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**ALL INDIA INSURANCE PENSIONERS’ ASSOCIATION**

**D.No.9-9-127/1,**

**SIVAJIPALEM**

**VISAKHAPATNAM – 530017.**

**Dear Comrade!**

**NOTE ON LIC PENSIONERS CASE IN DELHI HIGH COURT**

Please refer to our AIIPA Circular No.32/16 dt. 10-12-16 wherein you have appraised the deliberations at the Delhi High Court. The main questions posed by the Bench in our case are

1. The impact on Pension payable for Pre-August 1997 Pensioners in case Rule 3(A) was held to be void: For this our Counsels argued and they will be further putting forth the details on 4-1-17 as briefed by you.
2. The Second Important Point which has very much relevance to all Pensioners irrespective of Date of Retirement is “whether the LIC Pension Rules had any Provision on upgradation and wanted our Counsel to highlight more on legal points”. If this point is argued well, there is every hope for the success of our Claim for Updation and all the Insurance Pensioners will be benefitted. Hence I request our leadership to go through the Pension Scheme minutely, so that they can brief our Counsel.

In this connection, I put forth my views as discussed with some others and request you to consider them.

LIC Pension Scheme Provides for “upgrading” the Pension. If we carefully go through the following Paragraphs it will be clear:

**Para 5 (3) of Chapter –III –THE FUND – Constitution of Fund**: “The Corporation shall be a contributor to the Fund and shall ensure that sufficient sums are placed in it to enable the trustees to make due payments to beneficiaries under these Rules.

**Para 7 (f): COMPOSITION OF THE FUND:** “The Additional Annual Contribution made by the Corporation in accordance with the provisions contained in rule 11 of these rules;

**(Para 8 – speaks about the Board of Trustees all appointed by Corporation.)**

**Para 11 – Acturial Investigation of the Fund:** The Corporation shall cause an investigation to be made by an Actuary into the Financial Condition of the Fund every Financial Year on the 31st day of March and **make such Additional Annual Contributions to the Fund as may be required to secure payment of the benefits under these rules.**

**Para 13 – PAYMENT OUT OF THE FUND:** The Payment of benefits by the Trust shall be administered as follows, namely:-

1. The trust shall purchase immediate annuities from the Corporation in respect of each employee or his family, as the case may be, at the time he or his family becomes eligible for the benefits under these rules;
2. ***The Trust shall subject to the availability of Additional Sums in the Fund to be provided by the Corporation as required under Rule 5 (3) purchase Additional Annuities as and when it becomes necessary to revise upwards the benefits payable in accordance with these rules.***

**(The LIC cannot say this clause “for purchase of Additional Annuities is for increase in Dearness Relief”, since the DR will only compensate the loss in Pension due to price raise, but will not revise upwards the benefits.)**

**The Conclusion is: The Corporation is to make additional annual contribution after causing an Actuarial investigation in to the financial condition of the Fund every Financial year, on 31st day of March. The Trust shall purchase Additional Annuity as and when it becomes necessary to revise upwards the benefits payable in accordance with this Scheme. It can not say that they are purchasing additional annuities to meet the increased DR. If we collect the Actuarial Reports from 1997 to 31-3-2016, we may well argue this case.**

**Our Pension Scheme Para No.56 reads as follows:**

**“56. Residuary Provisions:** Matters relating to Pension and other benefits in respect of which no express provision has been made in these rules shall be governed by the corresponding provisions contained in the Central Civil Services (Pension) Rules, 1972 or the Central Civil Services (Commutation of Pension) Rules, 1981 applicable for Central Government Employees”.

**According to this provision, since “no express provision is there in our Pension Rules regarding the Upgradation or Updation, the logical follow up will be to apply the CCS Rules, which were time and again amended as and when Pay Commission Recommendations were accepted for Wage Revision coupled with Pension Revision.**

**55 A. Power to Relax: Where the Central Government is satisfied that the operation of any of these rules causes undue hardship in respect of any class or categories of persons, it may, by order for reasons to be recorded in writing relax the requirement of the provision of that rule in a manner not inconsistent with these rules.**

**Para 2(j) reads as below**:

“2(j) : “employee” means any person ……..

“provided that where the Chairman of the Corporation appointed by the Central Government in accordance with Section 4 of the Act, was immediately preceding such appointment an employee of the Corporation, then, subject to the terms of any contract, agreement or letter of appointment or directions issued by the Central Govt, such Chairman for the purposes of these rules shall also be deemed to be an employee of the Corporation.

**CONCLUSION: Even a CMD of the Corporation appointed from the Rolls of Employees of the Corporation, is treated an employees of the Corporation for the purpose of the Rules, is governed by the CCS Rules.**

**NOTE:**

1. **Please collect and focus on the Total Amount of Pension Fund, how much income it is generating every financial year and what percentage of the Fund is utilized for the purchase of Annuities every year. Also what is the ADDITIONAL CONTRIBUTION TO THE FUND BY THE LIFE INSURANCE CORPORATION OF INDIA EVERY YEAR AND IN TOTAL.**
2. **The point mentioned in the Supreme Court Judgment “creating Different Groups of Pensioners basing on the Date of Retirement” is to be stressed since an employee retiring say in 1997/2000/20005 etc will get much lesser pension compared to the pensioner retired in 2012/2015 etc now gets much less pension, creating different classes of pension under the same Rules. Previous judgments like Nakara Case and recent Rajasthan HC Judgment etc., to be quoted.**

**I am only submitting these points for your consideration and briefing our Advocates.**

**With greetings,**

**Dated 28/12/2016 P.V.SUBBARAO**

**CC Member, AIIPA.**