

**FORM NO – 4**

**(SEE RULE 11 (1))**

**IN THE ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOLKATA**

**ORDER SHEET**

**APPLICATION No : O A 48/2011**

APPLICANT (S)	Gulam Murshed
RESPONDENT (S)	<u>OIC, EME Recors (EME Centre) Secunderabad &amp; 3 Ors</u>
Legal Practitioner of applicant	Legal Practitioner for Respondent (s)
Mr. Subhash Chandra Hazra	Mr. S.K.Bhattacharyya (Res. 1 & 4)/Ms. Swapnalekha Auddy (res. 2 & 3)

NOTES OF THE REGISTRY	<b><u>ORDERS OF THE TRIBUNAL</u></b> Order Sl. No. : <u>19</u> Dated : <u>10.07.2014</u>
	<p>Mr. Subhash Chandra Hazra, Id. adv. is present for the applicant. Mr. S.K.Bhattacharyya, Id. adv. appears on behalf of Govt. respondents 1 and 4 while Ms. Swapnalekha Auddy, Id. adv. appears on behalf of SBI- respondents 2 and 3. As per our earlier directions, representatives from PCDA(P) as also from SBI respondents are also present. The application is taken up for hearing. Heard Id. advocates for the parties including the officers present.</p> <p>2. The applicant, who has retired as Havildar from the Corps of EME of Indian Army and drawing pension from SBI, Salar Branch (respondent NO. 3), has filed this OA being aggrieved by short payment of pension (both service pension and disability pension) with effect from 1-1-2006 consequent on 6<sup>th</sup> Central Pay Commission award and arrears accrued thereon. The applicant was enrolled in the Army Corps of EME on 13-3-1979 and retired on 31-3-1998 from the post of Havilder on being placed in Low Medical Category. He was granted service pension</p>

as also disability pension on account of his disablement. He was issued with PPO No.S/013896/98 for service pension which was revised as per Corrigendum PPO No.S/Corr/119739/98. He was also granted disability pension vide PPO No.DE/2883/2005 for 50% disability for life. He was drawing pension from State Bank of India, Salar Branch, District Murshidabad vide Pension A/c No. 11319438307.

3. Consequent on 6<sup>th</sup> CPC award, which came into effect from 1/1/2006, the pension of all Government pensioners was revised as per relevant Government orders (Annexure P-2). Accordingly, the pension of the applicant was also revised as per intimation received from EME Record and necessary instruction was issued to the State Bank in February, 2010. The grievance of the applicant is that he was not paid by the said SBI, appropriate amount to which he was entitled to as per the 6<sup>th</sup> CPC award. In spite of his representations and personal liaison, the Bank did not take any action to pay him the entitled amount of pension, which according to him should be as indicated in para 4.9 of the application. Being aggrieved, he has filed this OA praying for a direction upon the respondents to revise his pension, (both service and disability) with arrears with effect from 1-1-2006.

4. The respondent Nos. 1 and 4, i.e. the EME Records and CDA (Pension) Allahabad have filed a counter affidavit as per which they are the Pension Payment Authority, whereas the Bank is the Pension Disbursing Authority. After the revision of pension based on 6<sup>th</sup> CPC, necessary instruction was given to the payee bank for payment of revised pension and revised disability pension. According to them the Bank is responsible for the actual payment to the applicant of the pension and the CDA has no further role after issuance of necessary instruction to the disbursing bank for making necessary calculation and payment

to the pensioner.

5. The respondent Nos 2 and 3, i.e. SBI have also filed a written reply wherein it is stated that they have acted according to the instruction of the PCDA and paid all the dues as per Government Orders.

6. The matter has been pending for a long time although the dispute involved is very simple. The only controversy that is raised by the applicant is with regard to his entitlement of service pension and disability pension that would accrue consequent on the 6<sup>th</sup> CPC award effective with effect from 1-1-2006. It is unfortunate that due to one reason or the other the matter could not be settled earlier. However, as per our earlier order, today apart from the learned advocates for the parties, Mr. Ranjan Kumar, Accounts Officer and Mr. V. Omar, Sr. Auditor from PCDA are present. Similarly, Mr. Biswanath Das, Asst. Manager and Mr. Amiya Kumar Moitra, Manager, SBI CPPC, Kolkata are also present.

7. As per our direction both sides have produced before us the Calculations Sheets as regards entitlement of pension to the applicant from January 2006 till June, 2014. We have carefully gone through the same. We find that so far as the calculation sheet as submitted by the PCDA, a copy of which has also been served on the Bank Officers present in Court as also the calculation sheet as produced by the Bank Authorities for the said period. We find that there is discrepancy in respect of payment of pension for the period from January 2006 till June 2010. Subsequent thereto however, there is no discrepancy between the calculations made by the PCDA and the Bank Authorities. On behalf of the respondents 1 and 4, a copy of the letter dated 12-6-2014 addressed to the SBI regarding payment

of pension in respect of the present applicant has also been produced. It has been clearly stated therein that instructions were issued to the Bank as per circular dated 18-11-2008 for revision of pension of the applicant to Rs4434/- per month till 30-6-2009, whereafter the same was to be enhanced to Rs5470/- . The said amount was further enhanced to Rs6223/- per month with effect from 24-9-2012. In addition, the applicant was also entitled to 50% disability pension amounting to Rs.1755/- per month with effect from 1-1-2006 for life, that apart Dearness Relief as admissible on the Service Pension as well as disability element at the rate prescribed from time to time is also to be paid. The detailed calculation sheet was also annexed to that letter with table of admissible amount. On a comparison of the two calculation sheets mentioned above, we find that the Bank has paid only@ Rs 2941/- as basic pension with effect from 1-1-2006 as a result of which total pension as would be admissible after adding Dearness Relief etc. was paid less to the applicant. It is also seen that for the aforesaid period from January 2006 to June 2014 total amount of pension paid to the applicant as per Bank calculation is Rs 9,01,420/-, whereas as per the calculation of PCDA he was entitled to receive Rs 9,64,112/-. However, from the statement enclosed by the Bank it appears that they have paid arrears on different dates amounting to Rs.71147/- and therefore according to them there was excess payment of pension of Rs 8458/-.

8. Having heard the learned counsel for the parties and having gone through the documents and calculation sheets as produced by the parties, we find that the controversy raised in this OA centres round only regarding payment of revised service pension and disability pension as per 6<sup>th</sup> CPC award. From the calculation sheets as produced by both sides, we find that even

though for certain period the bank paid less to the applicant but according to them they also paid arrears which resulted in excess payment than admissible to the applicant. It has been clarified by the Bank officers present in Court that normally sanction orders are received late and there may be some delay in upgrading the computer programming which may result in delayed payment, but all efforts are made by the Bank to make payment promptly through computerised calculation process. However, consequent upon Court Orders or due to other reason if the pension is revised, the said calculation is done manually and payment is made as early as possible. From the side the PCDA the AO has submitted that they being pension payment authority, they issue necessary Government orders enhancing pension or Dearness Relief etc. promptly to all disbursing Banks including SBI. It is for the disbursing bank to make necessary calculation and make payment according to the said instruction. If they have defaulted it is for them to explain.

9. However, we do not intend to go into such controversy and blame game. The fact remains that due to such shifting of responsibility from one department to the other, only the pensioners suffer. We also observe that PCDA being the Pension payment authority, their duty does not end only by forwarding the Government instructions to the Bank Authorities for enhancement or revision of pension or Dearness Relief etc. As the Government authority in this regard, they have to keep a close watch and monitor as to whether payment has actually been made to the pensioners by the concerned Banks and for such monitoring they should issue periodical reminders to the Banks to know if the Government instructions on the subject have been implemented and payment made to the pensioners. Similarly, on receipt of such instructions, it is also the duty of the

Disbursing Banks to update their computer programming process urgently so that payment could be made with least possible delay and they should also intimate the pension payment authorities periodically that they have paid the amount. Such interaction between the pension payment authority and pension disbursing authority will cut short unnecessary and avoidable delay which will be beneficial to all pensioners. It is to be borne in mind that for a pensioner pension amount is the only resource to him to maintain himself and his family and also to meet medical expenses etc. If he gets less amount of pension than what he is entitled to it, certainly affects him badly in these hard days.

10. Considering all aspects of the matter we dispose of this OA by issuing the following directions :

a) The PCDA authority will immediately handover copies of the Government instructions and other documents sent to the Bank authorities for enhancement of pension in respect of the applicant through their counsel . On receipt of the same the Bank will review and recalculate the amount of pension admissible to the applicant and if any shortfall is detected, the same should be paid to the applicant accordingly. The applicant shall also verify the payments received by him through his pass book. For the purpose, the revised pension, as fixed by the PCDA and reflected in their calculation sheet, should be taken as correct. This order be carried out within 60 days from this date. In default the bank will be liable to pay the interest @ 9% per annum on the outstanding amount.

b) The PCDA, i.e. the Respondent NO.4 is directed

to evolve an appropriate mechanism so that they may make periodical correspondence with all disbursing banks including SBI to monitor implementation of the Government order.

c) Similarly, all disbursing banks and in this case SBI should also be directed by the PCDA(P) (Pension Paying Authority) to keep proper vigil and to take prompt action for updating their computer programming whenever any Government instruction or court order is received regarding revision of pension etc. so that such type of grievance is not raised.

d) No costs.

11. Let a plain copy of the order duly countersigned by the Tribunal Officer be furnished to all sides on observance of due formalities.

(LT. GEN K.P.D.SAMANTA)  
MEMBER(A)

(JUSTICE RAGHUNATH RAY)  
MEMBER(J)