Subject:- Restoration of 1/3rd commuted portion of pension in respect of Government servants who had
drawn lumpsum payment on absorption in public sector undertakings/autonomous bodies –
implementation of Andhra Pradesh High Court judgement dated 24.12.03 in Writ Petition No.
8532 of 2003 followed by the Supreme Court Judgement dated 29.11.06 in Civil Appeal No.
5269 of 2006 arising out of SLP Nos. 21647-648 of 2005 and the Supreme Court Judgment
dated 24.7.07 in Review Petition No. 643 of 07.

The undersigned is directed to say that the Government servants who had drawn lump sum
payment in respect of pro-rata pension (1/3rd as well as 2/3rd) on absorption in a PSU/Autonomous Body
and have become entitled to restoration of 1/3rd commuted portion of pension as per the provisions of this
Department’s O.M. No. 34/2/86-P&PW dated 5th March 87 after 15 years from the date of commutation or
1.4.85 whichever is later, are regulated vide this Department O.M. No. 4/59/97-P&PW(D) dated 14th July
1998 as clarified from time to time.

2. Andhra Pradesh High Court in its judgement dated 24.12.03 in Writ Petition No. 8532 of 2003
followed by the Supreme Court Judgement dated 29.11.06 in Civil Appeal No. 5269 of 2006 arising out of
SLP Nos. 21647-648 of 2005 and the Supreme Court Judgment dated 24.7.07 in Review Petition No. 643
of 07 has decided as under:-

“……….the public sector undertaking absorbees are also entitled for dearness relief etc. but not
on entire pension commuted as on the date of retirement. Moreover they received lumpsum
amount by way of terminal benefits on surrendering on 2/3rd pension. In that way, they have
already parted with 2/3rd pension, it cannot be said to revive after 15 years. But, in case of
Central government pensioners 2/3rd pension was continued to be received by them. Therefore,
what is restored is 1/3rd pension which means full pension. But the same principle cannot be
applied to say that the absoree will get full pension after 15 years in case those who had
commuted 1/3rd pension and received terminal benefits for 2/3rd pension had he not surrendered,
he continue to receive 2/3rd pension, the same principle apply as in case of Central Government
employee. But having received the cash compensation in respect of the surrender value of 2/3rd,
he cannot be allowed to say that he is also a pensioner as far as 2/3rd pension is concerned.
Such absorbee stand on a different footing and they fall in a different class by themselves on this
issue. Under those circumstances, the inescapable conclusion is that 1/3rd pension has to be
arrived at only on the basis of the basic pension divided by three after completion of 15 years
which becomes drawable as on the date of respective dates and not to be arrived by deducting
Rs. 403/- from the pension. Therefore, the petitioner will be entitled to as follows:-

Restorable Pension:
From 28.06.87 to 31.12.1995
Basic Pension (604/1/3rd ) Rs. 201/-
Rs. 538/- Dearness Relief
Rs. 125/- Additional Benefits:
Total Rs. 864/-

From 01.01.96 onwards (5th Pay Commission)
1/3rd of Basic Pension(1,350/ 1/3rd ) Rs. 450/-
Rs. 185/- Interim Relief
Rs. 1,998/- Dearness Relief
Rs. 540/- Fitment

Total Rs. 3,173/-

In this case the employee had commuted minimum permissible pension i.e. 1/3rd. But, even if lesser portion is commuted, the pro-rata commuted portion has to be deducted from the basic pension to arrive at restorable pension, but however, he will get dearness relief, interim relief etc. on full basic pension

3. The modalities of implementation of above judgement have been under active consideration of the Government. The President is pleased to decide that in partial modification of this Department’s O.M. No. 4/59/97-P&PW (D) dated 14th July 1998, the Government servants who had drawn lump sum payment in respect of pro-rata pension (1/3rd as well as 2/3rd) on absorption in a PSU/Autonomous Body and have become entitled to restoration of 1/3rd commuted portion of pension as per the provisions of this Department’s O.M. No. 34/2/86-P&PW dated 5th March 87 after 15 years from the date of commutation or 1.4.85 whichever is later, shall be entitled to the benefit of revision of restored amount of 1/3rd commuted portion of pension as explained hereunder:-

(I) As on 01.01.1986

(a) (a) The full pension of the absorbees shall be notionally revised w.e.f. 1.1986 based on full pension on absorption in accordance with the instructions for revision of pension, issued for implementing the 4th Pay Commission Recommendations.

(b) (b) The restorable 1/3rd pension shall be the sum of the following:-

II. Dearness Relief on full pension as on 31.12.1985.
III. Additional benefits on full pension as per this Department OM No. 2/1/87- PIC dated 16.4.1987 relating to implementation of the 4th Pay Commission Recommendations.

(II) As on 01.01.1996

(a) (a) The full pension of the absorbees shall be notionally revised w.e.f. 1.1.1996 based on full pension as on 31.12.95 in accordance with the instructions for revision of pension, issued for implementing the 5th Pay Commission Recommendations

(b) (b) The restorable 1/3rd pension shall be the sum of the following:-

II. Dearness Relief on full pension as on 31.12.1995.
III. IR-I and IR-II
IV. Fitment @ 40% of the full pension as on 31.12.1995*

(* in terms of this Deptt. OM No.45/86/07-P&PW(A)-pt,II Dated 27.10.1997)

4. Payment of DR shall be on full pension and is subject to the condition that the absorbed employee was not re-employed/employed under the Central Government or State Government or a Corporation/Company/Body/Bank under them in India or abroad, including permanent absorption in such Corporation/Company/Body/Bank at the time of restoration.

5. The benefit of revision of restored amount of 1/3rd commuted portion of pension shall be admissible from the date the commuted portion of pension is restored.

7. Hindi version will follow.

Sd/-

(Amitabh Dwivedi)

Under Secretary to the government of India

To

All Ministries/Departments of the Government of India