

File no. 2/3/2023-EC-IV(SC)/190-E
Directorate General
Central Public Works Department
EC-IV (SC) Room No. 109 A Wing

Nirman Bhawan, New Delhi.
Dated the 20 February, 2024

OFFICE MEMORANDUM

Subject: Grant of notional increment (as due on 1st Jan./ 1st July) to the officers/ employees superannuated on 31st Dec./ 30th June and revision of pensionary benefits.

The undersigned is directed to invite the attention to the above-mentioned subject and to say that some retired CPWD officials through original application (OA) No.173/2021(Arun Kumar Goyal & others) and 2244/2019(Lal Chand Maurya & others) OA no. 2905/2023 (Sh. Surya Kant Rai, EE(Civil) & Others) approached the CAT for seeking the benefits of grant of notional increment. These retired officials had superannuated on 30th June and 31st December and their next date of increment was due on 01st of July and 1st of January following their respective date of superannuation. The applicants were aggrieved that their pension should have been fixed by counting the increment which was due immediately following their respective date of superannuation.

2. The Hon'ble CAT(PB) New Delhi pronounced its judgement in favour of the applicants vide order dated 15.07.2021 & 22.09.2023 respectively (copy enclosed). Department of Legal Affairs, M/o Law & Justice had advised to challenge the decision dated 15.07.2021 of CAT, PB, New Delhi in High Court of Delhi. Accordingly, a Writ Petition 2926/2022 was filed in the Hon'ble High Court of Delhi on 04.02.2022 after obtaining the approval of the competent authority.

3. Hon'ble High Court of Delhi issued an Order on 26.07.2023 after hearing the above Writ Petition and stated that:-

“Since we have disposed of similar writ petitions arising from the same order, we dispose of this petition stating that the parties shall be bound by the Judgement of the Supreme Court in Director (Admn. & HR) KPTCL (supra) Civil Appeal No. 2471 of 2023[SLP (C) No.6185/2020]. Petition Stands disposed of”.

4. Hon'ble Supreme Court of India in the matter of Civil Appeal No. 2471 of 2023[SLP (C) No.6185/2020, The Director (Admn. and HR) KPTCL & Ors. Versus C.P. Mundinamani & Ors] had announced in its Judgement dated 11/04/2023 that:-

“The Division Bench of the High Court has rightly directed the appellants to grant one annual increment which the original writ petitioners earned on the last day of their service for rendering their services preceding one year from the date of retirement with good behaviour and efficiently. We are in complete agreement with the view taken by the Division Bench of the High Court. Under the circumstances, the present appeal deserves to be dismissed and is

accordingly dismissed. However, in the facts and circumstances of the case, there shall be no order as to costs. I.A. No. 149091/2022 stands disposed of in terms of the above”.

5. Since the order dated 26.07.2023 of the Delhi High Court referred to the Judgement of Supreme Court (Civil Appeal No. 2471 of 2023[SLP (C) No.6185/2020) and keeping in view the vast implications of the implementation of the judgement, it was decided to refer the matter to DoPT being the Nodal Department for seeking their comments/ advice through MoHUA for further order in this case.

6. DoPT in its observation stated that *“The matter has been examined in this Department. It is advised that in the instant case MoHUA may, in consultation with D/o Legal Affairs, take an administrative decision regarding compliance of the Order dated 26.07.2023 of the Hon’ble High Court of Delhi referred above.”*

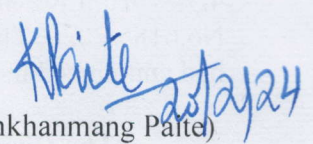
7. As per the advice of DoPT the matter was again referred to DOLA for its advice wherein DOLA advised as under:-

“Since the case at hand raises identical issue as that in the case of the KPTCL v. C.P. Mundinamani, 2023 SCC Online SC 401 which has been decided in favour of the applicants by the Hon’ble Supreme court and has attained finality, it would not be a fit case for preferring an SLP against order dated 26.07.2023 passed by the Hon’ble High Court, Delhi and it is further advised that the order be implemented at the earliest so that there is no contempt proceedings initiated against the department.”

8. Accordingly, the matter was sent for the approval of Mo HUA (being the competent authority) for implementing the CAT Judgement dated 15.07.2021 & 22.09.2023. The MoHUA has approved the implementation of judgement of CAT in respect of CPWD petitioners for granting of one notional increment to the petitioners vide efile No. 9110820 dated 09/02/2024.

9. Therefore, the concerned offices of CPWD where the CPWD petitioner were posted at the time of their retirement, are advised to implement the Judgement of the CAT in its order (for OA NO. 173/2021; OA No. 2244/2019 and OA No. 2905/2023) dated 15.07.2021 & 22.09.2023 for all those CPWD officials who were party in this matter(list attached), after verification of the records of the petitioners.

10. This issues with the approval of Competent Authority.


(Kamkhanmang Palte)
Deputy Director (Admin.)-III

Copy to: (Through CPWD website)

Names of Officials who were party to OA 173/2021

Sl. No.	Name	Designation
1.	Arun Kr. Goel	EE(C)
2.	Harish Chandra	EE(C)
3.	Rishi Pal Singh	EE(C)
4.	Prem Prakash Johri	AE(C)
5.	Anil Kr Sexena	EE(C)
6.	Awadhesh Kr Pandey	AE(C)
7.	Raj Kumar	AE(C)
8.	Sudhish Kr. Sharma	AE(C)
9.	Taranjit Singh	AE(E)
10.	Bal Krishan Arora	Chief Estimator
11.	Suveera Gupta	OS
12.	Anita Dhingra	Steno Gd.I
13.	Anil Kr. Mutreja	AE(C)
14.	Deepak Kumar	AE(C)
15.	Radhakant Gupta	AE(C)

Names of Officials who were party to OA 2244/2019

Sl. No.	Name	Designation
1.	Lal Chand Maurya	AE(E)
2.	Radhey Shyam	AE(E)
3.	Tejpal Singh	AE(E)
4.	Anand Prakash Singh Shishodia	AE(E)
5.	Deepal Sabarwal	AE(E)
6.	Sanjeev Mishra	AE(E)
7.	Vijay Singh	AE(E)

Names of Officials who were party to OA 2905/2023

Sl. No.	Name	Post
1.	Amitabh Sharma	AE
2.	Uttam Kumar Biswas	EE
3.	Rakesh Chandra Joshi	AAO
4.	Ram Dayal Rai	AE
5.	Parmanand	SE(C)
6.	Udai Vir Singh	EE(C)
7.	Arun Kumar Sen	OS
8.	Purushotam Kumar Sharma	OS
9.	Leela Thakur	AAO
10.	K Lakshmi	AAO
11.	Praveen Kumar Kathuria	EE(C)
12.	Ganesh Kumar	OS
13.	Ashok Ranjan Das	AE(E)
14.	Kanchan Pal Singh	EE(C)
15.	Mahesh Chand Singhal	EE(C)
16.	Krishna Kundu	OS
17.	O.P. Paliwal	AE(E)
18.	Keshav Ram	EE(C)
19.	Surya Kant Rai	EE(C)
20.	Akhilesh Kumar Saxena	EE(C)
21.	Keshave Kumar Sharma	AE(C)
22.	Kiran Malhotra	AAO
23.	Nirmla Darolia	Chief Estimator(E)

**Central Administrative Tribunal
Principal Bench, New Delhi**



O.A. No. 776/2019
M.A. No. 1151/2021

With

O.A. No. 82/2021

O.A. No. 173/2021 & M.A. No. 202/2021

O.A. No. 183/2021

O.A. No. 184/2021

O.A. No. 673/2021

O.A. No. 692/2021

O.A. No. 704/2021 & M.A. No. 907/2021

O.A. No. 761/2021

M.A. No. 871/2021 & O.A. No. 1360/2020

M.A. No. 1152/2021 & O.A. No. 3624/2019

O.A. No. 1141/2020

O.A. No. 1402/2020

O.A. No. 1500/2020

O.A. No. 1501/2020

O.A. No. 1511/2020

O.A. No. 1512/2020

O.A. No. 1514/2020

O.A. No. 2197/2020

O.A. No. 2200/2020

O.A. No. 778/2019 & M.A. No. 1153/2021

O.A. No. 1592/2019

O.A. No. 1616/2019 & M.A. No. 343/2021

O.A. No. 2244/2019 & M.A. No. 2422/2019

This the 15th Day of July, 2021

(Through Video Conferencing)

**Hon'ble Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. A.K. Bishnoi, Member (A)**

OA No.776/2019

MA No. 1151/2021

1. Society for Teachers'
Cause
Through its
General Secretary
Sh. Raj Kishore Sharma

OA No.82/2021

Sh. Ram Nauj Tyagi,
Aged about 64 years,
S/o Late Pithi Singh
R/o H.No.286, Mangal Bazar Wali Gali,
Burari Village, Delhi-110084.

Applicant

(By Advocate: Mohit Tyagi and Sh. Prakhar Bhatnagar)

Versus

Government of National Capital Territory of Delhi
Directorate of Economics & Statistics,
Through its
Joint Director/HOO
Vikas Bhawan-II, B-Wing,
III Floor, Bela Road, Delhi-110054.

Respondents

(By Advocate: Ms. Esha Mazumdar)

OA No.173/2021**MA No.202/2021**

1. Sh. Arun Kumar Goel,
Aged about 61 years,
Retd. Executive Engineer (Civil), CPWD
R/o , 438, Gaur Green Avenue,
AbhayKhand II,
Indirapuram,
Ghaziabad 201 010
2. Sh. Harish Chandra,
Aged about 61 years,
Retd. Executive Engineer (Civil), CPWD
R/o 107, Krishilok Society,
Sector 45, Faridabad,
Haryana-121010.
3. Sh. Rishi Pal Singh,
Aged about 61 years,
Retd. Executive Engineer (Civil), CPWD



R/o. G-I-205, Indra Enclave,
Sector 21-D, Faridabad
Haryana.

4. Sh. Prem Prakash Johrti,
Aged about 61 years,
Retd. Assistant Engineer (Electrical), CPWD
R/o C-2/16, Printers Apartment,
Sector 13, Rohini,
Delhi 110 085
5. Sh. Anil Kumar Saxena,
Aged about 63 years,
Retd. Executive Engineer (Electrical), CPWD
R/o. Flat No. 1010, Tower-B,
16th Avenue, Gaur City-II,
Greater Noida West,
Uttar Pradesh.
6. Sh. Awadhesh Kumar Pandey,
Aged about 62 years,
Retd. Assistant Engineer (Civil), CPWD
R/o. AG-I/125C,
Vikas Puri,
New Delhi 110 018.
7. Sh. Raj Kumar,
Aged about 61 years,
Retd. Assistant Engineer (Civil), CPWD
R/o 129, Amit Apartment
Sector 13, Rohini,
Delhi 110 085
8. Sh. Sudhish Kumar Sharma,
Aged about 61 years,
Retd. Assistant Engineer (Civil), CPWD
R/o, G-I/42, Sector 11,
Rohini,
Delhi 110 085
9. Sh. Taranjit Singh,
Aged about 61 years,
Retd. Assistant Engineer (Electrical), CPWD
R/o, G-23, G-Block, Hari Nagar,
Jail Road,
Delhi 110 058.



10. Sh. SBalkrishan Arora,
Aged about 61 years,
Retd. Chief Estimator, CPWD
R/o, WZ-211 A, IIIrd Floor, Gali No,7,
Lajwanti Garden,
New Delhi 110 046.
11. Ms. Suveera Gupta,
Aged about 62 years,
Retd. Office Superintendent, CPWD
R/o, C-81, Ramprastha,
Ghaziabad,
Uttar Pradesh-201011
12. Ms. Anita Dhingra,
Aged about 62 years,
Retd. Stenographer Grade-I, CPWD,
R/o 2B/61, 3rd Floor,
Ramesh Nagar,
New Delhi 1100 015.
13. Sh. Anil Kumar Mutreja,
Aged about 61 years,
Retd. Assistant Engineer (Civil) PWD
R/o T-701, Vasundhara Valley Apartment,
Sector 6, Plot No. GH-3
Vasundhara, Ghaziabad,
Uttar Pradesh-201 012
14. Sh. Deepak Kumar,
Aged about 61 years,
Retd. Assistant Engineer (Civil), PWD
R/o, CA/72-D,
Shalimar Bagh,
Delhi 110 088
15. Sh. Radhakant Gupta,
Aged about 61 years,
Retd. Assistant Engineer (Civil), PWD
R/o 501, Sector 3,
R.K. Puram, New Delhi 110 022.

Applicant
(By Advocate: Sh. Setu Niket)



Plot No.36, Sector-6, Dwarka,
New Delhi-110075.

Applicant
(By Advocate: Sh. Suresh Sharma)

Versus

Union of India

1. Through Secretary (HRD),
Ministry of Human Resources Development,
Shastri Bhawan,
New Delhi-110001.
2. Secretary,
Department of Personnel and Training,
North Block, New Delhi-110001.

... Respondents

(By Advocate: Sh. Rajeev Kumar)

OA No.2244/2019

1. Lal Chand Maurya, Aged 62+Years,
Retd.Asst. Engineer (E),CPWD (Group 'B')
S/o Late Shri Ram Sukh Maurya
R/o Flat No.218, Gaur Galaxy Apartments
Sector-5, Vaishali, Ghaziabad ,U.P.
2. Radhey Shyam, Aged 62+ Years
Retd Asstt. Engineer (E), CPWD (Group B')
S/o Late Shri Vishambhar Dutt
R/o C-245 B, Main 100 Foota Road
Hardev Puri, Delhi-110093
3. Tejpal Singh, Aged 61+ Years
Asstt. Engineer(E), CPWD (Group 'B')
S/o Late Shri Jagmer Singh
R/o B-77/1A, Gali No.3 Krishna Gali
North Chhajjupur, Delhi-110094
4. Anand Prakash Singh Shishodia, 61+ Years
Asstt. Engineer (E), CPWD (Group 'B')
S/o Late Shri Mahipal Singh
R/o C-39, Paramount Golf Forest,
Plot No. BGH-A, Site-C, UPSIDC
Opposite Zeeta Sector.



5. Deepak Sabharwal, 61+ Years
Asstt. Engineer (E), CPWD (Group 'B')
S/o Late Shri G.K.Sabharwal
R/o 25, Sukh Vihar
Delhi-110051.

6. Sanjeev Misra, 61+ Years
Asstt. Engineer (E), CPWD (Group 'B')
S/o Late Shri M.C.Mishra
R/o B-226, Sector 37
Greater Noida, Distt. G.B.Nagar
U.P.- 201306

7. Vijay Singh
Asstt. Engineer (E), CPWD (Group 'B')
S/o Late Shri Nila Singh
R/o 82, Shiv Shakti Vihar, Lajpat Nagar
Sahibabad, Shalimar Garden, Pasonda
Ghaziabad, U. P. - 201005

Applicants
(By Advocate: Sh. Suresh Sharma)

Versus

Union of India, Through

1. Secretary, Ministry of Urban Development
Nirman Bhawan, New Delhi-110011
2. Director General, CPWD
Nirman Bhawan, New Delhi-110011
3. Secretary,
Department of Personnel and Training
North Block, New Delhi-110001 .

Respondents
(By Advocate: Sh. Rajeev Kumar)

**Item No. 31****O R D E R (Oral)****Mr. Justice L. Narasimha Reddy:**

In this batch of OAs, the only question that arises for consideration is as to whether an employee, who retired on 30th June of a year or 31st December of a preceding year, is entitled to be extended the benefit of increment that falls due on 1st July or 1st January of the next year, as the case may be. While the applicants in some of the cases have retired on 30th June, others retired on 31st December. They were denied the benefit of increment, which was otherwise due to them, only on the ground that by the time the increment became due, they were not in service.

2. The applicants contend there was absolutely no basis for the respondents in denying the benefit to them. Reliance is placed upon many orders passed by the Tribunal as well as the different Hon'ble High Courts. It is also stated that the judgments rendered by the Hon'ble High Courts were affirmed in some of the SLPs. Particulars thereof are also furnished.

3. The respondents filed the counter affidavits in respective OAs. Their stand is that with the retirement, the relationship of the employee with the Government ceases and once he is out



of service, the Fundamental Rules do not permit extension of any benefit.

4. We heard Mr. Vidya Sagar, Mr. Mohid Tygagi, Mr. Setu Niket, Dr. Swati Jimidal Garg, Mr. Mithilesh Kumar Gupta, Ms. Versha Agarwal, Mr. Anmol Pandita, Mr. Yogesh Sharma, Mr. MS Reen, Mr. Mukesh Kumar Singh, Mr. MK Bhardwaj, Mr. Suresh Sharma, learned counsel for applicants and Mr. VSR Krishna, Mr. Satish Kumar, Mr. Saurabh Chadda, Mr. Kapil Agnihotri, Ms. Esha Mazumdar, Mr. Sanjeev Yadava, Mr. Amit Yadav, Mr. C. Bheemanama, Mr. R.K. Jain, Mr. Ritu Singh, Mr. RS Rana, Mr. RK jain, Mr. Gyanendra Singh, Mr. GS Virk, Mr. Saurabh Chadda, Mr. UN Singh, Mr. Manish Kumar, Mr. KK Sharma, Mr. Rajeev Kr., learned counsel for the respondents.

5. The issue as mentioned above, fell for consideration in a large number of cases. The Benches of this Tribunal as well as the different Hon'ble High Courts have taken the view that the increment becomes payable on account of the satisfactory service rendered by the employee for the preceding six months, and the mere fact that he retired one day earlier, should not be factored to deny him the benefit. It is also a matter of record that some SLPs filed against the detailed orders passed by the Hon'ble High Courts were dismissed.

6. It is true that in **Union of India Vs. M. Siddaraj** (SLP No. 4722/2021), the Hon'ble Supreme Court passed an order



recently on 05.04.2021, directing that the pension shall be granted to the respondents therein on the basis of the last pay drawn as on 30th June, 2014. Learned counsel for the applicants submit that they verified the record and found that the respondents in the said SLP were already extended the benefit of increment, at the last day of their service.

7. Be that as it may, once the various benches of the Tribunal, the Hon'ble High Courts and the Hon'ble Supreme Court held that the increment, which became due on 1st July or 1st January as the case may be, needs to be released for the employees, who retired one day earlier thereto, the applicants herein cannot be denied such benefit.

8. To protect the interests of the respondents, we direct that in case any different view is taken by the Hon'ble Supreme Court in SLP No. 4722/2021, the applicants shall be under obligation to refund the benefit that is extended to them. In the corresponding orders, a clause can be incorporated to that effect.

9. We make it clear that extension of benefit of increment shall be subject to their fulfilling other conditions under the relevant service rules.

10. For the foregoing reasons, the OAs are allowed, directing that:



(a) for such of the employees, who retired on 30th June of any particular year, increment payable on 1st July shall be extended. Their pensions shall also be revised, subject to their fulfilling other conditions which are applicable. The arrears that become due shall be paid without interest;

(b) Similarly for employees, who retired on 31st December of a particular year, the increment payable on the 1st January of the next year shall be extended and pension revised, subject to same conditions in the same manner.

(c) While extending such benefits, a clause shall be incorporated to the effect that in case the Hon'ble Supreme takes a different view in the Civil Appeal arising out of SLP No. 4722/2021, they shall be under obligation to refund the entire benefit without any demur.

The aforesaid exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

Pending MAs shall also stand disposed of. There shall be no order as to costs.

(A K Bishnoi)
Member (A)

/sd/vb/lg/akshaya

(Justice L. Narasimha Reddy)
Chairman



**Central Administrative Tribunal
Principal Bench, New Delhi**

**O.A. No. 2905/2023
M.A. No. 3391/2023**

This the 22nd day of September, 2023

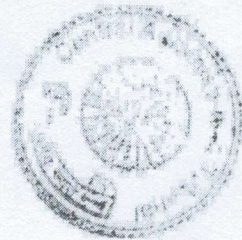
Hon'ble Mrs. Pratima K. Gupta, Member (J)

1. Amitabh Sharma
Aged about 62 years,
S/o Late Sheel Kumar Sharma
R/o, D102 Exotica East Square Ahinsa Khand-2,
Indirapuram Ghaziabad, Uttar Pradesh-201014
2. Uttam Kumar Biswas
Aged about 62 years
S/o Late Bijan Kumar Biswas
R/o Qtr. No- B 14/220 Kendriya Vihar,
VIP Road Kolkata-700052
3. Rakesh Chandra Joshi
Aged about 65 years,
S/o P.D Joshi,
R/o Qtr. No-B 214 Pocket-2, Kendriya Vihar-2, Sector-82,
Noida, Uttar Pradesh -201304
4. Ram Dayal Rai
Aged about 62 years.
S/o Ram Niwas Rai,
R/o L-201 Pancham Elite Khodiyar Nagar New VIP Road,
Vadodara Gujarat 390001
5. Parmanand
Aged about 67 years,
S/o Sh. Ghisha Ram,
R/o 1602 Block- A, Green Fields Colony,
Faridabad, Haryana-121010
6. Udai Vir Singh
Aged about 62 years,
S/o Karan Singh,
R/o E- 1603, Laroyale Apartment, CISF Road, Ahinsa
Khand- 2 Indirapuram, Ghaziabad- 201014





7. Arun Kumar Sen
Aged about 63 years,
S/o A.N. Sen, R/o B-36/D, Shalimar Garden Extension-2
(Near Pannu Chowk), Sahibabad, Uttar Pradesh-201005
8. Purushotam Kumar Sharma
Aged about 63 years,
S/o Late Raja Ram Sharma,
R/o 14C BG5 DDA Flats, Paschim Vihar,
New Delhi-110063
9. Leela Thakur
Aged about 62 years
W/o Late S S Thakur
R/o C-37, Ground Floor,
Gulmohar Park, New Delhi-110049
10. K Lakshmi
Aged about 62 years,
W/o K. Sesha Sayna,
R/o E-601, French Apartment Sector- 16B,
Near Ek Murti Chowk, Greater Noida West,
Uttar Pradesh-201306
11. Praveen Kumar Kathuria
Aged about 60 years,
S/o Jetha Nand Kathuria,
R/o QU 288A, Chitrakoot Apartment,
Pitampura, Delhi-110034
12. Ganesh Kumar Aged about 63 years
S/o Late Lakhmi Chand
R/o H. No- 263, Sector-8 Part-2.
Urban Estate Karnal, Haryana-122001
13. Ashok Ranjan Das Aged about 64 years,
S/o Late Dakshina Ranjana Das,
R/o C-1/8 Pocket-7, Kendriya Vihar-2, Sector-82,
Noida, Uttar Pradesh-201304
14. Kanchan Pal Singh
Aged about 67 years,
S/o Ram Prasad, R/o B-8/73, Sector-11,
Rohini, Delhi-110085





15. Mahesh Chand Singhal
Aged about 62 years,
S/o Late Bhagwan Das,
R/o House No- 216, 1st Floor Sector-9, Chitrakoot, Jaipur
Rajasthan- 302021
16. Krishna Kundu
Aged about 60 years, W/o Prabir Kundu,
R/o Pocket- 52, House No- 55,
2nd Floor, Chittaranjan Park, New Delhi-110019
17. O P Paliwal
Aged about 63 years,
S/o Laxmi Narayan Jee Purohit, R/o 117 R,
Vrindavan Nagar,
Bohara Ganesh, Udaipur
Rajasthan-313001
18. Keshav Ram
Aged about 62 years,
S/o Sh. Chhotak Ram,
R/o D-233, Green Valley Apartment,
Sector-18, Rohini,
New Delhi-110089
19. Surya Kant Rai
Aged about 62 years
S/o Sh. J.P Rai
R/o Flat No- 1001, Blue Stone II,
Supertech Emerald Court, Sector-93A, Noida,
Uttar Pradesh - 201304
20. Akhilesh Kumar Saxena
Aged about 67 years
S/o Late R P Saxena
R/o D-1203, SDS NRI Residency. Sector- Omega 2
Pari Chowk, Greater Noida,
Goutam Budh Nagar,
Uttar Pradesh - 201308
21. Keshave Kumar Sharma
S/o Late Shruti Prakash Sharma
R/o 87B, Pocket-C Mayur Vihar Phase-II
Delhi-110091





22. Kiran Malhotra
W/o Sh. G K Malhotra
Aged around 60 years
R/o Flat No. 728, Sector-13 Pocket-B,
Metro View Apartments,
Dwarka Phase-II, New Delhi-110078
23. Nirmla Darolia
W/o Sh. Jagdish Chander Aged around 62 years
R/o House No. 547, Sector-21C
Near Asian Hospital Faridabad-121001

...Applicants

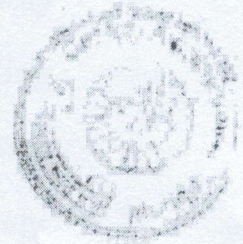
(By Advocate: Mr. Setu Niket and Ms. Esha Mazumdar)

Versus

1. Union of India
Ministry of Housing and Urban Affairs
Through Secretary
Nirman Bhawan, C-Wing Rajpath Area, Central Secretariat
New Delhi-110011
2. Central Public Works Department,
Through Director General A-Wing,
Nirman Bhawan New Delhi-110001
3. Department of Personnel & Training
Through Secretary North Block,
New Delhi - 110001

...Respondents

(By Advocate: Mr. B.C. Bhatt with Mr. S.K. Tripathi and Ms. Nidhi Rai)



2



ORDER (ORAL)

The applicants, by virtue of the present Original Application, seek notional benefit of the increment which could not be extended in their favour on account of the fact that they retired on 30th June of the respective year of retirement, i.e., between 2016 to 2020 before the said increment could be released to them on the succeeding date i.e. 01st July. They seek following relief(s):-

- A. Call for records of the case;
- B. Grant the applicants the notional increment falling due on 1st July and accordingly fix pension and other retiral benefits of the applicants after taking into consideration the said notional increment of pay, with all consequential benefits including arrears etc.
- C. Award cost of the proceedings; and
- D. Pass any order/relief/direction (s) as this Hon'ble Tribunal may deem fit and proper in the interest of justice in favour of the applicant."

2. Learned counsel for the applicants states that the applicants have preferred representation seeking notional increment on the next date of their retirement, i.e., 1st July of the respective year. However, the same are pending consideration before the respondents. He further states that the issue at stake has already been conclusively

2





decided by the Hon'ble Apex Court in Civil Appeal No. 2471/2023 arising out of SLP (C) No. 6185/2020 and the instant OA can be decided on the same analogy. He states that following the same judgment passed by the Hon'ble Apex Court, the Coordinate Bench of this Tribunal has passed several orders, one of them being OA No. 1425/2019, decided on 03.05.2023.

3. Learned counsel for the respondents vehemently opposed the OA and argued that the benefit of notional increment could not be extended to the applicants in view of the rules/guidelines in the relevant point in time.
4. Heard the learned counsels for the parties.
5. It is seen that the issue in the instant OA and the issue decided by the Coordinate Bench of this Tribunal in OA No. 1425/2019 is not just similar but the facts and circumstances as well as prayer are identical. For the sake of better appreciation, the said order/judgement in OA No. 1425/2019, is reproduced herein:-

"The applicants by virtue of the present Original Application seek notional benefit of the increment which could not be extended in their favour on account of the fact that they are retired on 30.06.2009/2016 before the said increment could be released to them on

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the succeeding date i.e. 01st July. They seek following relief(s):-

- 8.1 to allow the present Application;
 - 8.2 to quash and set aside the impugned Rejection Letters dated 13.03.2019 [Annexure : A1 (Colly)] as being non-est and bad in law;
 - 8.3 to direct the Respondent to grant one notional increment to the Applicants only for Pensionary Purposes;
 - 8.4 to direct the Respondent to refix the Pension and other Pensionary Benefits of the Applicants in view of grant of notional increment;
 - 8.5 to consequently direct the Respondent to pay to the Applicants the arrears of Pension and Pensionary Benefits from the date it was due (01.07.2009 or 01.07.2016, as the case may be);
 - 8.6 and as a consequence thereto, direct the Respondent Ministry to pay compound interest @ 18% per annum, compounded annually, from 04.02.2019, till the payment is made;
 - 8.7 to issue any such and further orders/directions this Hon'ble Tribunal deems fit and proper in the circumstances of the case; and
 - 8.8 to allow exemplary costs of the application to the Applicant."
2. Learned counsel for the applicant submits that in a large number of cases wherein similar relief was sought, this Tribunal has held that employees who retired 30th June of a particular year shall be granted a benefit of one increment, although on notional basis for the purpose of determining their retiral benefits including pension. The principle relied upon by the Tribunal while passing such orders is that entitlement of increment accrues on successful completion of one year of service and in all these cases the applicants had completed this period of one year prior to their retirement; however, only on account of the fact that increment is attached to the salary which gets payable w.e.f. the 1st date of the month such benefit could not be extended to them because they had retired one day prior to the date on which the salary is payable. The Tribunal had held that since it was not disputed that the applicants had successfully completed one year of service they could not be denied the benefit of notional

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increment but at the same time that this benefit is only to be on notional basis as they were no longer in service on the actual date of release of the same.

3. Learned counsels submit that vide judgment dated 15.09.2017, the Hon'ble High Court of Madras in W.P. (c) No. 1573/2017 had categorically decided this issue. He also submits that judgment dated 15.07.2021 in O.A. No. 82/2021 also elaborately states the same. For the sake of clarity the said judgment is reproduced below:-

"10. For the foregoing reasons, the OAs are allowed, directing that:

- (a) for such of the employees, who retired on 30th June of any particular year, increment payable on 1st July shall be extended. Their pensions shall also be revised, subject to their fulfilling other conditions which are applicable. The arrears that become due shall be paid without interest;
- (b) Similarly for employees, who retired on 31st December of a particular year, the increment payable on the 1st January of the next year shall be extended and pension revised, subject to same conditions in the same manner.
- (c) While extending such benefits, a clause shall be incorporated to the effect that in case the Hon'ble Supreme takes a different view in the Civil Appeal arising out of SLP No. 4722/2021, they shall be under obligation to refund the entire benefit without any demur."
4. Learned counsels for the parties confirm that subsequent challenge of this judgment has not been successful. Even though the Hon'ble High Court had stayed that judgment but the issue has been decided to its finality by the Hon'ble Supreme Court in Civil Appeal No. 2471/2023 arising out of SLP (C) No. 6185/2020 categorically holding that the original Writ Petitioners were entitled to one annual increment earned on the last date of their service for rendering successful service for a year.
5. Since the matter has been decided un-ambiguously and in view of the various judgments of this Tribunal one of which has been quoted above, the present Original Application is allowed and the applicants are held to be entitled for the benefit of one notional increment w.e.f. 01st of July of the year in which they retired. While according such notional benefit the

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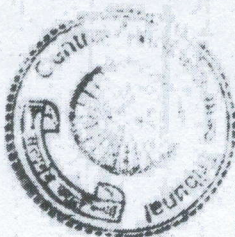
respondents shall release all consequential benefits by way of revision of the retiral dues including, but not restricted to, pension in their favour alongwith necessary arrears that would accrue in pursuant to this order within a period of 12 weeks from the date of receipt of a certified copy of this order.

6. *In the facts and circumstances of the case there shall be no orders as to costs, although the learned counsel for the applicants prays for the same."*

6. Accordingly, for the reasons explained herein above, the OA is allowed. The applicants are held to be entitled for benefit of one notional increment w.e.f. 1st of July of the year in which they retired. While according such notional benefit, the respondents shall release all consequential benefits by way of revision of the retiral dues including, but not restricted to, pension in their favour of the applicants alongwith necessary arrears that would accrue in pursuant to this order within a period of 12 weeks from the date of receipt of a certified copy of this order. Pending MA, if any, may be disposed of accordingly. There shall be no order as to costs.

/akshaya/

(Pratima K. Gupta)
Member (J)



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18/10/23
Pratima K. Gupta (J)
Member (J)
Central Administrative Tribunal
Principal Bench, New Delhi