



ALL INDIA INSURANCE PENSIONERS' ASSOCIATION

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To

All Divisional/Regional/State units of AIIPA

Dear Comrades,

Re: Implementation of Delhi High Court Judgement - Order of Hon'ble Supreme Court

All India Insurance Pensioners' Association, had been stressing that, but for extraneous factors, the issue of Full Neutralisation in Dearness Relief for Pre-August 1997 Pensioners, would have fructified with "favourable inclination" on the horizon. Had not AIIPA's efforts been interrupted, it would have been eight years since the senior citizens would have enjoyed the benefit.

From the year 2008 when favourable inclination was indicated through the year 2010, from when the benefits would have flowed to LIC Pensioners to the period up to March 2016, AIIPA was organisationally pursuing with LIC, the issue for favourable decision. AIIPA had urged upon LIC that it was only logical that Management carried forward the favourable inclination without inhibition and it was their ethical responsibility to get their own Board Resolution of November 2001 implemented. But LIC continued with its apathy.

With the three High Court judgements directing LIC to implement LIC Board Resolution, sans a Government Notification and with these verdicts being challenged in the Apex Court, AIIPA was of the firm opinion that it was not time to enter the fray.

The strong conviction of AIIPA that only the Government and not LIC had the Rule making powers was vindicated by the March 31, 2016 judgement of the Supreme Court. The judgement set aside the judgements of Jaipur, Delhi and Chandigarh High Courts, remitted back the matter to Delhi High Court, ordered Interim Relief of 40% as per Rule 3(A) of Appendix IV of LIC Pension Rules to all similarly placed Pensioners and also observed that it was not expressing any opinion on the merits, except that LIC Board Resolution had no force of Law, unless notified by the Government.

LIC proceeded to make payments towards Interim Relief based on the methodology adopted in the LIC Board Resolution viz., merger of Dearness Relief up to 1740 points and Dearness Relief thereon at 0.23%.

Based on the immediate need to protect the interests of Pre-August 1997 Pensioners entitled to Interim Relief and to further their interests and those of post-August 1997 Pensioners, AIIPA decided to implead itself before the Hon'ble Delhi High Court. AIIPA explained that there has been no change in stance and change in situation has led to the decision.

Our Prayer before the Delhi High Court was Uniform Rate of Dearness Relief for Pre and Post-August 1997 Pensioners, with Full Neutralisation for all and updation of Pension for all on par with Central Government Pensioners.

There were arguments, juxtaposing the interests of the in-service employees and for carving out the benefit due to the pensioners, out of Valuation Surplus.

In the course of arguments of our Senior Counsel on February 16, 2017, the High Court observed that cost was not a material factor, Rate of Dearness Relief should not be less than 0.23% for all and Pension cannot remain static and revision of pension was part of Corporate Social Responsibility [CSR] and LIC was advised to submit a revised chart with neutralisation at 0.23%.

LIC, while submitting a revised Chart, instead of granting full neutralisation on full pension as 0.23% envisaged, chose to retain the original rates up to Basic Pension of Rs.2130 and Rs.3850 and chose to modify the rates of 0.17% under para [1] and 0.17% and 0.09% under para [2] to 0.23%.

Tracing the Dearness Relief Rates, the verdict pointed out under paras [74] and [75] that Rate of 0.17% in Para [1] was less than 0.23% in para 3(A) and that rate was higher than 0.17% and 0.09% under para [2] and this violated the ratio in D.S.Nakara case.

Under para [76], the Order said that this unequal treatment results in discrimination and violates Article [14] of the Constitution and equalisation under paras [1] and [2] should not be less than equalisation under para 3(A).

Based on the revised Chart submitted by LIC, the judgement noted that there was increase in pension, if 0.23% is applied above Rs.2130 Basic Pension in para [1] and above Rs.3850 Basic Pension in para [2].

The verdict averred this decision would not help pensioners at lower end, but that would not deter them from passing the order on the ground that higher end pensioners were entitled to the relief.

Dwelling on the concept of Minimum Pension, the Bench observed Minimum Pension should be upgraded to current levels with applicable Dearness Relief.

Due to calibration of the amount of Minimum Pension and Rates of Dearness Relief at different index levels, there is an increase. However superannuation with just 10 years of service is a rarity and the relief provided for, will almost be in no man's land.

Pensioners above Rs.2130 Basic Pension under para [1] were eligible for 0.29% against 0.17% and above Rs.3850 Basic Pension entitled to 0.23% as against 0.17% and 0.09% under para[2].

Based on the observations that equalisation in para [1] should not be less than that under para [2], there should have modified rates from Rs.2000 to Rs.2400 under para [1] also.

By virtue of this Delhi High Court Order, no Class III employee will have a right to get increased Pension and Truncated Dearness Relief formula will continue to apply. If AIIPA's efforts had been allowed to succeed all Pre-August 1997 pensioners belonging to Class III would have drawn modified pension with Full Neutralisation and that would have fetched them an increase.

As regards Class I and II Officers up to AAO Cadre, at 600 points, no benefit will accrue and at 1148 points from AAO Cadre onwards increased pension will be available and the Truncated Dearness Relief formula will continue to operate and under AIIPA's efforts all Class I and II Pensioners would have become entitled for higher pension with Full Neutralisation.

During the proceedings, AIIPA had argued, all pensioners formed a homogenous class and there cannot be a division and LIC's views were, each group based on Date of Retirement constituted separate classes.

However the judgement has granted some benefit to certain section within that 'separate class', excluding others and this grant of 0.23% does not imply full neutralisation in Dearness Relief.

All India Insurance Pensioners' Association is conscious of the hard feelings of all the Pensioners, who have been denied the benefit, presumably due to distorted presentation of 0.23% by LIC in its Chart.

In the Hon'ble Supreme Court, AIIPA desired early Hearing and speedy disposal of our SLP.

During the proceedings in the Hon'ble Supreme Court, there were arguments on Interim Relief and an order was passed and extracts therefrom are reproduced:

" It is stated by learned counsel appearing on behalf of the Life Insurance Corporation of India that amount payable to the petitioners under the judgement will be paid within a period of eight weeks from today.

We expect Life Insurance Corporation to abide by the statement made by learned counsel and to file an affidavit of compliance soon thereafter

List the matter on 11th October, 2018 "

We hope Life Insurance Corporation will implement the order in letter and spirit

With LIC having been granted eight weeks time and the case posted to October 11, 2018, the time between now and October, will be used by AIIPA to try to secure benefits through organisational means.

As part of Organisational initiatives, AIIPA is writing to LIC.

This detailed resume is to help the pensioners to properly assimilate the past events, understand them in correct perspective and come to the definite conclusion that AIIPA shall continue to be the guardian of their interests both inside and outside the judicial forum.

With Greetings,

Comradely Yours,



(T K CHAKRABORTY)
GENERAL SECRETARY