

F.No.38/37/08-P&PW(A)
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Pension & Pensioners' Welfare
Lok Nayak Bhawan, New Delhi-110003

3rd Floor, Lok Nayak Bhawan
Khan Market, New Delhi-110003

Dated the 12th May, 2009.

OFFICE MEMORANDUM

Subject:- Representations regarding.

The undersigned is directed to say that in accordance with the instructions contained in this Department's O.M. No. 38/37/08-P&PW(A) dated 2.9.2008 as clarified vide O.M. dated 11.12.2008, those Government servants, who retired during 1.1.2006 to 1.9.2008 after completion of 33 years of qualifying service, will be eligible for full pension (i.e. 50% of the emoluments (pay last drawn) or 50% of average emoluments received during the last 10 months, whichever is more beneficial to the retiring employee) and the pension of those Government servants, who retired before 2.9.2008 with qualifying service of less than 33 years, will continue to be proportionate to the full pension based on their actual qualifying service.

2. A large number of representations/references are being received in this Department mentioning that the above provisions are not in accordance with the law laid down by the Apex Court and are in violation of Article 14 of the Constitution. It has been suggested in these representations that the provision regarding payment of full pension on completion of 20 years' qualifying service may be made applicable to the Government employees who retired before 2.9.2008 also.

3. These representations/references have been examined in consultation with Ministry of Finance and Ministry of Law. The instructions/clarifications issued in this regard are in consonance with the decision of the Government on the recommendations of the Sixth Central Pay Commission. The Government by accepting various recommendations of the Sixth Pay Commission took a policy decision to implement them from different dates. The Government decided to implement the above recommendations regarding pension from 2.9.2008 without dividing a single homogenous class of pensioners into two groups and subjecting them to different treatment. In view of the above and also in the light of the various decisions of the Hon'ble Supreme Court allowing the employer to fix a cut off date for introducing any new pension/retirement scheme or for discontinuance of any existing scheme, the decision of the Government in para 1 above is in accordance with the law laid down by the Apex Court and there is no violation of Article 14 of the Constitution.

4. In view of the above, no change is required to be made in the instructions already issued in this regard.

5. All references/representations received in this Department on the above issue stand disposed off accordingly.



(M.P. Singh)
Director (PP)
Telefax No.24624802

To

1. All Ministries/Departments of Government of India
2. All Pensioners' Association

Please visit: <http://pensionersportal.gov.in>