

C. B. I. No. 213 Vol. XVIII

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COMMITTEE ON PETITIONS

(FIFTH LOK SABHA)

EIGHTEENTH REPORT



[Presented to Lok Sabha on the 9th August, 1974]

LOK SABHA SECRETARIAT
NEW DELHI

August, 1974 | Sravana, 1896 (Saka)

Price : Re. 1/-

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COMPOSITION OF THE COMMITTEE ON PETITIONS
(1974-75)

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Shri J. R. Kapur—*Under Secretary.*

**EIGHTEENTH REPORT OF THE COMMITTEE ON PETITIONS
(FIFTH LOK SABHA)**

INTRODUCTION

I, the Chairman of the Committee on Petitions having been authorised by the Committee to present the Report on their behalf, present this Eighteenth Report of the Committee to the House on the following matters:—

- (i) Petition No. 6 regarding grievances of employees of the State of Andhra Pradesh, Manipur and Orissa;
- (ii) Representation from the President, All India Organisation of Pensioners, Patel Nagar, New Delhi, *re.* grievances of Central Government Pensioners; and
- (iii) Representation *re.* restoration of commuted portion of Central Government Pensioners.

2. The Committee considered the above matters at their sitting held on the 10th July, 1974, and adopted the draft Report at their sitting held on the 7th August, 1974.

3. The observations/recommendations of the Committee on the above matters have been included in this Report.

PETITION NO. 6 REGARDING GRIEVANCES OF EMPLOYEES
OF THE STATES OF ANDHRA PRADESH, MANIPUR AND
ORISSA

1.1. Petition No. 6 (See Appendix I) signed by Sarvashri A. Sreeramulu and I. B. Ramakrishna Rao of All India State Government Employees' Federation, Hyderabad, was presented to Lok Sabha on the 19th April, 1973, by Shri Jyotirmoy Bose, M.P.

A. Petitioners' Grievances and Demands

1.2. In their petition, the petitioners stated *inter alia* as follows:—

“That in the condition of soaring prices of all essential commodities and consequent erosion of real wages the State Government employees of Andhra Pradesh, Manipur and Orissa are still denied of full compensation of this erosion by way of a National formula of Dearness Allowance and that pending implementation of that National Formula of Dearness Allowance those State Government employees are still deprived from the rate of Dearness Allowance and the interim relief as granted to the Central Government employees;

That in spite of the recommendation and norms laid down by the 15th Indian Labour Conference held in 1957 for granting need-based minimum wage, the said State Government employees are still denied of pay-structure on the basis of need-based minimum wage;

That in spite of the latest enactment guaranteeing 8.33 per cent Bonus to employees and workers and recognising Bonus as deferred payment not linked with profit or loss of and competitiveness or not of the institutions, the said State Government employees have been deprived from the coverage of minimum 8.33 per cent bonus.”

1.3. The petitioners made *inter alia* the following demands:—

“Full neutralisation of the rise in the cost of living index by way of granting a National Formula of Dearness Allowance.

Grant of need-based minimum wage.

Grant of minimum 8.33 per cent Bonus to all including these State Government employees."

B. Comments of the Ministry of Finance (Deptt. of Expenditure)

1.4. The petition was referred to the Ministry of Finance (Department of Expenditure) for furnishing their factual comments for consideration by the Committee. In their comments (See Appendix II) on the basis of replies received from the State Government concerned and the Departments of Personnel and Administrative Reforms and Labour, the Ministry of Finance have stated *inter alia* as follows:—

"The Government of Andhra Pradesh have been giving D.A. to all the categories of State employees from 1969 onwards as per Government of India rates, except for the first interim relief recommended by the Third Pay Commission.

* * * *

The Government of Manipur had set up a Pay Commission and on the recommendation of Pay Commission, Interim Relief has been granted to the Manipur Government employees, who are in receipt of pay upto Rs. 750/- p.m. with effect from 1.1.1973.

* * * *

The Government of Orissa have granted Dearness Allowance to all categories of employees at par with Central rates. Interim Relief in the shape of additional dearness allowance has also been allowed to all employees at the Central rate excepting the employees in the pay range of Rs. 500/- and above. In view of the ways and means positions, the Government of Orissa feel that it would not be possible for the State Government to agree to any further increase.

* * * *

With their limited resources the State Government are not in a position to finance need based wages on the norms laid down by the 15th Indian Labour Conference held in 1957.

Even in respect of the Central Government employees the Third Pay Commission have not supported the grant of

need based minimum wage on the basis of the norms laid down by the 15th Indian Labour Conference.

The Payment of Bonus Act, 1965 does not apply to certain classes of employees mentioned in Section 32, including those employed by an establishment engaged in any industry carried on by or under the authority of the Central Government or a State Government or a local authority. Demands have been made that such employees should be brought within the purview of the Payment of Bonus Act, 1965. The matter has been considered very carefully and Government have decided that the existing position under the Payment of Bonus Act should, for the present, be maintained."

C. Observation of the Committee

1.5. The Committee feel that as the States of Andhra Pradesh, Manipur and Orissa are no longer under the President's rule and the decisions on the matters referred to in the petition, which come within the domain of the State Governments have to be taken by the State Governments concerned, no further action is called for on the part of the Committee.

II

REPRESENTATION FROM THE PRESIDENT, ALL INDIA ORGANISATION OF PENSIONERS, PATEL NAGAR, NEW DELHI, RE. GRIEVANCES OF CENTRAL GOVERNMENT PENSIONERS

2.1. Shri Partap Singh, M.P., forwarded a representation (See Appendix-III) from the President, All India Organisation of Pensioners, Patel Nagar, New Delhi, regarding grievances of Central Government pensioners. The representation was also countersigned by Sarvashri Partap Singh, Virbhadra Singh, G. Bhuvarahan and Dr. Sankata Prasad, M.Ps.

A. Petitioner's Grievances and Prayer

2.2. In his representation, the petitioner stated *inter alia* as follows:—

“There are approximately 9 lakh Central Government pensioners in India who had retired from the service on superannuation or physical disability after loyal services to the Government of the Country.

* * * *

Those pensioners who had retired earlier than 1968 are drawing the same old rates of pensions, which were based on the salaries then existing, whereas the price index of articles of daily necessities have been rising gradually, and it has today reached a point where the value of hard earned rupee of pension has fallen to 10 Paisa.

* * * *

The Central Government pensioners (now in the age group of 60 to 85 years) are as usual, sickly, infirm, old and meak, they are, therefore, unable to draw the attention of the Government to get back the value of their rupee which has dwindled down to, 10 Paisa.

To the several representations made during the past three| four years, the Government had been adamantly rejecting all our demands to grant dearness allowance or increase in pension or to restore the value of our rupee of pension, for reasons best known to them.

A large number of pensioners have perished and have died of untimely death because they could not get proper nourishment, proper treatment, proper food, and proper comforts due to fall in the value of rupee of pension.

* * * *

It is our strong belief that the Government does not realize that we are badly suffering so we appeal to you to kindly render your recommendation about the pensioners, by assessing our correct pitiable condition."

B. Comments of the Ministry of Finance (Department of Expenditure)

2.3. The representation was referred to the Ministry of Finance (Department of Expenditure) for furnishing their factual comments for consideration by the Committee. In their factual comments dated the 17th June, 1972, (See Appendix-IV), the Ministry of Finance (Department of Expenditure) have stated *inter alia* as follows:

"Payment to Government servants are defined by the rules e.g. when a person is on duty he gets pay, when he goes on leave he gets leave salary, when he is suspended, he gets subsistence allowance and when he retires he gets pension. Pension is distinguishable from pay etc. It is not in the nature of a deferred pay as rightly pointed out by the 2nd Pay Commission. The pensioners have no claim to benefits which may be admissible to serving Government employees e.g. D.A., interim, relief, etc.

Pensioners have been given temporary/ad-hoc increase from time to time. During 1943-45 temporary increase on pensions was limited to pensioners in receipt of pensions not exceeding Rs. 40 and was gradually extended to pensions not exceeding Rs. 100 by 1945. The increase sanctioned ranged from Rs. 4 to Rs. 6 p.m. From 1.4.58 temporary increase in pension was enhanced to Rs. 10 for pensions not exceeding Rs. 50 and Rs. 12.50 p.m. for monthly pensions between Rs. 51 and Rs. 100 p.m. This increase was admissible to pensioners who retired before the 16th July, 1952.

With effect from 1.10.1963 pensioners have been allowed *ad hoc* increase at the following rates:—

	From 1-10-63 to 31-8-1969	w.e.f. 1-9-1969
	Rs.	Rs.
Pensions upto Rs. 30	5 p.m.	15 p.m.
Pensions above Rs. 30 but not above Rs. 75 p.m.	7.50 p.m.	17.50 p.m.
Pensions above Rs. 75 but not above Rs. 200 p.m.	10.00 p.m.	20.00 p.m.
Pensions between Rs. 201—210 201—220	Such <i>ad hoc</i> increase as would bring the total pension to Rs. 210	Such <i>ad hoc</i> increase as would bring the total pension to Rs. 220

The above *ad hoc* increase was/is also admissible to those pensioners who were/are in receipt of temporary increase sanctioned in 1958 referred to above.

* * * *

With effect from 1-12-68 a part of dearness allowance is treated as dearness pay which count *inter alia* for pension. Those retiring on or after that date and who are in receipt of dearness pay are thus entitled to higher pensions than those who retired before that date. Those who got this benefit are not entitled to the benefit of *ad hoc* increase mentioned above. It has been provided that if the pension admissible without taking into account the dearness pay but with the *ad hoc* increase, is more favourable than the benefits admissible after taking into account the dearness pay, the individual may be granted the former.

* * * *

The question whether the pensioners problems should not form part of the terms of reference of the Pay Commission was considered and it was decided to leave the terms of reference of the Pay Commission as they are for the present and the question of grant of relief would appropriately be considered, in due course, in the light of the general recommendations of the Third Pay Commission in the matter of pensionary benefits for serving Government servants."

2.5. Subsequently, the Ministry of Finance (Department of Expenditure), after considering the question of grant of relief to the

pensioners in the light of the recommendations of the Third Central Pay Commission regarding pensionary benefits for serving Government employees, have furnished copies of Government orders dated the 21st March and 6th April, 1974, relating to the grant of relief to the Central Government employees who retired from service on or after 1-1-1973 and those who retired before 1-1-1973 (See Appendices V & VI respectively).

2.6. In reply to Unstarred Question No. 7367, in Lok Sabha on the 19th April, 1974, the Minister of State in the Ministry of Finance (Shri K. R. Ganesh) has stated as follows:—

“The scheme of Dearness Allowance as recommended by the Third Pay Commission is applicable to serving Central Government employees. However, in the case of Central Government employees retiring from service on or after 1-1-1973, i.e., the date from which the recommendations of the Third Pay Commission have been given effect to, the Commission have recommended a separate scheme for grant of relief on account of increase in the cost of living index. According to the recommendations of the Commission, the relief is to be granted to all future pensioners irrespective of the amount of pension drawn by them at the rate of 5 per cent of their pension subject to a minimum of Rs. 5 p.m. and a maximum of Rs. 25 p.m. The relief on these rates is to be given as and when there is a 16 point rise in the 12-monthly average of the All India Working Class Consumer Price Index (1960=100). The relief at 216 points has already become due with effect from 1-8-73 and at 232 points with effect from 1-1-74. The Commission had recommended that this scheme may be given effect to from 1st March, 1973, but as a measure of liberalisation, the Government have fixed the date of effect as 1st January, 1973, in respect of employees belonging to Classes II, III and IV.

Even though the Commission's recommendations were in terms applicable to future pensioners only, it has been decided to extend the benefit of this recommendation of the Commission also to those Central Government employees who retired from service prior to 1-1-1973.

As a measure of additional relief to existing Central Government pensioners, i.e. those who retired prior to 1-1-1973, and having regard to the recommendations of the Third Pay Commission in the matter of pensionary benefits for

serving Central Government employees, the Government have further decided to grant the following *ad hoc* reliefs to such pensioners with effect from 1-1-1973:—

<i>Pension range</i>	<i>Ad-hoc increase in pension</i>
Below Rs. 85	Rs. 15
Rs. 85-Rs. 209	Rs. 21
Rs. 210-Rs. 499	Rs. 25
Rs. 500 and above	Rs. 35

Necessary orders in the matter have also been issued.”

C. Observation of the Committee

2.7. The Committee note that the Government have accepted the recommendations of the Third Pay Commission to grant relief to all future pensioners (retiring on or after 1st January, 1973) at the rate of 5 per cent of their pension subject to a minimum of Rs. 5 per month and a maximum of Rs. 25 per month as and when there is a 16 point rise in the 12 monthly average of the All India Working Class Consumer Price Index. The Committee appreciate that the Government have also decided to extend the benefit of this recommendation of the Third Pay Commission to those Central Government employees who have retired from service prior to 1st January, 1973. As a measure of additional relief to those pensioners who have retired prior to 1st January, 1973, the Government have further decided to grant following *ad hoc* relief to such pensioners w.e.f. 1st January, 1973:—

<i>Pension range</i>	<i>Ad-hoc increase in pension</i>
Below Rs. 85	Rs. 15
Rs. 85-Rs. 209	Rs. 21
Rs. 210-499	Rs. 25
Rs. 500 and above	Rs. 35

2.8. The Committee hope that the Government will constantly keep the plight of the pensioners in view and mitigate their hardships arising from the rapid rise in the cost of living and grant to them further suitable increases in their pensions. The Committee also desire that Government should ensure that there is no disparity in the pensionary benefits granted to those pensioners who retired prior to 1st January, 1973 and those who have retired or would retire after that date, as the price rise affects all of them equally.

III

REPRESENTATION RE. RESTORATION OF COMMUTED PORTION OF PENSION OF CENTRAL GOVERNMENT PENSIONERS

3.1. Shri Natha Singh, Secretary, Pensioners & Seniors Society, Amritsar, submitted a representation *re.* restoration of commuted portion of pension of Central Government Pensioners.

A. Petitioner's Grievances and Prayer

3.2. In his representation, the petitioner stated as follows:—

“On behalf of the members of the Pensioners & Seniors Society (Regd.), I submitted a petition on the 24th of March, 1968, the Hon'ble Petitions Committee after giving serious consideration concluded and made recommendations in paras 114 to 120, Fourth Report, dated 19th December, 1968. In para 120(v) the Committee had recommended that 'The Rules *re.* commutation and verification of pensions should not be operated adversely to the pensioners' interests' and in sub-para (vi) had recommended that 'a comprehensive Bill to amend the Pension Act of 1871 or to replace it might be introduced by Government in Parliament at an early date'. The Finance Ministry in reply as reproduced in para 8.2—page 56 of the Sixth Report of the Committee dated 24th December, 1969, stated that the 'Pension Act, 1871 regulates matters relating to rights in pensions and commutation of pensions. Section 11 of the Act protects pension against attachment and under Section 12 assignments etc. made in anticipation of pension are void. The changes in the administrative structure, employment position and pay structures of the employees have not rendered the provisions of the Act *Obsolete.*' In practice the Government has abrogated these two Sections of the statute all these years by not restoring the gross pensions of commuted pensioners after they have repaid the amounts advanced at stipulated interest as stated in the attached note 'Commutated Pensions'. (See Appendix-VII). The Commutation Rules operate very adversely to the commuted pensioners. The Government has been approached repeatedly but to of no avail.

In the circumstances, I request Hon'ble Committee to kindly consider this submission from ethical, legal and humanitarian views and direct the Government to redress justice."

B. Comments of the Ministry of Finance (Department of Expenditure)

3.3. The representation was referred to the Ministry of Finance (Department of Expenditure) for furnishing their factual comments for consideration by the Committee. The Ministry of Finance referred the matter to the Ministry of Law for legal opinion on certain points raised in the representation. The Ministry of Finance have forwarded a copy each of the reference made by that Ministry to the Ministry of Law and the latter's note thereon (See Appendix-VIII). The Ministry of Finance have stated *inter alia* as follows:—

"The process of commutation of pension involves substitution of an agreed sum for part of the pension payable in accordance with rules. Since commutation is made on the specific request of the pensioners there can be no valid basis for challenging the arrangement after both parties have fulfilled their part of the obligations in terms of the arrangement."

C. Recommendation of the Committee

3.4. The Committee note the comments furnished by the Ministry of Finance (Department of Expenditure) together with the views of the Ministry of Law on the various points raised in the representation. While the Committee agree with the legal interpretation of the existing rules regarding commutation of pensions furnished by the Ministries of Finance and Law, the Committee feel that in view of the increased life expectancy and the phenomenal increase in the cost of living, the existing provisions of the Pensions Act, 1871 and the relevant rules regarding the commutation of pensions are causing great hardship to those pensioners who have outlived their commutation period. The Committee, therefore, recommend that Government may review their whole scheme of commutation of pensions with a view to liberalise the relevant rules to mitigate the hardships of such pensioners and to enable them to live their last days with dignity and without helplessness.

JAGANNATH RAO,

Chairman,

Committee on Petitions.

NEW DELHI;

Dated the 7th August, 1974.

APPENDIX I
(See para 1.1 of the Report)
LOK SABHA

—
PETITION NO. 6

[Presented to Lok Sabha on 19-4-1973]

To

Lok Sabha,
New Delhi.

The humble petition of Shri A. Sreeramulu (All India State Government Employees' Federation) on behalf of himself and State Government employees and others of Andhra Pradesh, Manipur and Orissa which are under President's rule at present.

SHEWETH

That in the condition of soaring prices of all essential commodities and consequent erosion of real wages, the State Government employees of Andhra Pradesh, Manipur and Orissa are still denied of full compensation of this erosion by way of a National formula of Dearness Allowance and that pending implementation of that National formula of Dearness Allowance those State Government employees are still deprived from the rate of Dearness Allowance and the interim relief as granted to the Central Government employees;

That in spite of the recommendation and norms laid down by the 15th Indian Labour Conference held in 1957 for granting need-based minimum wage, the said State Government employees are still denied of pay-structure on the basis of need-based minimum wage;

That in spite of the latest enactment guaranteeing 8.33 per cent Bonus to employees and workers and recognising Bonus as deferred payment not linked with profit or loss of and competitiveness or not of the institutions, the said State Government employees have been deprived from the coverage of minimum 8.33 per cent bonus;

That the said State Government employees are being denied of basic Trade Union Rights and have to contend with heavy repression and victimisation in various forms including summary dismissal of union functionaries under extraordinary provisions of Article

311(2)(c) of the Constitution of India, forcible retirement from service, detention under Maintenance of Internal Security Act and various other legislations;

That the State Governments have arbitrarily reduced or are trying to reduce the retirement age of their employees from 58 to 55 years;

That the aforesaid grievances of the said State Government employees are being persistently ignored by those State Governments as well as by the Central Government and justice is being denied to them both by the Central and the State Governments;

And accordingly your petitioners pray that the Parliament direct the Government of India to concede the following demands:—

1. Full neutralisation of the rise in the cost of living index by way of granting a National Formula of Dearness Allowance, pending which Central rate of Dearness Allowance and interim relief to be granted immediately to these State Governments' employees.
2. Grant of need-based minimum wage to the said State Government employees according to the norms laid down by the 15th Indian Labour Conference.
3. Grant of minimum 8.33 per cent Bonus to all including these State Government employees.
4. Vacation of all kinds of victimisation of these State Government employees including reinstatement of those dismissed under extraordinary powers of the Constitution of India, repeal of extraordinary powers of dismissal under Articles 310 and 311(2)(c) of the Constitution of India and grant of full Trade Union Rights to these State Government employees.
5. Revocation of the orders of reducing retirement age from 58 to 55 years in the States where it has already been done and stopping reduction of the same in these State and your petitioners as in duty bound will ever pray.

Name of petitioner	Address	Signature or thumb impression
1. A. Sreeramulu .	5-9-33, Bashir Bagh Hyderabad.	Sd/-
2. I. B. Ramakrishna Rao .	President, Andhra Pradesh N.G.Os' Association, Hyderabad.	Sd/-

Countersigned by: Shri Jyotirmoy Bosu, M.P.

APPENDIX II

(See para 1.4 of the Report)

[Comments of the Ministry of Finance (Deptt. of Expenditure) on points raised in petition No. 6 regarding grievances of employees of States of Andhra Pradesh, Manipur and Orissa.]

On the basis of the replies received from the State Governments concerned and the Departments of Personnel and Administrative Reforms and Labour & Employment the positions as they are obtaining at present in the various States mentioned in the petition together with the comments of the State Governments concerned or the Government of India are indicated under each item below.

Point No. 1: *Full neutralisation of the rise in the cost of living index by way of granting a National Formula of Dearness Allowance pending which Central rate of Dearness Allowance and interim relief to be granted immediately to these State Governments' employees.*

Comments: (i) The Govt. of Andhra Pradesh have been giving D.A. to all the categories of State employees from 1969 onwards as per Govt. of India rates, except for the first interim relief recommended by the Third Pay Commission. In view of the fact that the interim relief is treated as "sui-generis", the Govt. of Andhra Pradesh hold the view that the interim relief is not in the nature of D.A. but advance pay pending fixation of pay. However, the Govt. of Andhra Pradesh later on announced a flat increase of Rs. 6/- in the D.A. of all Class III and Class IV employees. The State Government have, however, pointed out that the soaring prices is a country-wide problem and the Govt. of India may look at it as such. Increase in D.A. should be treated as a national problem and not confined to Central Government employees alone.

(ii) The Govt. of Manipur had set up a Pay Commission and on the recommendation of Pay Commission, Interim Relief has been granted to the Manipur Govt. employees, who are in receipt of pay upto Rs. 750/- p.m. with effect from 1st January, 1973.

(iii) The Govt. of Orissa have granted Dearness Allowance to all categories of employees at par with Central rates. Interim Relief in the shape of additional dearness allowance has also been allowed to all employees at the Central rate excepting the employees in the

pay range of Rs. 500/- and above. In view of the ways and means positions, the Govt. of Orissa feel that it would not be possible for the State Government to agree to any further increase.

(iv) The State Governments are also giving Dearness allowance to their employees to meet the higher cost of living but the rates vary. If the Andhra Pradesh Government's suggestion mentioned in sub-para (i) above means that there should be a uniform formula for grant of D.A. for all employees in the country, it is not feasible, as the grant of D.A. depends upon several factors e.g. the existing pattern of emoluments, Wage Board Awards where they exist, the resources etc.

Point No. 2: Grant of need-based minimum wage to the said State Government employees according to the norms laid down by the 15th Indian Labour Conference.

Comments: (i) The Govt. of Andhra Pradesh had set up a Pay Commission in 1965 and the Commission examined the question of a need based wage taking into account the State resources. There was dissatisfaction about the scales recommended by the Commission and therefore, the Govt. took the view that the scale of pay next above those recommended by the Commission may be sanctioned. Orders were issued accordingly in 1969. With their limited resources the State Govt. are not in a position to finance need based wages on the norms laid down by the 15th Indian Labour Conference held in 1957.

(ii) This matter is under examination of the Pay Commission appointed by the Govt. of Manipur.

(iii) The Govt. of Orissa have appointed a Pay Committee by a resolution dated 24th April, 1973, *inter alia* undertake a comprehensive review of the existing structures of pay scales of various categories of their employees. As a Pay Committee has already been appointed, it is the most appropriate forum for examination of this demand.

(iv) In this connection it may be pointed out that even in respect of the Central Govt. employees the Third Pay Commission have not supported the grant of need based minimum wage on the basis of the norms laid down by the 15th Indian Labour Conference.

Point No. 3: Grant of minimum 8.33 per cent Bonus to all including these State Government employees.

Comments: (i) In Andhra Pradesh, at present bonus is being paid to Industrial workers only. With their limited resources the

State Govt. would not be in a position to bear the enormous expenditure for payment of bonus to their other employees.

(ii) This matter is under examination of the Pay Commission appointed by the Govt. of Manipur. Although the question of bonus has not been specifically referred to the State Pay Commission, the issue is covered by the terms of reference which includes consideration of other amenities needed for their employees.

(iii) The Govt. of Orissa are unable to accept this demand as the scheme of bonus is neither applicable to the employees of the State Govt. nor the employees of the Central Govt.

(iv) In this connection it may be stated that the Payment of Bonus Act, 1965 does not apply to certain classes of employees mentioned in Section 32, including those employed by an establishment engaged in any industry carried on by or under the authority of the Central Government or a State Government or a local authority. Demands have been made that such employees should be brought within the purview of the Payment of Bonus Act, 1965. The matter has been considered very carefully and Govt. have decided that the existing position under the Payment of Bonus Act should, for the present, be maintained.

Point No. 4: Vacation of all kinds of victimisation of these State Govt. employees including reinstatement of those dismissed under extraordinary powers of the Constitution of India repeal of extraordinary powers of dismissal under Article 310 and 311 (2) (c) of the Constitution of India and grant of full Trade Union Rights to these State Govt. employees.

Comments: (i) The Govt. of Andhra Pradesh have ordered among other things, that:—

(a) Prosecutions launched against employees in connection with the strike should be withdrawn and sentences of convictions should be remitted except where the offences were serious involving violence to life or property, arson, loot, etc.

(b) Cases under investigation against employees not involving offences of violence, either to life or property and loot etc. should not be proceeded with.

(c) Departmental action initiated against employees for their participation in the strike should be dropped.

Certain cases of prosecution launched or investigation being conducted against employees in the districts have been brought to the notice of the Govt. by some Service Association. The Govt. have

addressed the Collectors concerned to take action in accordance with the Govt. instructions referred to in item (a) above and sent their reports to Government.

The Governor of Andhra Pradesh passed orders for the dismissal of one employee from service after satisfying himself that an enquiry under the substantive part of clause (2) of Article 311 of the Constitution of India was not expedient for reasons indicated in clause (3) of the proviso. The question of revocation of the above orders has been considered by the State Govt. on representation made to Government but it was decided that no reasons justifying a reconsideration existed.

The Govt. of Andhra Pradesh feel that there is no need to grant trade union rights to the Govt. employees as there are as many as 51 recognised Associations of Govt. employees. Besides Andhra Pradesh Civil Services Joint Staff Councils have been constituted at the State and District levels. This machinery enables the employees to sponsor general matters pertaining to their conditions of service for discussion with the Govt. representatives.

(ii) In Manipur none of their employees had been dismissed from service under Article 311(2) (c) of the Constitution and as such the victimisation of any of their employees does not arise.

(iii) The Govt. of Orissa have stated that no specific case of Govt. employees has been brought to their notice. In case such instances are brought to their notice appropriate remedial measures will be taken. One of the demands of the Orissa State non-gazetted officers Coordination Committee was that there should be no victimisation in connection with legitimate activities of the association of Govt. servants. The Govt. of Orissa have agreed and have informed the Coordination Committee that there will be no victimisation of legitimate and lawful activities of Associations of Govt. servants but they cannot agree to the grant of Trade Union rights to the State Govt. employees.

(iv) It may be stated that Article 310 and proviso (c) to Article 311(2) of the Constitution are not only applicable to the State Govt. employees but also to the Central Govt. employees. Article 310 of the Constitution embodies the "Doctrine of pleasure" and this provision has been included in the Constitution as it was felt that it was essential. As regards proviso (c) to article 311(2) of the Constitution, as a proviso, it is an exception to the substantive provisions of article 311(2). Such a provision is necessary in the interest of maintaining the security of the State and cannot be dispensed with. It may also be stated in this connection that this provision

is invoked only in cases where the President or the Governor, as the case may be is personally satisfied that it is not expedient to hold an enquiry in the interest of the security of the State. As regards the grant of trade union rights to State Govts. employees, it may be mentioned that even in the Central Govt. such rights have not been allowed to the employees who are not in the category of industrial workers.

Point No. 5: Revocation of the orders of reducing retirement age from 58 to 55 years in the States where it has already been done and stopping reduction of the same in these States.

Comments: (i) The Govt. of Andhra Pradesh continue to follow the 55 years age superannuation rule and have not increased the age to 58 years so far. In view of the growing unemployment in the country that Govt. feel that it may not be desirable to increase the retirement age from 55 to 58 at least for the present.

(ii) In the case of the Govt. of Manipur there has not been any reduction in age of retirement which is now 58 years, for the employees of that Government.

(iii) The Govt. of Orissa raised the age of superannuation of their employees other than the Ex-Bihar & Orissa Ministerial Government servants and Class IV Government servants from 55 to 58 years w.e.f. 1st December, 1962 on the lines of the Govt. of India. The position was, however, reviewed by them. It was considered that reduction in the age of superannuation will partly mitigate problem of unemployment and will also result in substantial saving as many Govt. officers with higher salaries will retire and will be replaced by younger officers with lesser pay. The age of retirement was reduced from 58 to 55 years w.e.f. 1st August, 1968. Recently on the representation of certain Service Associations, the question of raising the age of superannuation from 55 to 58 years was examined keeping in view the financial implications and the impact on the unemployment situation. No final decision has, however, been taken.

(iv) It may be stated at the outset that "State Public Services" is an entry in the State List of the Seventh Schedule to the Constitution (Entry 41 of List-II) and is, therefore, exclusively within the purview of the State Governments. In view of this provision and the provisions of article 309 of the Constitution, the State Governments are exclusively competent to regulate the conditions of service of their employees and it will not be appropriate for the Central Government to issue any directions to the State Governments in this regard.

APPENDIX III

(See para 2.1 of the Report)

[Representation re. grievances of Central Govt. pensioners]

To

The Chairman,
Committee on Petitions,
Lok Sabha,
NEW DELHI.

Sir,

I, on behalf of the nine lakh Central Government pensioners make the following submission to your goodself for a thorough enquiry, and transmission of our representation along with your views to the Central Government for their sympathetic consideration and appropriate orders.

There are approximately 9 lakh Central Government pensioners in India who had retired from the service on super-annuation or physical disability after loyal services to the Government of the Country.

As known to your goodself, normally all serving employees have to retire after attaining 55 years of age, and in some cases after 58 years of age, and almost all the pensioners of today are between the age group of 60 to 85 years (save exceptions).

Those pensioners who had retired earlier than 1968 are drawing the same old rates of pensions, which were based on the salaries then existing, whereas the price index of articles of daily necessities have been rising gradually, and it has today reached a point where the value of hard earned rupee of pension has fallen to 10 Paisa.

This has happened because the Government has been trying to raise the living standard of the general public, by neglecting (or forgetting) the pensioners who are non-affective employees of the Central Government.

The Central Government pensioners (now in the age group of 60 to 85 years) are as usual sickly, infirm, old and meek they are therefore unable to draw the attention of the Government to get back the value of their rupee which has dwindled down to 10 Paisa.

To the several representations made during the past three/four years, the Government had been adamantly rejecting all our demands to grant dearness allowance or increase in pension or to restore the value of our rupee of pension, for reasons best known to them.

A large number of pensioners have perished and have died of untimely death because they could not get proper nourishment, proper treatment, proper food, and proper comforts, due to the fall in the value of rupee of pension.

To our representations we are being told that your case would be considered after the Third Pay Commission had rendered their report. It is irony of fate that three Pay Commissions have been set up by the Central Government, but none of them had been given the "TASK" to look into the miserable plight of the pensioners. Even the present Commission has no jurisdiction to look into our case.

If the Third Pay Commission had authorised in their terms of reference to render a report on pensioners, then we too would have been given two increases in pension like serving employees who have since got two increases in D.A.

It is our strong belief that the Government does not realize that we are badly suffering, so we appeal to you to kindly render your recommendation about the pensioners, by assessing our correct pitiable condition. As a Chairman of the Petition Committee you have the powers to express your views. May we request you to kindly look into our grievances and do us justice.

Yours faithfully,

Sd/-

Major Pratap Singh (Retd.)
President (H.Q.) All India Org:
of Pensioners, New Delhi-8.

Sd/-

Virbhadra
Singh, M.P.
Div. 65

Sd/-

Pratap Singh, M.P.
Div. 214

30 March, 1972.

Sd/-

Dr. Sankata Prasad, M.P.

ENCLOSURE TO APPENDIX III

[A Resume of Pensioners Miserable Plight]

What is a pension?

(According to Dictionary)

Collin's Encyclopaedia

An annual grant of money for past services, an annuity paid to retired officers, soldiers etc., v.t. to grant pension to pensionable, a entitled or entitling to a pension 'pensioner' n. one who receives a pension (. pensio-payment)

Chamber's Twentieth Century Dictionary

A periodical payment as tribute, wages etc. an allowance of money as a bribe for future service, as a mark of favour or in reward of one's own or another's merit; an allowance to one who has retired or has been disabled or reached old age or has been widowed or orphaned etc.

Bhargava's Illustrated Standard Dictionary

Payment made in consideration of past services.

Concise Oxford Dictionary

Periodical payment made esp. by Government coy, or employer in consideration of past services or of relinquishment of rights etc.

Blackies Standard Dictionary

A stated yearly allowance in consideration of past service—a boarding house on the continent (pronounced pang syong) v.t. to grant a pension.

Schedule XIX Art. 366(17) Constitution of India

"Pension" means a pension, whether contributory or not, of any kind whatsoever payable to or in respect of any person and includes "retired pay" so payable, a gratuity so payable, by way of the return, with or without interest thereon or any other addition there to of subscriptions to a provident fund.

Who are the pensioners?

The citizens of India who have served the country during their youth, and had helped the Government of the day to run the administration of the Country in an efficient and smooth way. Right from the President of India to the humble Gde. IV employee of the Government (to include ICS, IAS, PCS, IPS, PP, Army Navy Airforce, IA&AS, Rlys., P&T, Central Secretariat, CPWD, PWD, Local bodies etc. etc.) are the pensioners, provided their terms of service include such "benefit" of pension.

Why do the Government pay pension and from where?

In return for loyal, efficient and satisfactory services to the Government of the country, their employees are given pension so that they could lead an honourable life, after giving the best part of their life in service of the country. Certain proportion (which is decided when sanctioning the scales of pay) of the effective pay, is retained by the Government and after completion of the terms of service, that accumulated cut is paid to the pensioners in the shape of "Deferred Pay" which is called pension.

The pension is neither bounty, nor any charitable grant nor a Bakhshish, but is the pensioners hard earned money which had remained in the custody of the Government, and paid gradually every month.

Price rise due to high standard of living.

It is the ambition of all developing countries that they should increase the circulation of money, and try to raise the living standard of its citizens so that it could be brought at par with other developing countries of the world.

Our Government has also done the same, and while doing so they have been gradually increasing salaries of all the servicemen (civil, military State and Central employees). There are occasions when labour tribunals were formed the wages of the workers were also increased depending upon the price index that was prevalent on the particular day.

Depending on this analogy all the Government employees have been given several increases in Pay and Dearness Allowance, and on two or three occasions that D.A. was merged with the pay so as to give higher pension to the people who were retiring in the recent past.

Pensioners neglected

There are pensioners in India who had retired in 1950 (perhaps a few had retired even earlier) and all the subsequent years. Those who had retired after 1-1-1968 were given increased pension because DA was included in their salaries while calculating pensions, but those who had retired between 1950 (a few earlier) and 1968 and have not been given any increment, except Rs. 10 percent to those drawing below Rs. 200.

Those pensioners who are drawing over Rs. 200 have not been given a small paise increase in pension while serving and retired people spend equal sums of money on food and articles of necessities. The pensioners have to spend more on medical treatment.

Price rise from 1950 onwards

The Government of India had been appreciating during the past 12 years or so that the index of the prices had been gradually rising, and on every occasion when the Government employees had reminded the Government, they were given Dearness Allowance which had been rising along with the price index. The spiral rise of price index brought increased D.A. to serving employees, but the non-effective employees (Pensioners) have been completely neglected inspite of several representations made to the Government through all the agencies.

Earlier, the Committee on Petitions (Fourth Lok Sabha) had recommended that increase in pension should be given to Pensioners commensurate with the rise of price index, but to the great misfortune of the pensioners, the then Finance Minister Mr. Morarji Desai, rejected that recommendation stating that he had no funds.

The subsequent Chairman Petition Committee again made a similar recommendation, but that too was rejected for want of funds.

On several occasions many of the members of the Parliament have reminded the Government that they must give proportionate increase in pension like serving employees, but the pensioners have always been told "we have no funds".

All other countries of the World have (even those countries whom we call backward) given six to twelve increases in pension to their respective pensioners, but it is India only where no increase has been given to pensioners drawing over Rs. 200 p.m. pension. The increase of Rs. 10 per cent given to pensioners drawing Rs. 200 and below had no relevancy with the price index that had increased during the past 15 years.

Why there are no funds (For pensioners)

Every time the serving employees have asked for an increase in D. A. it was given without the sanction of Parliament, but no body knows where did that money come from.

Members of Parliament were given increase in daily allowance (twice) no body knows from where did the funds come. Nearly ONE MILLION refugees from Bangla Desh came and the Government was spending anything over Rs. 2 crore per day on those "forced guests". They remained in India for nearly NINE months. Where did that money come from. No body knows? Six increments of D. A. have been given to serving employees and salaries of all the employees have been increased on several occasions—Where did that money come from? No body knows.

Similarly why can't the pensioners get back their lost value of the Rupee which has fallen to 10 paisa—Why should the pensioners know?

Petition Committee of Lok Sabha.

In all the countries of the World the Petition Committee of Parliament can dictate their decision to the Government and the Government must BOW to their recommendation, but here in INDIA the recommendations (TWO) of the Petition Committee were treated as a piece of scrap.

Times Dated 14.12.71 (Page 14) states:—

(1) Most of the real work in Congress is done in and by Committees (2) The Chairman of these Committees have vast, often dictatorial influence over the legislation that falls within their realms (3) With almost no exception these Chairmen have grained their exalted position for the simple reason that they have been on their Committees longer than anyone else.

(U. S. A.)

INDIA. Here in India the recommendation of such exalted Committees are rejected by one person i.e., Finance Minister (What a pity). Where should the pensioners go and to whom should they approach?

A Bluff with the poor pensioners

More than 50 per cent of the members of the Parliament are very sympathetic with the miserable plight of the pensioners, and if we say so openly the PRESIDENT of India, and the HOME MINISTER of India (Minister for Home Affairs) are most sympath-

tic towards the problems of the Pensioners, but we regret very much that we have NOT been able to mould the heard of FINANCE MINISTERS, (Whosoever he may be) who have never been sympathetic towards the miserable plight of these elderly loyal ex-employees of the Central Government.

MR. GEORGE FERNANDES (Ex. M.P.) along with certain other M.Ps. so to say (Mr. S. M. Banerjee, Rudra Pratap Singh) had cornered Mr. P. C. Sethi in the Lok Sabha in 1970 *vide* STARRED QUESTION No. 1381 but the M.Ps. were bluffed and they had to keep quiet when they were told that the question of pensioners is under reference to the THIRD PAY COMMISSION.

An incorrect statement in Lok Sabha

The Third Pay Commission has nothing to do with the retired people, but he has to render his report for future pensioners. The pensioners have approached Third Pay Commission and they have verbally stated that in the terms of reference—there is NO mention of the people who had retired earlier than 1968. How can the pensioners wait for such like incorrect promises.

(2) During the time the Pay Commission is busy preparing his report TWO increments of D.A. have already been given to serving employees BUT NOT A SINGLE TO PENSIONERS.

Large number of pensioners (Who are between the age group of 58—85) have died of starvation, under-nourished, under-fed, without receiving proper treatment, but the Government has never bothered to give them ONE SINGLE INCREASE in pension.

We are unable to understand why? Do the pensioners live on air and water? Don't they eat food, don't they wear clothing, don't they fall sick, don't they pay high medical charges for sickness? Are they not non-affective Government employees of yesterday? How could the Government dare give them step motherly treatment?

Pay Commission is a Bluff

While allowing increases in D.A. (twice during these 2 years) to serving employees, has the Pay Commission ever uttered a word about the Pensioners?

We are amazed how our learned friends (Members of Parliament) get contended with the evading replies of the Finance Minister.

We want to make it clear here that no terms of reference have been given to the Pay Commission to look into the case of pensioners, who are dying of starvation. We are sure our learned M.Ps. are aware that our rupee of pension has fallen to 10 paise and from where should we recover that loss in our old age (60—85 years).

WE APPEAL TO YOU FOR MERCY.

Sd/- Major (Retd.)

President (H.Q.) All India Org. of Pensioners.

New Delhi—8.

29.3.1972.

APPENDIX IV

(See para 2·3 of the Report)

[Factual comments of the Ministry of Finance (Department of Expenditure) on the representation re-grievances of Central Government pensioners]

(1) Pension is paid for the service rendered to Government by Government employees so that they could lead an honourable life after giving the best part of their life in the service of the country and is in the nature of "deferred pay".

The claim that pension is in the nature of deferred pay was put before the Second Pay Commission. The following extract from the report of that Commission are relevant :—

"... The employees' organization generally have urged that pension should be recognised as 'deferred pay' and from this concept of pension have originated a number of demands : (i) that an employee should have a proportionate pension whenever he leaves service, or even if he is removed or dismissed from service ; (ii) that grant of a pension should not be subject to the existing condition that the service rendered should be thoroughly satisfactory; and (iii) that future good conduct should not be, as it is present, an implied condition of every grant of a pension. Broadly speaking, the least emphasis has been laid on (i) and the greatest in (iii)

The Government have not, in the past, accepted this conception of pension. There is no legal right to pension; it does not accrue to an individual automatically on the date on which he retires. It has to be applied for; and it is sanctioned only if the appropriate authority is satisfied that certain conditions are fulfilled. This does not, however, mean that a pension is not recognised, or treated, as part of the normal benefit accruing from pensionable employment. It is a factor taken into account in determining rates of pay; and it is regarded as a part of the normal expectation of an employee—something, in fact, on which an employee can count with virtual certainty. Indeed, even on behalf of the employees no complaint has been made of frequent, on unfair, refusal reduction or forfeiture of pensions. Thus, it is not the practice, but the principle that is an issue—principle, however, which according to some of the employees' witnesses, has practical implications. It was said that the condition regarding satisfactory service, and even more so—that regarding future good conduct, hangs on an ex-employees' s head like a "sword of Damocles", and often deters him from political and trade union activities of his choice.

The grant of a pension is obviously, not in the nature of a bounty. A pension has in essence the character of a conditional entitlement and the practical question for consideration is whether the conditions are fair and reasonable

Further, payment to Government servants are deferred by the rules e.g. when a person is on duty he gets pay,

when he goes on leave he gets leave salary, when he is suspended, he gets subsistence allowance and when he retires he gets pension. Pension is distinguishable from pay etc. It is not in the nature of a deferred pay as rightly pointed out by the 2nd Pay Commission. The pensioners have no claim to benefits which may be admissible to serving Government employees e.g. D.A., interim relief etc.

- (2) Pensioners have been hard hit by the high cost of living due to rise in prices from 1950 onwards and excepting the case of those who retired after 1-12-68 (1-1-68, as stated in the pensioners' representation) who have been given the benefit of dearness allowance counting towards pension when the rest of the pensioners have not been given the benefit except those drawing pension up to Rs 200 who have been given ad-hoc increase.

Pensioners have been given temporary/ad-hoc increase from time to time. During 1943-45 temporary increase on pensions was limited to pensioners in receipt of pensions not exceeding Rs. 40 and was gradually extended to pensions not exceeding Rs. 100 by 1945. The increase sanctioned ranged from Rs. 4 to Rs 6 p.m. From 1-4-50 temporary increase in pension was enhanced to Rs 10 for pensions not exceeding Rs 50 and Rs 12.50 p.m. for monthly pensions between Rs. 51 and Rs 100 p.m. This increase was admissible to pensioners who retired before the 16th July, 1952. With effect from 1-10-1963 pensioners have been allowed ad-hoc increase at the following rates :—

	From 1-10-63 to 31-8-1969	w.e.f. 1-9-1969 to 31-8-1969
	Rs.	Rs.
Pensions upto Rs.30	5 p.m.	15p.m.
Pensions above Rs.30 but not above Rs. 75 p.m.	7.50 p.m.	17.50 p.m.
Pensions above Rs. 75 but not above Rs. 200 p.m.	10.00 p.m.	20.00 p.m.
Pensions between Rs. 201—210	Such-ad-hoc increase as would bring the total pen- sion to Rs. 210.	Such ad-hoc increase as would bring the total pension to Rs. 220.
Pensions between Rs. 201—220		

The above ad-hoc increase was/is also admissible to those pensioners who were/are in receipt of temporary increase sanctioned in 1958 referred to above.

With effect from 1-12-68 a part of dearness allowance is treated as dearness pay which counts *inter-alia* for pension. Those retiring on or after that date and who are in receipt of dearness pay are thus entitled to higher pensions than those who retired before that date—Those who got this benefit are not entitled to the benefit of ad-hoc increase mentioned above. It has been provided that if the pension admissible without taking into account the dearness pay but with the ad-hoc increase, is more favourable than the benefits admissible after taking into account the dearness pay, the individual may be granted the former.

- (3) The representation is purported to have been submitted on behalf of 9 lakhs of pensioners, the point made is that the value of pensions have dropped to 1/10th. According to the information available the number of pensioners as on 31-1-1970 was 7,51,736. This figure includes the Defence pensioners, Railway pensioners, P. & T. and civil pensioners. The number of pensioners getting pension below Rs. 100 was 6,97,162. The number of pensioners in receipt of pension from Rs. 100 and above was 54,574. The latest figure is, however, not available. According to the latest figures available the cost of living index for the month of March, 1972 is 233.41 as against 100 in 1949. This does not support the statement, made in the representation by the All India Organisation of Pensioners that the value of pension has fallen to 10 Paise to day.
- (4) Despite previous petitions made to the Committee and their recommendations, the Government did not accede to the recommendation of the Committee because of lack of funds. The Committee on Petitions in their report which was presented to the Lok Sabha on the 19th December, 1968 and also in their report which was presented to the Lok Sabha on the 24th December, 1969 recommended *inter-alia* that some relief should be granted to the pensioners in general and also Govt. should consider the question of providing some relief to the pensioners drawing pensions more than Rs. 200. The above recommendations were examined in this Ministry, but in view of the resources position it was not found possible to grant any further relief to the pensioners or to enhance the amount of pensions. The result of the examination was conveyed to the Lok Sabha Secretariat in this Ministry's Office Memoranda dated 9-7-1969 and 3-2-1970.
- (5) No terms of reference have been given to the Pay Commission to look into the case of pensioners. The question whether the pensioners problems should not form part of the terms of reference of the Pay Commission was considered and it was decided to leave the terms of reference of the Pay Commission as they are for the present and the question of grant of relief would appropriately be considered, in due course, in the light of the general recommendations of the Third Pay Commission in the matter of pensionary benefits for serving Government servants. In this connection, attention is invited to the reply given to Lok Sabha Unstarred Question No. 3591 on the 21st April, 1972.

APPENDIX V

(See para 2.5 of the Report)

[Govt. orders. dated the 21st March, 1974, re. relief to Central Government pensioners who retired on or after 1-1-1973]

No. F. 13(5)-E.V. (A) | 73

Govt. of India | Bharat Sarkar

Ministry of Finance | Vitta Mantralaya

Department of Expenditure | Vyaya Vibhag

New Delhi, the 21st March, 1974.

Office Memorandum

SUBJECT:—Third Pay Commission's recommendation—Relief to pensioners.

The undersigned is directed to say that the Third Pay Commission in paragraph 92 of Chapter 60 of its Report recommended that for possible increases in the cost of living index in future, Central Govt. employees who retired on or after 1-3-1973, should be given relief as follows:—

“All future pensioners, irrespective of the amount of pension drawn by them should be given a relief at the rate of 5 per cent of their pension subject to a minimum of Rs. 5/- p.m. and a maximum of Rs. 25/- p.m. The relief at these rates should be given as and when there is a 16 point rise in the 12 monthly average of the All India Working Class Consumer Price Index (1960=100). The relief for the first time at these rates should be paid when the 12 monthly average of this index reaches 216.”

2. The Government have since accepted the above recommendation with the modification that this recommendation will apply to Central Govt. employees belonging to Classes II, III and IV who retired on or after 1-1-1973 *vide* Resolution No. 70.70(34) | 73-Imp. dated 1-11-1973 published in the Gazette of India Extraordinary No. 257 dated 1-11-1973. Accordingly keeping in view that the 12 monthly average of the All India Working Class Consumer Price Index (1960=100) reached 216 in July, 1973, and 232 in December, 1973 the President has been pleased to grant to the above category of

retired Central Government employees a relief at the rate of 5 per cent of their pension subject to a minimum of Rs. 5/-and a maximum of Rs. 25|- p.m. w.e.f. 1-8-1973 and 1-1-74 respectively. The term "Pension" for purpose of grant of relief as above shall mean pension as finally calculated keeping in view Govt.'s decisions on pay scales and pensionary benefits recommended by the Third Pay Commission.

Sd/- (V. K. PANDIT),
Dy. Secretary to the Government of India.

To

All Ministries/Departments of
Government of India.

APPENDIX VI

(See para 2.5 of the Report)

[Government orders dated the 6th April, 1974 re. grant of relief to the Central Government employees who retired from service prior to 1-1-1973]

No. F. 13(1)-E. V(A)|74

Government of India/Bharat Sarkar
Ministry of Finance/Vitta Mantralaya
Department of Expenditure|Vyaya Vibhag

New Delhi, the 6th April, 1974.

Office Memorandum

SUBJECT:—Grant of relief to the Central Government employees who retired from service prior to 1-1-1973.

The question of grant of relief to Central Government employees who retired prior to 1-1-1973 has been engaging the attention of the Government of India in the light of the recommendations of the Third Pay Commission in the matter of Pensionary benefits for serving Central Government employees and also having regard to the Commission's recommendations regarding relief to future pensioners i.e. those Government servants who retired|may retire on or after 1-1-1973.

2. In the case of the Central Government employees who retired on or after 1-1-73, the Third Pay Commission recommended the grant of relief to all pensioners irrespective of the amount of pension drawn by them, at the rate of 5 per cent of their pension subject to a minimum of Rs. 5|- per month and a maximum of Rs. 25|- per month. The relief on these rates is to be given as and when there is a 16 point rise in the 12 monthly average of the All India Working Class Consumer Price Index (1930=100). The Government of India have accepted the above recommendation, vide this Ministry's Resolution No. 70(34)|73-Imp. Cell dated 1-11-73 in so far as employees belonging to Classes II, III and IV are concerned. The

President has now been pleased to extend the benefit of this recommendation of the Commission also to those Central Government employees belonging to Classes II, III and IV who retired from service prior to 1-1-73. Orders for grant of reliefs which have become due with effect from 1-8-73 and 1-1-74 when the Index reached 216 and 232 points respectively, contained in this Ministry's O.M. No. F. 13 (5)-EV(A)/73 dated 21-3-74 will be applicable to the employees who retired before 1-1-73. Orders for payment of additional relief will be issued from time to time whenever there is an increase of 16 points in the Index.

3. The President has further been pleased to decide to grant *ad hoc* relief to the Central Government employees who retired prior to 1-1-73, at the following rates:—

Pension range	Adhoc relief in pension
Below Rs. 85 .	Rs. 15/-
Rs. 85—Rs. 209	Rs. 21/-
Rs. 210—Rs. 499	Rs. 25/-
Rs. 500 and above	Rs. 35/-

(based on original pension or on Rs. 40/- p.m. where the original pension was less than Rs. 40/- p.m.)

NOTE:—The term "original pension" does not include either the *ad-hoc* increase if any, granted prior to 1-1-73 or the pension equivalent of death-cum-retirement-gratuity but includes the commuted portion of pension, if any.

4. The above *ad hoc* relief will become payable with effect from 1-1-73 i.e. in respect of pensions for the month of January, 1973 payable in the month of February, 1973. Thereafter, these pensioners will be granted relief as indicated in para 2 above on the basis of the figure arrived at after adding the aforesaid *ad hoc* relief mentioned in para 3 above (and also adding temporary *ad hoc* increase where admissible prior to 1-1-73) to the original pension or to Rs. 40/- where the original pension was less than Rs. 40/-

5. The *ad hoc* relief mentioned in para 3 above will apply to all Central Government employees, including Class I Officers, who retired from service before 1-1-73 on superannuation retiring, invalid and compensation pensions.

6. These orders will not apply to pensioners whose pension has been determined *ad hoc* without reference to the emoluments drawn by them, such as political pension, special pension, war risk pension

etc. Orders for grant of relief to those in receipt of family pension and Extra-ordinary pension will issue later.

7. The reliefs indicated in these orders will not be admissible to pensioners who were in re-employment on 1-1-1973 or are re-employed thereafter, during the period of re-employment as they would get dearness allowance appropriate to their pay (which is inclusive of pension) during such re-employment. Orders have since issued *vide* this Ministry O.M. No. 67|II|16|74-Imp. dt. 18-3-74 regarding refixation of pay of such re-employed pensioners.

8. All other orders in force in regard to temporary *ad hoc* increases already admissible on pension will *mutatis mutandis* apply to the above mentioned reliefs also.

Sd|- (S. S. L. MALHOTRA)

Under Secretary to the Govt. of India.

To

All Ministries|Departments of Government of India.

APPENDIX VII

(See para 3.2 of the Report).

[Note submitted by Shri Natha Singh, Secretary, Pensioners and Seniors Society, Amritsar, re. commuted Pension]

2400 years ago Mencius preferred comforts for the aged to the profits for the State. In the United States nearly a third of the huge health budget goes for the care of the aged. In England millions are spent for them and a pensioner aged 70 starts receiving twenty four pounds sterling per annum over and above his pension which has been revised a dozen times by the British Parliament during the two decades. In India, however, commuted pensioner of that age has to continue paying till his death the instalments by which he had liquidated the advance made to him with the stipulated interest. Since the amount is not due to the Government, it means that it forfeits against Section 11 of the Pension Act, 1871 even without any assignment by the commuted pensioner which he is debarred to do by Section 12 of the same Act.

MILLIONS TAKEN AWAY

Government give commutation compensation, according to the table framed by the Controller of Insurance, to a pensioner of normal health certified by the Medical Board. It was 10.88 years compensation of the commuted portion of pension at 3 per cent interest per annum. Government thus assessed the life span of its old employees as 67 years. The standard of Government wage is supposed to be 12½ per cent less than the wage in the open market. In practice the pensioner proves himself somewhat hardy and manages to live many years more by which Government recovers a greater amount than the advance made to him, in many cases three times of that amount. The Government may be satisfied with the manipulation of conferring a favour and then recovering much more than a money lender. The money lender is checked by Section 11 of the Money Lenders Act. The Government in spite of the check of Section 11 of the Pension Act ignores it and has deprived its superannuated employees to the tune of millions during the century.

The dictionary meaning of commutation is "to compound for a single payment" but the pensioner is not given an adequate single

payment for the property of his pension. He is given an advance calculated on actuarial basis of 11 years at a stipulated rate of interest. Any thing given on interest is loan. The Government of India order No. 35/14/60-Pol (III) dated 19-11-1960 authorised commutation of Wasikas (Pensions) at 20 years purchase value without interest. Against this a superannuated employee is examined medically and given only 11 years advance at interest. If a pensioner is to lose his part of pension permanently the compensation should be assessed according to Land Acquisition Act where the capitalised value paid as compensation both for movable and immovable property is 20 times of the annual income in addition to 15 per cent of the market value. Even under whole life insurance, the premium equal to the portion of pension commuted without profit will give much more amount to the pensioner since Government continues recovering till his death—the premiums being in trust with the Government. If one looks at the table of Endowment Insurance, one finds that the amount of pension commuted and the compensation paid tallies with Endowment Insurance for a period of 13 years in reverse—the payment of the policy made in advance against the premium is in safe custody and trust with the Government. Endowment insurance covers risk of early death also. The premiums should stop after 13 years and the gross pension restored. Recoveries for 13 years will give something in excess to the Government than the amount advanced and the interest desired. Continuing to recover premiums till the death is sheer high-handedness on the part of Government. The Comptroller General of India has his own version since he equates the amount of commutation paid with recoveries of 15 years. *Why he adds two years is a mystery.*

QUEER REASONS

The Government on request to stop recoveries after 13 years, puts forwards queer reasoning against it, e.g., the arrangement involves an element of risk for both the Government and the pensioner i.e. if the pensioner dies well before the period of average life expectancy, the Government stands to lose and if he outlives the assumed survival period, he (pensioner) is the loser. Government refuses to see that if the pensioner dies earlier by accident Government saves the payment of residuary pension of half or more than half of the pension and is the gainer. It does not pay a penny to the widow. Moreover the surviving pensioner is not the bailee of the pensioner, the victim of the accident, that he should make up the imaginary loss of Government. The other reason given by Government is that the Pensioner had the option to commute.

The very reason to commute is that the pensioner was in dire need after life long service and was receiving 11 years advance at interest and had not given any agreement or contract that he would continue to pay till he dies. As against this the money lender had his stamped agreement, yet Government saved him by Section 11 of the Money Lenders Act. A welfare Government is expected to keep in view the hardship of the pensioner.

Section 10 of the Pension Act XXIII of 1871 allows the Government to order commutation of the whole or a part of the pension for a lump sum. If a pensioner commuted his whole pension he was to be out of the control of the Government which it did not like as is confirmed by para 168 of the First Pay Commission Report. The present system keeps him in control and at same time Government ignores Article 294 of the Constitution which provides for the discharge of Government obligations relating to pre-Constitution period.

The Government silently recognises that the making of an advance against a part of pension does not affect the gross pension and in case of the re-employment of the pensioner, the gross pension is kept in view and not the residuary pension. So the commutation does not reduce the pension permanently. Yet the Government continues to make deductions till death.

One of the afflicted pensioners wanted to knock at the door of the Court of Law but he was debarred to do so by Section 4 of the Pension Act, 1871. He applied to the State Government for permission to do so, but it was refused to him.

On the other hand Government of India was benevolent to a lakh of policy holders of 29 insolvent Insurance Companies and on 1-7-1957 granted them full benefit of insurance amounting to about a crore of rupees. Such a clemency to its superannuated pensioners would go a long way to remove the frustration. Some of them have lost the energy even to cry.

Articles 18, 19 and 31 of the Constitution of India save the pensioners from being deprived of their property while Section 11 of the Pension Act prohibits seizure or attachment of any kind of dues from the Pensioner. The Pensioner had not disposed of the commuted part of his Pension under Art. 19(1)(b) of the Constitution and he should not be deprived of the excess recovery made by the Government from him without compensation.

The Government should stop forfeiture of the commuted portions of pensions in respect of pensioners who have repaid sums for 13 years and start paying them gross sanctioned pensions. The violation of rights guaranteed by Articles 14 and 16(1) of the Constitution of India should thus be ended.

According to Seventh Schedule of Article 246 list II Entry 42 of the Constitution, the matter should be dealt with by the State Governments unilaterally.

APPENDIX VIII

[Comments of the Ministry of Finance (Deptt. of Expenditure) and legal opinion of the Ministry of Law on the representation re. restoration of commuted portion of pension of Central Government pensioners]

Ministry of Finance

EV-A Sec.

Lok Sabha Sectt. U.O. No. 53|CI|7|R-80 dated the 7th August, 1973.

The Lok Sabha Secretariat have forwarded a copy of the representation dated 3-8-73 by the Secretary, Pensioners and Seniors Society (Reg.), 2-A Race Course Road, Amritsar, and have asked for factual comments on the various points raised in the representation for the consideration of the Committee on Petitions.

2. The plea made in the representation is that the commuted portion of pension should be restored to the pensioners after the expiry of the period of life expectancy which is taken into account while reckoning the amount of commuted value of pension.

3. The pensioners and their Associations have been agitating in this matter for a long time. They have in the past taken up this question directly, through Members of Parliament. The matter has, therefore, been considered in depth on various occasions. In reply to Rajya Sabha Unstarred Question No. 299 on 8th August, 1972, a statement was laid on the Table of the House dealing with various demands of the Pensioners' Association. The points covered in that statement included the question of commutation of pension and the restoration of the commuted portion of pension. The Rajya Sabha were informed that commutation of a part of pension is not compulsory but is an optional facility available to pensioners to exchange a life term benefit for an immediate one and it is for the individual pensioner concerned to make a choice. Obviously the arrangement involves an element of risk for both parties. The Government stands to lose if the pensioner dies before the expiry of the life expectancy assessed for commutation purposes and the pensioner is a loser if he outlives the assumed survival period. In the circumstances the

demand for restoration of the commuted portion of pension cannot be accepted. Recently some Members of Parliament took up this matter with the F.M. MRE and in replies to them the position stated in the Rajya Sabha was reiterated.

4. The various points made in the enclosure to the representation are dealt with below:—

- (i) It has been stated that Government forfeits the commuted portion of pension against Section 11 of the Pensioners' Act, 1871 even without any assignment by the pensioner which he is debarred from doing under Section 12 of the Act. It may be stated that Section 10 of the Act clearly provides for commutation with the consent of the pensioner on such terms as the Government may deem fit. In view of this, the question of Section 11 and 12 being violated by non-restoration of the commuted portion of pension, as demanded by the pensioners, does not arise. The validity of Section 10 under which pensioner commutes a part of his pension for life time has been examined earlier in consultation with the Ministry of Law and it was held by that Ministry that when a pensioner desires commutation of any part of his pension for a lump sum he agrees impliedly to forgo that part of the pension for his life time and therefore he has no legal claim for that part of the commuted pension to be restored.
- (ii) The point made is that the commuted value of pension is in the nature of an advance recoverable over a period of 10 or 11 years but actually the Government does not stop recoveries after the commutation period is over but continues to retain the commuted portion of pension for life against Section 11 of the Pensions' Act. As stated earlier the commutation is voluntary and optional and also in accordance with Section 10 of the Pensions' Act which is not fettered by Section 11 of the same. The very scheme of commutation is based on surrender for life of the commuted portion of pension and there is, therefore, no question of treating the commuted pension as advance and its recoveries in a stipulated period of time or over-recovery of the amount advanced.
- (iii) After giving the dictionary meaning of the word 'commutation' it has been argued that the pensioner is not given an adequate single payment for the property of his pension surrendered by him. In this connection a reference has also been made to the Land Acquisition Act and it is urged

that if the pensioner is to lose his part of pension permanently the compensation should be assessed under that Act and should be 20 times of the annual income in addition to 15 per cent of the market value. As pointed out above, commutation is not compulsory but is an optional facility and it is for the pensioner to make a choice. He may not go in for commutation if he thinks that the commuted value offered to him is not adequate. As regards the question to compensate the pensioner under the Land Acquisition Act, presumably that Act applies to landed properties and not pension etc. However, we may seek the comments of the Ministry of Law on this point.

- (iv) It has further been stated that if the pensioner who has commuted a part of his pension dies early by accident, Government saves the payment of residuary pension and is, therefore, the gainer. Moreover, it does not pay a penny to the widow. It may be mentioned that the scheme of family pension has been in vogue, since 1950 and w.e.f. 1-1-1964 a scheme of family pension for life has been introduced. Therefore the statement is not correct. Further, an assumption has been made that Government recovers from the pensioners who outlive the commutation period the money it loses in the case of pensioners who die before the commutation period is over. It is a fact that the scheme of commutation does take into account the element of risk involved in cases of early death of pensioners. It is argued that a retired Government servant commutes his pension to meet his dire needs and even though the commutation can be said to be optional, the retired Government servant is driven by circumstances to avail of this option. Therefore, in the light of the Moneylenders Act which protects borrowers, a Welfare Government should protect the pensioners, taking into account the circumstances in which they go in for commutation of pension. As explained earlier it is wrong to assume that the commutation value is money advanced. The commuted value is not advanced as a loan. The analogy is inapt. Actually it is an optional facility available to pensioners to exchange a life term benefit for an immediate one and naturally this facility is meant to be used by needy persons. Since no coercion on the part of the Government is involved and it is clearly understood at the time of commutation of pension that the commuted portion of pension will be surrendered for life the implied plea of exploitation of needy pensioners does not seem to hold water.

- (v) It has been alleged that although the Pensioners' Act, 1871, provides for commutation of the whole of pension, the Government does not allow this because in that case the retired Government servant will be out of its control, which the Government did not like. In support of this, para 168 of the 1st Pay Commission's Report is quoted. The Government is also charged with ignoring Article 294 of the Constitution. It may be mentioned that para 168 *ibid* relates to comparative advantages and disadvantages of the C.P. Fund & Pension schemes and in that connection the Commission made an observation that while CPF afforded an employee greater freedom to retire, the Government preferred the pension system as it, *inter-alia*, allowed Government to retain a hold over its retired employees. This observation was made in quite a different context of merits and demerits of pension system *vis-a-vis* C.P.F. system & is irrelevant to the matter of commutation of pension. Similarly, it is not relevant to invoke Article 294 of the Constitution which deals with Government's succession to property, assets, rights, liabilities and obligations at the commencement of the Constitution.
- (vi) It is stated that since in the case of re-employment of a pensioner his gross pension is taken into account for fixing his pay on re-employment and the commuted portion of pension is not ignored in fixing the pay, the Government impliedly recognises that commutation does not reduce the pension permanently and yet the Government continues to make deductions of commuted pension till death of a pensioner. It may be stated that under this Ministry's O.M No. 8|34|Est-III|57 dated 25-11-58 a pensioner's pay on re-employment is so fixed that the total amount of his initial pay on re-employment plus the gross amount of pension and|or the pension equivalent of other forms of retirement benefits does not exceed the pay last drawn before retirement or Rs. 3,000 whichever is less. These retirement benefits include CPF benefits, DCRG and commuted value of pensions. In other words the gross retirement benefits admissible on the date of retirement are taken into account for the purpose but the conclusion drawn in the representation that the commutation does not reduce the pension permanently is wrong and unwarranted.
- (vii) It is stated that under Section 4 of the Pensions' Act, 1871, the pensioner is debarred from having recourse to a Court

of Law and he is, therefore, not able to seek redressal of his grievances legally. The question of amending Section 4 of the Act is separately under consideration.

- (viii) In this para a reference has been made to the benevolence shown by Government to the policy holders of some insolvent Insurance Companies and on that analogy a liberal treatment is urged towards the retired Government servants. We are not aware of the details of the case of said policy holders but obviously that should not be relevant for the matter under consideration.
- (ix) It has been stated that Articles 18, 19 and 31 of the Constitution save the pensioners from being deprived of their property i.e. pension, while Section 11 of the Pensions' Act prohibits seizure or attachment of pension for any kind of dues from the pensioner and yet he is deprived of his property by excess recovery after the commutation period without any compensation. Article 18 deals with abolition of titles and it is not understood how this saves the pensioners in the matter of pension. Article 19 deals with Fundamental Rights of speech, assembly, residence, occupation and also the right to acquire or dispose of property. It is not clear whether the commutation done in accordance with Section 10 of the Pensions Act, 1871, is violative of the provisions of this article of the Constitution. Article 31 deals with right to property and it is not clear whether our scheme of commutation comes in conflict with this article. We may, therefore, seek the advice of Law Ministry.
- (x) It is alleged that non-restoration of commuted portion of pension after 13 years violates the rights guaranteed by Art. 14 and 16(1) of the Constitution. Article 14 deals with equality before Law and guarantees equal protection of the laws. This article does not seem to come in conflict with the commutation rules and is obviously not relevant. Article 16(1) provides against discrimination in the matters of employment or appointment under the State and it is not clear how the commutation rules attract the provisions of this article.
- (xi) It is stated that the matter (relating to commutation of pension) should be dealt with by the State Governments unilaterally according to entry No. 42 in list II of the 7th Schedule read with article 246 of the Constitution. The said entry relates to State pensions, i.e. pensions payable

by the State or out of the Consolidated Fund of the State. Since the matter under consideration relates to Central Government pensions payable by the Union Government or out of the Consolidated Fund of India, the State Governments have no jurisdiction in the matter.

5. As stated above, the pensioners Association has challenged the present scheme of commutation in the context of various provisions of the Constitution relating to Fundamental Rights. We have had an occasion to consider the vires of the Pensions Act in the context of Article 13 of the Constitution in consultation with the Ministry of Law. That Ministry held that the provisions of the Act were quite valid. The question whether the commutation rules or non-restoration of the commuted portion of pension after expiry of a certain period violates any of the other provisions of the Constitution as enumerated by the pensioners Society has not been examined so far. We may, therefore, seek the advice of the Ministry of Law on these points made by the Society before sending our factual comments to the Lok Sabha.

6. While considering the matter, the Ministry of Law may also please keep in view their advice that in view of Section 11 and 12 of the Pensions Act, any assignment of future pension is illegal and also the judgement of the Supreme Court in the case of Deokinandan Prasad Vs. State of Bihar declaring *inter alia* the pension is property under Articles 19 and 31 of the Constitution.

Sd/- K. L. Mehta
31/10

US (EV)

Sd/- S. S. L. Malhotra
31/10/73

DS (E)

Sd/- V. K. Pandit
1/11/73

Deptt. of Legal Affairs (Shri P. B. Venkatesubramanian—JS)
U.O. No. 3082-EV-A-73 dt. 2/11

Min. of Law

Deptt. of Legal Affairs

Advice (F) Section

The position relating to Article 13 has already been discussed by this Ministry.

2. In respect of Article 14 there cannot be said to be any violation since the classification of persons who want to commute their pensions would be a reasonable classification. This aspect also has been emphasised in our earlier notes.

3. The only further question would be whether there is any infringement of Article 31 of the Constitution.

4. Article 31 (1) only contemplates that no person shall be deprived of his property save by authority of law. In other words the clause itself implies that a person may be deprived of his property provided he is so deprived by authority of law.

5. Property in the said Article only means that which can by itself be acquired, disposed of or taken possession of. In the present case, when a person foregoes an amount, as provided for under Section 10 of the Pensions Act, the legal claim itself is extinguished. This being so, there does not seem to be any deprivation of property as far as that person is concerned. It cannot, therefore, be said that Article 31 is in any way violated in the circumstances envisaged in the present reference.

Sd|- M. Chandrasekharan
Asstt. Legal Advisor,
21-1-1974.

M|Fin. Deptt. of Expenditure.

M|Law Justice and Company Affairs.

U.O. No. 24814/73 Adv(E) dt. 23-1-74.

Ministry of Finance EV-A

The M|Law has not directly dealt with points raised at 'A' on p.2 *ante* and 'B' on p. 4 *ante*. Presumably, 'B' *ibid* is covered by comments on Article 31. Since Lok Sabha Secretariat have been pressing for the material, we may, if approved, send copies of notes on p. 1—6|n to them and later seek the advice of the Law Ministry on the uncovered points.

DFA put up., pl.

Sd|- K. L. Mehta
29|1

DS(E) may also like to see.

Sd|- S. S. L. Malhotra
31|1|1974.

JS(Per) may also like to see.

Sd/ V. K. Pandit
31|1|1974.

JS(Per)

Seen. Thanks.

2. The process of commutation of pension involves substitution of an agreed sum for part of the pension payable in accordance with rules. Since commutation is made on the specific request of pensioners there can be no valid basis for challenging the arrangement after both parties have fulfilled their part of the obligations in terms of the arrangement.

Sd|- J. M. Lalvani,
2|2|1974.

DS(E)

It'd.

4|2|74.

Copy of note from F. No. 14(2)EV-A|73.

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Ministry of Finance

EV-A Sect.

In our note on page 1—5 *ante* we had sought the advice of the Law Ministry on various points raised by the Pensioner's Society in the context of some provisions of the Constitution. The M|Law have dealt with Articles 13, 14 & 31 of the Constitution. They have not given their advice on the points raised in Para 4(iii), 4(ix) and 6 of our note. Presumably their comments with reference to Art. 31 apply to Art. 19 of the Constitution also. The Min. of Law may please confirm this. They may also please favour us with their advice on the remaining points at an early date as the same is needed for the Lok Sabha Sectt.

Sd|- K. L. Mehta
6|2.

US(EV)

As the information is required by a Parliamentary Committee, this may be treated as immediate.

Sd|- S. S. L. Malhotra
7|2.

Min. of Law (Shri M. Chandrasekharan, A. L. A.)

Min. of Fin. (EV Br.) U.O. No. 343-EV-A/74 dt. 8/2/74.

Notes in the Min. of Law (Dept. of Legal Affairs)

Advice (B) Section

The comments made by us in paragraphs 4 & 5 of the note recorded on 21-1-74 would, *mutatis mutandis*, apply to the provisions of Art. 19 also. The further condition would be as to whether the restrictions imposed, if any, amount to reasonable restrictions. It would appear that when provision is made for commutation of pension in accordance with Section 10 of the Pensions Act, 1871, it would not amount to an unreasonable restriction in so far as much commutation is on the basis of option made by the pensioner subject to other provisions of the same Act.

2. In regard to compensation under the Land Acquisition Acts, it may be stated that they would not be applicable to the case of pensions.

Sd/- M. Chandrasekharan,
Asst. Legal Adviser 16/2/74.

Min. of Fin. (Deptt. of Expenditure)

Min. of Law Justice and Company Affairs.

U.O. No. 20635/74 Adv. (B) dt. 18/2/74.