

INDIAN RAILWAYS TECHNICAL SUPERVISORS ASSOCIATION

(Estd. 1965, Regd. No.1329, Website <http://www.irtsa.net>)

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No:IRTSA//CHQ/Memo RB/2017-7

Date: 12.06.2017

1. Secretary Expenditure, Ministry of Finance
2. Member Staff, Railway Board
3. Secretary, Department of Personnel & Training

Respected Sir,

Subject: Inclusion of Railway Employees in Indian Railway Servants Pension Rules (1993) instead of National Pension Scheme (NPS) – Case of employees recruited by recruitment processes initiated prior to implementation of NPS (i.e. 01.01.2004)

Reference: Judgment in Special appeal No.330 & 523 of 2013 by the Hon'ble High Court of Uttarakhand at Nainital.

1. We would like to bring to your kind notice urgent need for inclusion of Railway employees in Indian Railway Servants Pension Rules (1993), who were all recruited by recruitment processes initiated prior to implementation of NPS (ie. 01.01.2004), based on the judgement of Hon'ble High Court of Uttarakhand Nainital.
2. Hon'ble High Court of Uttarakhand in its judgement held that, **old pension scheme which was in existence when the recruitment process was started, cannot be permitted to be altered in disadvantage of the recruits.**
3. **Relevant paras of judgment in Special appeal No.330 & 523 of 2013 by the Hon'ble High Court of Uttarakhand at Nainital**

"Petitioners applied for the post of Assistant Teachers in Government Primary Schools and were interviewed on 28.09.2005 and were selected vide order dated 29.09.2005. Thereafter, Government was pleased to issue Government Order dated 25.10.2005 provision therein that Government servants would not be entitled for regular pension, however, would only be entitled for contributory pension scheme w.e.f. 01.10.2005.

Undisputedly, when petitioners applied for the post, old pension scheme was in existence, therefore, petitioners had every reasonable expectations that they would be governed by the service conditions prevailing on the date posts were advertised and recruitment process was commenced. In our considered view, service conditions, prevailing on the date of recruitment process commenced, cannot be permitted to be altered in disadvantage of the recruits. Moreover, in our considered opinion, Government order dated 25.10.2005 in prospective in nature and cannot be made applicable retrospectively for the persons who had applied for the post prior to 25.10.2005. Therefore, we do not find any reason to take contrary view to the view taken by the learned single judge".

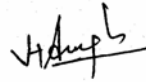
4. The cases where the recruitment processes were initiated prior to 2004 Railway employees were governed by Indian Railway Servants Pension Rules (1993). Some

of the recruitment processes by Railway Recruitment Boards & Zonal Railways, which were initiated prior to 2004, had been completed in the beginning of year 2004.

5. As per the judgement of Hon'ble High Court of Uttarakhand, employees who were recruited through the recruitment process which were started prior to date of implementation of NPS (ie.1.1.2004), the service rules applicable in that period should be made applicable to all in regard to pension and other retirement benefits.
6. **It is, therefore, requested to include all Railway employees in Railway Servant Pension Rules (1993) who were recruited by recruitment processes initiated prior to implementation of NPS (i.e. 01.01.2004), and they should not be covered by the NPS in view of the foregoing submissions.**

Thank you

Yours faithfully,



**Harchandan Singh,
General Secretary, IRTSA**

Encl: Copy of Judgement of in Special appeal No.330 & 523 of 2013 by the Hon'ble High Court of Uttarakhand at Nainital.

Copy for information & favourable consideration to:

1. **Chairman Railway Board**, Room No.236, Rail Bhawan, New Delhi - 110001
2. **Secretary (Establishment) Railway Board**, Room No 227, Railway Board, Rail Bhawan, New Delhi – 110001
3. **Additional Member Staff**, Room No 208, Railway Board, Rail Bhawan, New Delhi – 110001

From

R.RAGUPATHY
Emp No.821634
Senior Section Engineer/WS
Shop-22, Shell
Integral Coach Factory

To

THE CHIEF PERSONNEL OFFICER
Integral Coach Factory
Chennai

Respected Sir,

Through proper channel

Sub: Inclusion in the Indian Railway Servants Pension Rules (1993) instead of NPS.

1. I have been recruited to the post of Technician Gr-III (Welder) Rs.3050-4590 against 25% direct recruitment quota from open market as per RRB Chennai & Trivandrum Joint Notification No.02/2003.
2. Chronological order from RRB notification to my appointment in ICF is given below,

	Stages of Recruitment	Date	Reference
1	Date of Issue - Employment Notice No.02/2003	12.07.2003	RRB Chennai & Trivandrum Joint Notification No.02/2003
2	Date of closing	13.08.2003	
3	Date written examination held	12.10.2003	
4	Date of certificate verification	18.12.2003	RRB Chennai letter No.RG/TECH(WELDER)/CAT-1 of 02/2003.
5	Date of medical examination	02.01.2004	CPO/ICF letter No. PB/RR/1014800319
6	Date of offer of appointment	13.01.2004	Office of GM/ICF letter No. PB/RR/39/RRB
7	Appointment order	21.02.2004	Office Order No.PB/S4B/WELDING/237

3. I have applied for the post of Technician Gr-III in Indian Railways in the year 2003 when the old pension scheme is in existence. Written examination and certificate verification have been completed in 2003 itself.
4. In the RRB notification it was not mentioned that all the recruitees will be included in the New Pension Scheme, now named as National Pension Scheme.
5. Even in offer of appointment, Office of GM/ICF letter No. PB/RR/39/RRB, dated 13.01.2003, it was not mentioned that I will be included in NPS. Moreover, in the instruction given to Ex-servicemen in para 14 of offer of appointment, I understood that I will be include in Railway Servants Pension Rules (1993).
6. But it has been instructed in O.O. dated 21.02.2004 that, I will be included in NPS not in Railway Servant Pension Rules 1993.
7. It is brought to your kind notice that Hon'ble High Court of Uttarakhand in its judgement said that, **old pension scheme which was in existence when the recruitment process was stared, cannot be permitted to be altered in disadvantage of the recruitees.**
8. **Relevant paras of Special appeal No.330 & 523 of 2013 in the Hon'ble High Court of Uttarakhand at Nainital**

“Petitioners applied for the post of Assistant Teachers in Government Primary Schools and were interviewed on 28.09.2005 and were selected vide order dated 29.09.2005. Thereafter, Government was pleased to issue Government Order dated 25.10.2005 provision therein that Government servants would not be entitled for regular pension, however, would only be entitled for contributory pension scheme w.e.f.01.10.2005.

Undisputedly, when petitioners applied for the post, old pension scheme was in existence, therefore, petitioners had every reasonable expectations that they would be governed by the service conditions prevailing on the date posts were advertised and recruitment process was commenced. In our considered view, service conditions, prevailing on the date of recruitment process commenced, cannot be permitted to be altered in disadvantage of the recruitees. Moreover, in our considered opinion, Government order dated 25.10.2005 in prospective in nature and cannot be made applicable retrospectively for the persons who had applied for the post prior to 25.10.2005. Therefore, we do not find any reason to take contrary view to the view taken by the learned single judge”.

9. Since, the recruitment process for my appointment was started in the year 2003, the service rules applicable in 2003 should be made applicable to me in regard to pay, pension and other retirement benefits.
10. **Hence I request your goodself to consider myself in Railway Servant Pension Rules 1993 instead of NPS.**

Thank you

Yours' truly

R.RAGUPATHY