

**No.4/79/2006-P&PW (D)**  
**Government of India**  
**Ministry of Personnel, Public Grievances & Pensions**  
**(Department of Pension & Pensioners' Welfare)**

3<sup>rd</sup> Floor, Lok Nayak Bhawan  
New Delhi-110 003, Dated the 6<sup>th</sup> September, 2007

**OFFICE MEMORANDUM**

Subject:- Restoration of 1/3<sup>rd</sup> 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 (1/3<sup>rd</sup> as well as 2/3<sup>rd</sup>) on absorption in a PSU/Autonomous Body and have become entitled to restoration of 1/3<sup>rd</sup> commuted portion of pension as per the provisions of this Department's O.M. No. 34/2/86-P&PW dated 5<sup>th</sup> 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 14<sup>th</sup> 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 2/3<sup>rd</sup> pension. In that way, they have already parted with 2/3<sup>rd</sup> pension, it cannot be said to revive after 15 years. But, in case of Central government pensioners 2/3<sup>rd</sup> pension was continued to be received by them. Therefore, what is restored is 1/3<sup>rd</sup> pension which means full pension. But the same principle cannot be applied to say that the absorbee will get full pension after 15 years in case those who had commuted 1/3<sup>rd</sup> pension and received terminal benefits for 2/3<sup>rd</sup> pension had he not surrendered, he continue to receive 2/3<sup>rd</sup> 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 2/3<sup>rd</sup>, he cannot be allowed to say that he is also a pensioner as far as 2/3<sup>rd</sup> 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 1/3<sup>rd</sup> 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 (604/1/3<sup>rd</sup>)*

*Rs. 201/-*

*Rs. 538/- Dearness Relief*

*Rs. 125/- Additional Benefits:*

*Rs. 864/-*

*Total*

*From 01.01.96 onwards (5<sup>th</sup> Pay Commission)*

*1/3<sup>rd</sup> of Basic Pension(1,350/ 1/3<sup>rd</sup>)*

*Rs. 450/-*

*Rs. 185/- Interim Relief*

	Rs. 1,998/- Dearness Relief
	Rs. 540/- Fitment
<b>Total</b>	<b>Rs. 3,173/-</b>

*In this case the employee had commuted minimum permissible pension i.e. 1/3<sup>rd</sup>. 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 14<sup>th</sup> July 1998, the Government servants who had drawn lump sum payment in respect of pro-rata pension (1/3<sup>rd</sup> as well as 2/3<sup>rd</sup>) on absorption in a PSU/Autonomous Body and have become entitled to restoration of 1/3<sup>rd</sup> commuted portion of pension as per the provisions of this Department's O.M. No. 34/2/86-P&PW dated 5<sup>th</sup> 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 1/3<sup>rd</sup> 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 4<sup>th</sup> Pay Commission Recommendations.

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

- |      |  |
|------|--|
| I.   | I. 1/3 <sup>rd</sup> of full pension as on 31.12.1985.   |
| II.  | II. Dearness Relief on full pension as on 31.12.1985.  |
| III. | 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 4 <sup>th</sup> 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 5<sup>th</sup> Pay Commission Recommendations

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

- |      |   |
|------|---|
| I.   | I. 1/3 <sup>rd</sup> of full pension as on 31.12.1995.  |
| II.  | II. Dearness Relief on full pension as on 31.12.1995.   |
| III. | III. IR-I and IR-II                                     |
| IV.  | 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 1/3<sup>rd</sup> commuted portion of pension shall be admissible from the date the commuted portion of pension is restored.

6. This issues with the concurrence of Ministry of Law vide their UO No. 11088/07-A dated 17.8.2007 and Ministry of Finance (Department of Expenditure) vide their UO No. C-47/E.V./2007 dated 27.8.2007.

7. Hindi version will follow.

Sd/-

(Amitabh Dwivedi)

Under Secretary to the government of India

To

All Ministries/Departments of the Government of India