receipt of Retiring/Invalid Pension/Service element of Disability pension/Service

Contd 2/-

element of war injury pension as on 1.1.1996, the pension of pre 1.1.1996 retired Maj. Generals and equivalent in Navy and Air Force will be recomputed as under :

- (i) In the case of Maj. Gen. in Army and its equivalent in Navy and Air Force who retired prior to 1.1.1986, the notional pay fixed as on 1.1.1986 under Para 6 of this Ministry's letter No. 1 (3)/98/D (Pen/Sers) dated 27.5.1998, will be the basis for further notional fixation of their pay as on 1.1.1996 (without, however, any benefit of notional increment) at the rate given to similar officers of the same rank after the revision of pay scales with effect from 1.1.1996 under SAI 2/S/1998 and corresponding instructions for equivalent ranks in Navy and Air Force.
- (ii) In the case of Maj. Generals in the Army and its equivalent in Navy and Air Force who retired during 1.1.1986 and 31.12.1995, the pay last drawn at the time of retirement/invalidment including stagnation increments drawn, if any, (without, however, any benefit of notional increments) will be adopted for notional fixation of their pay at the rate given to the similar officers of the same rank after the revision of pay scales with effect from 1.1.1996 under above mentioned Services Instructions.
- (iii) The pension of the retirees in the above category will be notionally recomputed on the basis of pay notionally fixed as at (i) & (ii) above with effect from 1.1.1996 under Govt. order in force as on that date with reference to the qualifying service already admitted and the difference in the amount of pension already drawn and the one becoming due on account of recomputation of their pension as above with effect from October 2001 will be allowed with interest @ 10% per annum till the date of payment of arrears.

3. All pre 1.1.1996 retiree Maj. Generals and equivalent in Navy & Air Force who were in receipt of pension as on October 2001 are required to apply for revision of his/her pension in terms of these orders in the prescribed form as per Annexure I to this letter to his Pension Disbursing

Agencies (PDA) immediately but latest within one month from the date of issue of this letter. It will be in the interest of the pensioner to furnish full details available with him, which may facilitate fixation of his/her pay on notional basis in the application submitted by him/her. Affected pensioners not applying within the stipulated period will not be entitled to interest @ 10 % per annum for the period by which submission of application beyond the stipulated period is delayed.

4. In case where the pensioner was alive as on October 2001 and died subsequently, his legal heir(s) is/are also entitled to lifetime arrears with effect from October 2001 till the date of death of pensioner. For this purpose legal heir(s) may also apply to Pension Disbursing Agencies concerned.

5. On receipt of applications from the pensioners, the PDAs will pass on the applications, after verifying relevant entries, to the CDA (O) Pune in case of Maj. Generals, Navy Pay Office Mumbai in the case of Rear Admiral and AFCAO New Delhi in the case of Air Vice Marshal within a period of 15 days from the date of receipt of application under intimation to the applicant. The complete address of the Pay Account Offices for Army, Navy and Air Force is given in Annexure-III to this letter.

6. Pay Account Offices viz CDA (O)/NPO/AFCAO will be responsible for fixation of pay on notional basis as above and verifying the QS at the earliest and pass on one copy of the application received from the applicants along with letters of intimation of notional pay as on 1.1.1996 as per Annexure -II to this letter to Pension Sanctioning Authority Viz. PCDA (P) Allahabad, in the case of Maj. Generals of Army, PCDA (Navy) Mumbai in the case of Rear Admiral and Jt.CDA (AF) Subroto Park, Delhi Cantt in case of Air Vice Marshal, Air Force, within a period of 30 days from the date of receipt of application duly verified from the PDAs. However, such applications together with notional pay details in respect of Naval/Air Force officer of said rank who retired before 1.1.1985 shall be forwarded to PCDA (P) Allahabad.

7. Pension Sanctioning Authorities (PSAs) concerned, on receipt of letter of intimation of notional pay from the PAO will re-compute pension under these orders and notify revised pensionary entitlements with effect

from October 2001. The PSAs while notifying the pensionary entitlements on their Corr. PPOs will also indicate the notional pay taken for computation of pension together with qualifying service in respect of all pre 1.1.1996 retirees in the above mentioned category of Commissioned officers in the Corr. PPO. The Corr. PPOs will be issued to Pension Disbursing Agencies (PDAs) within a period of 30 days from the date of receipt of application along with notional pay details from the PAOs under intimation to the pensioner and respective Service HQrs.

8. No arrears on account of revision of pension on notional fixation of pay will be admissible for the period prior to October 2001.

9. No commutation will be admissible for the additional amount of pension accruing as a result of the revision. The existing commuted portion of pension, if any, would continue to be deducted from the revised pension while making monthly disbursements.

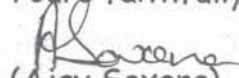
10. Notional fixation of pay as on 1.1.1996 will not affect DCR-Gratuity entitlement already determined and paid with reference to rules in force at the time of retirement / invalidment / death of the Armed Forces Officer.

11. As 10% interest is payable till the date of payment of arrears, concerted efforts should be made by all concerned authorities to ensure adherence to the time schedule set out above. The PDAs concerned will communicate the total amount of arrears and the interest paid thereon to PSAs concerned. The PSAs will thereafter initiate the action to obtain ex-post-facto sanction of the Govt. for charged expenditure on the amount of arrears and interest so paid. The PSAs will avoid submission of piecemeal proposals in this regard to the Ministry.

12. This issues with the concurrence of Finance Division of this Ministry vide their UO No 2895/SDF dated 15/7/09.

Hindi version will follow.

Yours faithfully


(Ajay Saxena)

Under Secretary to the Govt of India