

**MOST IMMEDIATE/
IMPLEMENTATION OF CAT ORDER**

**OM No. 38/48/09-P&PW(A)
Government of India
Ministry of Personnel Public Grievances and Pensions
Department of Pension and Pensioners Welfare

**Lok Nayak Bhawan,
Khan Market, New Delhi-110 003
dated 27th August, 2009**

OFFICE MEMORANDUM

Subject: OA No. 504 of 2009 filed in the Central Administrative Tribunal, Ernakulam Bench – Grant of additional pension on attaining the age of 80 years regarding

The following Applicants filed OA No. 504 of 2009 in the Central Administrative Tribunal, Ernakulam Bench seeking direction of the hon'ble CAT that the pensioners/family pensioners may be given the additional quantum of pension/family pension, in terms of Department of Pension & PW Resolution No. 38/37/08-P&PW(A) dated 29.8.2008, O.M. No. 38/37/08-P&PW(A) dated 1.9.2008 and O.M. No. 38/37/08-P&PW(A) (pt. I) dated 3.10.2008, just after their completion of the age of 79 years:

1. Southern Railway Pensioners Association, Gopalan Vaidyar's Compound, Tileri Road, Bolar, Mangalore.
2. Shri K. Gopal Shenoy, Retired Wireless Inspector (Railways), Old Canara Bank Building, Padavinagadi, Konchady Post, Mangalore
3. Kamalaksha, Retired Railway Trolleyman, Nadukar House, Kalnad Village, Kasaragod District-671217

2. The Central Administrative Tribunal, Ernakulam Bench, in its Order dated 28.7.2009 disposed of the above OA with the following advice to the Secretary, Department of Pension & Pensioners Welfare:

“To consider the representations at Annexures A-4 to A-6 along with the grounds raised in the OA and pass a suitable order within a period of two months from the date of communication of this order.”

3. In compliance of the above advice of the Hon'ble CAT, the representations at Annexure A-4 to A-6 and the grounds raised in para 5 of the OA No. 504 of 2009 have been examined in the Department of Pension & Pensioners Welfare.

4. The thrust of the argument made in the representations/OA is that a person attains the age of 80 years on completion of the age of 79 years and, therefore, the additional quantum of pension available on attaining the age of 80 years should be paid immediately on completion of the age of 79 years.

5. The above argument of the Applicants is on account of misinterpretation of the meaning of the phrase “attaining the age of”. The position in the Rules regulating the

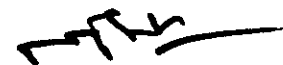
service conditions of the Government servants in this respect is well settled. In accordance with Rule 56 of the Fundamental Rules applicable to the Government servants, a Government servant retires from service on the afternoon of the last day of the month in which he attains the age of 60 years. Accordingly, a Government servant retires on the afternoon of the last day of the month in which he completes the age of 60 years and not in the month in which he completes the age of 59 years. On this analogy, the additional pension/family pension on attaining the age of 80 years has to be paid only after the pensioner completes the age of 80 years and not after he completes the age of 79 years.

6. In para 5(M) of the OA, the Applicants have referred to the Venkataramani Iyer's Law Maxims with Legal Maxims (Reprint 1991) according to which a person attains the age of 21 years "on the day preceding the anniversary of his 21st Birthday". In terms of this definition itself, a person born on 5.4.1988 attains the age of 21 years on 4.4.2009 and not on 5.4.2008.

7. It is clear from the above that a person attains the age of 80 years only when he completes the age of 80 years and not when he completes the age of 79 years. However, for the sake of convenience, it has been provided in the orders issued by this Department that the additional quantum of pension/family pension, on attaining the age of 80 years and above, would be admissible from the 1st day of the month in which the date of birth falls..

8. In the light of the foregoing, the request of the Applicants for payment of the additional quantum of pension available on attaining the age of 80 years immediately on completion of the age of 79 years is not agreed to.

9. This issues with the approval of Secretary, Department of Pension & Pensioners Welfare.



(M.P.Singh)
Director (PP)

1. Secretary, Southern Railway Pensioners Association, Gopalan Vaidyar's Compound, Tileri Road, Bolar, Mangalore.
2. Shri K. Gopal Shenoy, Retired Wireless Inspector (Railways), Old Canara Bank Building, Padavinagadi, Konchady Post, Mangalore
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Copy to: Secretary, Railway Board, Rail Bhawan, New Delhi



(M.P.Singh)
Director (PP)

Please visit: <http://pensionersportal.gov.in>