MOST URGENT
COURT CASE

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No. PC-VI/2020/CC/13 New Delhi, dated: 07.10.2024

The General Managers/ Principal Financial Advisors,
All Zonal Railways & Production Units

Sub: Grant of notional increment (as due on 1st July/1st January) for the pensionary benefits to those employees who had retired on 30th of June/ 31st of December before drawing the same – Clarification reg.

Ref: Board's letter No. PC-VI/2023/Misc./03-Vol.II dated 27.08.2024.

Attention is invited to Board's letter under reference (copy enclosed) whereby all Zonal Railways/PUs were advised the further course of action to be adopted in various cases related to grant of benefit of notional increment.

2. In continuation to above, it is further stated that the clarificatory petition filed by this Ministry before Hon'ble Supreme Court vide Dy. No. 2400/2024 (Union of India & Ors Vs M. Siddaraj) seeking clarification on their judgement dated 19.05.2024 pronounced in SLP (C) No. 4722/2021 was taken up for hearing by the Hon'ble Apex Court on 06.09.2024 wherein the Hon'ble Court had made certain important observations and directed as under **(copy enclosed)**:

"To prevent any further litigation and confusion, by of an interim order we direct that:

(a) The judgment dated 11.04.2023 will be given effect to in case of third parties from the date of the judgment, that is, the pension by taking into account one increment will be payable on and after 01.05.2023. Enhanced pension for the period prior to 31.04.2023 will not be paid.

(b) For persons who have filed writ petitions and succeeded, the directions given in the said judgment will operate as res judicata, and accordingly, an enhanced pension by taking one increment would have to be paid.

(c) The direction in (b) will not apply, where the judgment has not attained finality, and cases where an appeal has been preferred, or if filed, is entertained by the appellate court.

(d) In case any retired employee has filed any application for intervention/impleadment in Civil Appeal No. 3933/2023 or any other writ petition and a beneficial order has been passed, the enhanced pension by including one increment will be payable from the month in which the application for intervention/impleadment was filed.

This interim order will continue till further orders of this Court. However, no person who has already received an enhanced pension including arrears, will be affected by the directions in (a), (c) and (d)."

...Contd.

3. The aforesaid orders are being examined by the nodal Ministry i.e. DOP&T in consultation with the concerned Ministries such as Deptt. of Expenditure, Ministry of Law etc and a policy/ clarification is yet to be issued. Once a policy / clarification is issued by the nodal Ministry, the same will be adopted by Ministry of Railways also.

4. Till such time, policy directions are issued by the nodal Ministry, keeping in view the important developments as explained above, all Zonal Railways/PUs are hereby advised that in fresh O.As/W.Ps filed on the issue of grant of benefit of notional increment and in cases which have been recently decided allowing the benefit of notional increment; a Misc. Application/ revised affidavit may be filed before the concerned Hon'ble Court/ Tribunal with a prayer as under:

4.1. Scenario – 1: In cases where fresh O.As have been filed.

(a) In such cases, a detailed affidavit may be filed before Hon'ble Tribunals/Courts bringing the interim order dated 06.09.2024 pronounced by Hon'ble Supreme Court to their notice, stating that the issue of notional increment has not yet attained finality and the matter is still pending with Hon'ble Apex Court for adjudication. As such, the Hon'ble Tribunal/ Court may be requested to defer further proceedings in the case till the matter is finally adjudicated by the Hon'ble Apex Court.

(b) In case even after filing of the detailed affidavit, the Hon'ble Tribunal/ Court doesn't defer/ adjourn the case proceedings and allows the O.A./ W.P. granting the benefit to the petitioner(s); the said order may be challenged before the higher judicial forum **only if** the same is in contravention to the directions issued by the Hon'ble Supreme Court vide order dated 06.09.2024. If not, further necessary action may be taken in terms of the directions contained in Hon'ble Apex Court's order dated 06.09.2024.

4.2. Scenario – 2: In cases where the O.As have been allowed by granting the benefit to the petitioner(s) irrespective of the fact whether any Contempt Petition has been filed or not.

(a) In such cases, a Review Petition may be filed before the Hon'ble Tribunal/ Court stating that Hon'ble Apex Court vide their detailed order dated 06.09.2024 has issued various guidelines/ clarifications regarding the modalities to be adopted while implementing their order dated 11.04.2023 pronounced in CA No. 2471/2023 {The Director (Admn. And HR) KPTCL & Ors V C. P. Mundinamani & Ors}.

(b) The respective Tribunal/ Court may be apprised that the Hon'ble Apex Court vide their aforesaid order dated 06.09.2024 has specifically mentioned the cut-off date i.e. 01.05.2023 for applicability of their order dated 11.04.2023. As such, the benefit of notional increment can only be granted w.e.f. 01.05.2023 and not from a date prior to 01.05.2023, barring those cases which have already been decided/ settled prior to the date of interim order i.e. 06.09.2024.

(c) Considering the fact that the issue of notional increment is still pending before Hon'ble Supreme Court for final adjudication; Hon'ble Court/Tribunal may be requested to modify the orders to grant the benefit of notional increment w.e.f. 01.05.2023 and not from the 01st of July of the retirement year of the petitioner(s) and the implementation of orders may also be deferred till a final decision is pronounced by the Hon'ble Apex Court.

...Contd.

(d) In case, the Hon'ble Court/Tribunal still dismisses the Review Petition without revising/modifying their earlier order, then, the same may be challenged before the higher judicial forum **only if** the said order is in contravention to the directions issued by the Hon'ble Supreme Court vide order dated 06.09.2024. If not, further necessary action may be taken in terms of the directions contained in Hon'ble Apex Court's order dated 06.09.2024.

5. In this regard, a revised affidavit is attached herewith for finalizing the same and filing before the concerned Tribunal/ Court in consultation with the contesting Railway Counsel. This may kindly be accorded **Top Priority**. Action taken in the matter may also be apprised to this office.

DA: As above

07/10/2024

(Sundeep Pal)
Executive Director, Pay Commission
Railway Board
Tel. No. 011-47845117
Email add: sundeep.p@gov.in
4th floor, Room No. 7

Copy to:

i) **PSO to CRB & CEO**

ii) **Sr. PPS to MF**

iii) **PPS to DG/HR**

iv) **PPS to Secretary**

ITEM NO.23 COURT NO.2 SECTION IV-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

MISCELLANEOUS APPLICATION Diary No. 2400/2024
IN
SPECIAL LEAVE PETITION (C) NO. 4722/2021

UNION OF INDIA & ANR. Petitioner(s)

VERSUS

M. SIDDARAJ Respondent(s)

(IA No. 11504/2024 - CLARIFICATION/DIRECTION
IA No. 11514/2024 - CONDONATION OF DELAY IN FILING
IA No. 152780/2024 - EXEMPTION FROM FILING O.T.
IA No. 138880/2024 - EXEMPTION FROM FILING O.T.
IA No. 156900/2024 - INTERVENTION APPLICATION
IA No. 172293/2024 - INTERVENTION/IMPLEADMENT
IA No. 155003/2024 - INTERVENTION/IMPLEADMENT)

WITH
Diary No(s). 26733/2023 (IV-A)
(IA No. 126464/2023 - APPROPRIATE ORDERS/DIRECTIONS)

Diary No(s). 38437/2023 (IV-A)

Diary No(s). 38438/2023 (IV-A)

Diary No(s). 11336/2024 (IV-A)

Diary No(s). 20636/2024 (IV-A)

Date : 06-09-2024 These matters were called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE SANJAY KUMAR

For Petitioner(s) Mr. Rajat Joseph, AOR

Ms. Shirin Khajuria, Sr. Adv.
Ms. Ranu Purohit, AOR
Ms. Swati Tiwari, Adv.
Ms. Niharika Singh, Adv.

Mr. Gopal Singh, Adv.
Mr. K R Anand, Adv.
Mr. Kumar Mihir, AOR

Mr. Shreekant Neelappa Terdal, AOR

Mr. R Venkataramani, A G for India(N/P)
Mr. Vikramjit Banerjee, A.S.G.
Mr. Amit Sharma B, Adv.
Mr. Chitvan Singhal, Adv.
Mr. Abhishek Kumar Pandey, Adv.
Mr. Raman Yadav, Adv.
Mr. Nachiketa Joshi, Adv.
Mr. Amrish Kumar, AOR

For Respondent(s) **M/s. Nuli & Nuli, AOR**

Mr. Lather Mukul Kanwar Singh, AOR
Mr. Devesh Kumar Chauvia, Adv.
Mr. Ashish Kumar Singh, Adv.
Mrs. Pratibha Singh, Adv.

Ms. Shirin Khajuria, Sr. Adv.
Ms. Ranu Purohit, AOR
Ms. Niharika Singh, Adv.
Ms. Swati Tiwari, Adv.

Mr. Rameshwar Prasad Goyal, AOR
Mr. Anubhav, Adv.
Mr. Yashwant Singh Yadav, Adv.
Mr. Vijay Pal, Adv.
Mr. Arvind, Adv.
Mr. Ravi Karahana, Adv.
Mr. Shivkumar Raghunath Golwalkar, Adv.

Applicant-in-person, AOR

Ms. Geeta Luthra, Sr. Adv.
Ms. Vidya Sagar, Adv.
Mr. Amolak, Adv.
Ms. Ishita Agrawal, Adv., Adv.
Mr. R. C. Kaushik, AOR

Mr. Venkita Subramoniam T.r, AOR
Mr. Rahat Bansal, Adv.
Mr. Varun Mudgal, Adv.

Mr. Rajat Joseph, AOR

UPON hearing the counsel, the Court made the following

O R D E R

It is stated that the Review Petition in Diary No. 36418/2024 filed by the Union of India is pending.

The issue raised in the present applications requires consideration, insofar as the date of applicability of the judgment dated 11.04.2023 in Civil Appeal No. 2471/2023, titled *"Director (Admn. and HR) KPTCL and Others* v. *C.P. Mundinamani and Others",* to third parties is concerned.

We are informed that a large number of fresh writ petitions have been filed.

To prevent any further litigation and confusion, by of an interim order we direct that:

(a) **The judgment dated 11.04.2023 will be given effect to in case of third parties from the date of the judgment, that is, the pension by taking into account one increment will be payable on and after 01.05.2023. Enhanced pension for the period prior to 31.04.2023 will not be paid.**

(b) **For persons who have filed writ petitions and succeeded, the directions given in the said judgment will operate as *res judicata*, and accordingly, an enhanced pension by taking one increment would have to be paid.**

(c) **The direction in (b) will not apply, where the judgment has not attained finality, and cases where an appeal has been**

preferred, or if filed, is entertained by the appellate court.

(d) **In case any retired employee has filed any application for intervention/impleadment in Civil Appeal No. 3933/2023 or any other writ petition and a beneficial order has been passed, the enhanced pension by including one increment will be payable from the month in which the application for intervention/impleadment was filed.**

This interim order will continue till further orders of this Court. However, no person who has already received an enhanced pension including arrears, will be affected by the directions in (a), (c) and (d).

Re-list in the week commencing 04.11.2024.

(BABITA PANDEY)
COURT MASTER (SH)

(R.S. NARAYANAN)
ASSISTANT REGISTRAR

Annexure A

S.No 36

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IMMEDIATE
COURT CASE

No. 1396752/2019-Estt (Pay-I)
Government of India
Ministry of Personnel, Public Grievances & Pensions
(Department of Personnel & Training)

North Block, New Delhi
Dated the 11 November, 2019

OFFICE MEMORANDUM

Subject: Representations regarding grant of annual increment to the employees, retires on 30th June of the year -regarding.

The undersigned is directed to refer to letter No. PC VI/2018/R-I/1 of Ministry of Railways dated 14/10/2019 on the subject cited above wherein comments of this Department has been sought on the directions of Hon'ble CATs issued in several court cases filed by Railways employees seeking the benefits of notional increment for the pensionary benefits as per the judgment in P.Ayyamperumal case.

2. In this matter, with reference to Central Government employees, the following is hereby stated:

2.1. In so far as P. Ayyamperumal case is concerned, referred in the instant cases also, it is stated that the judgment Hon'ble High Court of Madras in P. Ayyamperumal case is in personam.

2.2 Further, the case of Sh. M Balasubramaniam referred by Hon'ble High Court in it's judgment in P. Ayyamperumal case is related to Fundamental Rules of Tamilnadu Government whereas P. Ayyamperumal case relates to Central Government Rules.

2.3 It is relevant to mention here that in a similar matter, Hon'ble High Court of Andhra Pradesh at Hyderabad in year 2005, in C. Subbarao case, has inter-alia observed as under:

"In support of the above observations, the Division Bench also placed reliance on Banerjee case (supra), we are afraid, the Division Bench was not correct in coming to the conclusion that being a reward for unblemished past service, Government servant retiring on the last day of the month would also be entitled for increment even after such increment is due after retirement. We have already made reference to all Rules governing the situation. There is no warrant to come to such conclusion. Increment is given (See Article 43 of CS Regulations) as a periodical rise to a Government employee for the good behavior in the service. Such increment is possible only when the appointment is "Progressive Appointment"and it is not a universal rule. Further, as per Rule 14 of the Pension Rules, a person is entitled for pay, increment and other allowances only when he is entitled to receive pay from out of Consolidated Fund of India and continues to be in Government service./ A person who retires on the last working day would not be entitled for any increment falling due on the next day and payable next day thereafter (See Article 151 of CS Regulations), because he would not answer the tests in these Rules. Reliance

13/11/19

SO/PC 6

placed on Banerjee case (supra) is also in our considered opinion not correct because as observed by us, Banerjee case (supra) does not deal with increment, but deals with enhancement of DA by the Central Government to pensioners. Therefore, we are not able to accept the view taken by the Division Bench. We accordingly, overrule the judgment in Malakondalah case (supra)."

2.4 In addition, subsequent to the judgment of Hon'ble High Court of Madras in P. Ayyamperumal case, Hon'ble CAT Madras Bench vide its Orders dated 19.03.2019 in O.A.No.310/00309/2019 and O.A. No.310/00312/2019 and Order dated 27.03.2019 in O.A. No.310/00026/2019 has also dismissed the similar requests related with notional increment for pensionary benefits.

2.5 The Hon'ble Supreme Court, vide judgment dated 29.03.2019,while dismissing the SLP (C) Dy. No.6468/2019 filed by D/o-Telecommunications against the judgment dated 03.05.2017 of Hon'ble High Court, Lucknow Bench in WP No.484/2010 in the matter of UOI & Ors. Vs. Sakha Ram Tripathy & Ors., has *inter-alia* observed the following:

*"There is delay of 566 days in filing the special leave petition. We do not see any reason to condone the delay. The Special leave petition is dismissed on delay, **keeping all the questions of law open.**"*

3. Further, it is also stated that this Department's OM No. 20036/23/1988-Estt.(D) dated 06.01.1989 provides that since each case is to be contested on the basis of the specific facts and circumstances relevant to it, the administrative Ministry/Department (D/o- Ministry of Railways in the instant case) will be in a better position to defend the case if required. If, however, any clarification is required on the interpretation or application of the rules or instructions relevant to the case, the concerned department in the Ministry of Personnel, Public Grievances and Pensions may be approached for that purpose. It further provides that the primary responsibility, however, for contesting such cases on behalf of the Government will be that of the administrative Ministry/Department concerned. Further, the Cabinet Secretariat D.O. letter No. 6/1/1/94-Cab dated 25.02.1994 as also the Cabinet Secretary's D.O. letter no. 1/50/3/2016-Cab dated 16.06.2016 and the Department of Expenditure's OM No. 7(8)/2012-E-III(A) dated 16.05.2012 inter-alia provide that (i) a common counter reply should be filed before a Court of Law on behalf of the Union of India by the concerned administrative Department/Ministry where the petitioner is serving or has last served; and (ii) a unified stand should be adopted instead of bringing out each Department's/Ministry's point of view in the said reply. It further provides that it is primarily the responsibility of the Administrative Ministry to ensure that timely action is taken at each stage a Court case goes through and that a unified stand is adopted on behalf of Government of India at every such stage. In no case should the litigation be allowed to prolong to the extent that it results in contempt proceedings.

4. Ministry of Railways is requested to make appropriate action in the light of above observations.

Under Secretary to the Government of India
Tel. No.23094459

Ministry of Railways,
Kind attention: Shri U.K. Tiwari, Joint Director, Pay Commission,
Railways Board, Rail Bhawan, ,
New Delhi.

Annex-B

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2471 OF 2023

(@ SLP (C) No. 6185/2020)

The Director (Admn. and HR) KPTCL & Ors. **..Appellant(s)**

Versus

C.P. Mundinamani & Ors. **...Respondent(s)**

J U D G M E N T

M.R. SHAH, J.

1. Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the High Court of Karnataka at Bengaluru in Writ Appeal No. 4193/2017, by which, the Division Bench of the High Court has allowed the said appeal preferred by the employees -

respondents herein by quashing and setting aside the judgment and order passed by the learned Single Judge and directing the appellants to grant one annual increment which the respondents had earned one day prior to they retired on attaining the age of superannuation, the management – KPTCL has preferred the present appeal.

2. The undisputed facts are that one day earlier than the retirement and on completion of one year service preceding the date of retirement all the employees earned one annual increment. However, taking into consideration Regulation 40(1) of the Karnataka Electricity Board Employees Service Regulations, 1997 (hereinafter referred to as the Regulations), which

provides that an increment accrues from the day following that on which it is earned, the appellants denied the annual increment on the ground that the day on which the increment accrued the respective employees – original writ petitioners were not in service. The writ petition(s) filed by the original writ petitioners claiming the annual increment came to be dismissed by the learned Single Judge. By the impugned judgment and order and following the decision of the Andhra Pradesh High Court in the case of **Union of India and Ors. Vs. R. Malakondaiah and ors. reported in 2002(4) ALT 550 (D.B.)** and relying upon the decisions of other High Courts, the Division Bench of the Karnataka High Court has allowed the appeal and has directed that the appellants to grant one

annual increment to the respective employees-respondents by observing that the respective employees as such earned the increment for rendering their one-year service prior to their retirement.

2.1 Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the Division Bench of the High Court, the management – KPTCL has preferred the present appeal.

3. Shri Huzefa Ahmadi, learned Senior Advocate has appeared on behalf of the appellants and Shri Mallikarjun S. Mylar, learned counsel has appeared on behalf of the respective employees – respondents.

3.1 Shri Ahmadi, learned Senior Advocate appearing on behalf of the appellants has vehemently submitted that the decision of the Andhra Pradesh High Court in the case of **R. Malakondaiah (supra)** which has been relied upon by the Division Bench of the High Court while passing the impugned judgment and order has been subsequently overruled by the Full Bench of the Andhra Pradesh High Court in the case of **Principal Accountant-General, Andhra Pradesh and Anr. Vs. C. Subba Rao reported in 2005 (2) LLN 592**.

3.2 It is further submitted by Shri Ahmadi, learned Senior Advocate appearing on behalf of the appellants that there are divergent views of different High Courts on the issue. It is submitted that the Madras High Court, the

Delhi High Court, the Allahabad High Court, the Madhya Pradesh High Court, the Gujarat High Court have taken a contrary view than the view taken by the Full Bench of the Andhra Pradesh High Court, the Kerala High Court and the Himachal Pradesh High Court. It is submitted that various High Courts taking the contrary view have as such followed the decision of the Madras High Court in the case of **P. Ayyamperumal Vs. The Registrar and Ors. (W.P. No. 15732/2017 decided on 15.09.2017)**.

3.3 On merits, Shri Ahmadi, learned Senior Advocate appearing on behalf of the appellants has vehemently submitted that the words used in Regulation 40(1) of the Regulations are very clear and unambiguous.

It is submitted that it categorically provides that "an increment accrues from the day following that on which it is earned." It is submitted that therefore, when the right to get the increment is accrued the employee must be in service. It is submitted that in the present case when the right to get the increment accrues in favour of the respective respondents they were not in service but on their superannuation retired from the services. It is submitted that therefore, they shall not be entitled to the annual increment which might have been earned one day earlier i.e., on the last day of their service.

3.4 It is further submitted by Shri Ahmadi, learned Senior Advocate appearing on behalf of the appellants that the annual increment is

in the form of a good service and it is an incentive so that the concerned employee may serve effectively and may render good services. It is submitted that therefore, when the concerned employees are not in service due to their retirement there is no question of grant of any annual increment which as such is in the form of incentive to encourage the employee for better performance.

3.5 Shri Ahmadi, learned Senior Advocate appearing on behalf of the appellants has also taken us to the definition of the word "accrue" in the Law Lexicon (the encyclopaedic law dictionary) and the definition of the word "increment." It is submitted that as per the Law Lexicon, "increment" means a unit of increase in quantity or value. It means a

promotion from a lower grade to a higher grade. As per the definition "increment" means an upward change in something. It is submitted that as per the Law Lexicon the word "accrue" means to come into existence as an enforceable claim or right. It is submitted that therefore, on true interpretation of Regulation 40(1) of the Regulations, an increment accrues from the day following that on which it is earned. It is submitted that therefore, the Division Bench of the High Court has materially erred. It is submitted that therefore, the view taken by the Division Bench of the High Court and other High Courts that the concerned employees shall be entitled to the benefit of one annual increment which they earned one day prior to their retirement is erroneous and

is on mis-interpretation of the relevant statutory provisions. Making the above submissions, it is prayed to allow the present appeal.

4. Learned counsel appearing on behalf of the respective employees – respondents, has heavily relied upon the decision of the Madras High Court in the case of **P. Ayyamperumal (supra)** and the decisions of the Gujarat High Court, the Delhi High Court, the Allahabad High Court, the Madhya Pradesh High Court and the Orissa High Court taking the view that the concerned employees who earned the annual increment for rendering one year service prior to their retirement they cannot be denied the benefit of the annual increment which they actually earned, solely on the

ground that they retired on attaining the age of superannuation on the very next day. It is submitted that therefore, the Division Bench of the High Court has not committed any error in allowing one annual increment in favour of the respective employees which they actually earned.

4.1 Making the above submissions, it is prayed to dismiss the present appeal.

5. We have heard learned counsel appearing on behalf of the respective parties.

6. The short question which is posed for the consideration of this Court is whether an employee who has earned the annual increment is entitled to the same despite the

fact that he has retired on the very next day of earning the increment?

6.1 In the present case, the relevant provision is Regulation 40(1) of the Regulations which reads as under: -

> **"Drawals and postponements of increments**
> 40(1) An increment accrues from the day following that on which it is earned. An increment that has accrued shall ordinarily be drawn as a matter of course unless it is withheld. An increment may be withheld from an employee by the competent authority, if his conduct has not been good, or his work has not been satisfactory. In ordering the withholding of an increment, the withholding authority shall state the period for which it is withheld, and whether the postponement shall have the effect of postponing future increments."

6.2 It is the case on behalf of the appellants that the word used in Regulation 40(1) is that an increment accrues from the day following that on which it is earned and in the present case the increment accrued on the day when they

retired and therefore, on that day they were not in service and therefore, not entitled to the annual increment which they might have earned one day earlier. It is also the case on behalf of the appellants that as the increment is in the form of incentive and therefore, when the employees are not in service there is no question of granting them any annual increment which as such is in the form of incentive.

6.3 At this stage, it is required to be noted that there are divergent views of various High Courts on the issue involved. The Full Bench of the Andhra Pradesh High Court, the Himachal Pradesh High Court and the Kerala High Court have taken a contrary view and have taken the view canvassed on behalf of

the appellants. On the other hand, the Madras High Court in the case of **P. Ayyamperumal (supra);** the Delhi high Court in the case of **Gopal Singh Vs. Union of India and Ors. (Writ Petition (C) No. 10509/2019 decided on 23.01.2020)**; the Allahabad High Court in the case of **Nand Vijay Singh and Ors. Vs. Union of India and Ors. (Writ A No. 13299/2020 decided on 29.06.2021)**; the Madhya Pradesh High Court in the case of **Yogendra Singh Bhadauria and Ors. Vs. State of Madhya Pradesh**; the Orissa High Court in the case of **AFR Arun Kumar Biswal Vs. State of Odisha and Anr. (Writ Petition No. 17715/2020 decided on 30.07.2021)**; and the Gujarat High Court in the case of **State**

of Gujarat Vs. Takhatsinh Udesinh Songara (Letters Patent Appeal No. 868/2021) have taken a divergent view than the view taken by the Full Bench of the Andhra Pradesh High Court and have taken the view that once an employee has earned the increment on completing one year service he cannot be denied the benefit of such annual increment on his attaining the age of superannuation and/or the day of retirement on the very next day.

6.4 Now so far as the submission on behalf of the appellants that the annual increment is in the form of incentive and to encourage an employee to perform well and therefore, once he is not in service, there is no question of grant of annual increment is concerned, the

aforesaid has no substance. In a given case, it may happen that the employee earns the increment three days before his date of superannuation and therefore, even according to the Regulation 40(1) increment is accrued on the next day in that case also such an employee would not have one year service thereafter. It is to be noted that increment is earned on one year past service rendered in a time scale. Therefore, the aforesaid submission is not to be accepted.

6.5 Now, so far as the submission on behalf of the appellants that as the increment has accrued on the next day on which it is earned and therefore, even in a case where an employee has earned the increment one day prior to his retirement but he is not in service

the day on which the increment is accrued is concerned, while considering the aforesaid issue, the object and purpose of grant of annual increment is required to be considered. A government servant is granted the annual increment on the basis of his good conduct while rendering one year service. Increments are given annually to officers with good conduct unless such increments are withheld as a measure of punishment or linked with efficiency. Therefore, the increment is earned for rendering service with good conduct in a year/specified period. Therefore, the moment a government servant has rendered service for a specified period with good conduct, in a time scale, he is entitled to the annual increment and it can be said that he has earned the annual increment

for rendering the specified period of service with good conduct. Therefore, as such, he is entitled to the benefit of the annual increment on the eventuality of having served for a specified period (one year) with good conduct efficiently. Merely because, the government servant has retired on the very next day, how can he be denied the annual increment which he has earned and/or is entitled to for rendering the service with good conduct and efficiently in the preceding one year. In the case of **Gopal Singh (supra)** in paragraphs 20, 23 and 24, the Delhi High Court has observed and held as under: -

(para 20)

"Payment of salary and increment to a central government servant is regulated by the provisions of F.R., CSR and Central Civil Services (Pension) Rules.

Pay defined in F.R. 9(21) means the amount drawn monthly by a central government servant and includes the increment. A plain composite reading of applicable provisions leaves no ambiguity that annual increment is given to a government servant to enable him to discharge duties of the post and that pay and allowances are also attached to the post. Article 43 of the CSR defines progressive appointment to mean an appointment wherein the pay is progressive, subject to good behaviour of an officer. It connotes that pay rises, by periodical increments from a minimum to a maximum. The increment in case of progressive appointment is specified in Article 151 of the CSR to mean that increment accrues from the date following that on which it is earned. The scheme, taken cumulatively, clearly suggests that appointment of a central government servant is a progressive appointment and periodical increment in pay from a minimum to maximum is part of the pay structure. Article 151 of CSR contemplates that increment accrues from the day following which it is earned. This increment is not a matter of course but is dependent upon good conduct of the central government servant. It is, therefore, apparent that central government employee earns increment on the basis of his good conduct for specified period i.e. a year in case of annual increment. Increment in pay is thus an integral part of

progressive appointment and accrues from the day following which it is earned."
(para 23)

"Annual increment though is attached to the post & becomes payable on a day following which it is earned but the day on which increment accrues or becomes payable is not conclusive or determinative. In the statutory scheme governing progressive appointment increment becomes due for the services rendered over a year by the government servant subject to his good behaviour. The pay of a central government servant rises, by periodical increments, from a minimum to the maximum in the prescribed scale. The entitlement to receive increment therefore crystallises when the government servant completes requisite length of service with good conduct and becomes payable on the succeeding day."

(para 24)

"In isolation of the purpose it serves the fixation of day succeeding the date of entitlement has no intelligible differentia nor any object is to be achieved by it. The central government servant retiring on 30th June has already completed a year of service and the increment has been earned provided his conduct was good. It would thus be wholly arbitrary if the increment earned by the central

government employee on the basis of his good conduct for a year is denied only on the ground that he was not in employment on the succeeding day when increment became payable."

"In the case of a government servant retiring on 30th of June the next day on which increment falls due/becomes payable looses significance and must give way to the right of the government servant to receive increment due to satisfactory services of a year so that the scheme is not construed in a manner that if offends the spirit of reasonableness enshrined in Article 14 of the Constitution of India. The scheme for payment of increment would have to be read as whole and one part of Article 151 of CSR cannot be read in isolation so as to frustrate the other part particularly when the other part creates right in the central government servant to receive increment. This would ensure that scheme of progressive appointment remains intact and the rights earned by a government servant remains protected and are not denied due to a fortuitous circumstance."

6.6 The Allahabad High Court in the case of **Nand Vijay Singh (supra)** while dealing with the same issue has observed and held in paragraph 24 as under: -

"24. Law is settled that where entitlement to receive a benefit crystallises in law its denial would be arbitrary unless it is for a valid reason. The only reason for denying benefit of increment, culled out from the scheme is that the central government servant is not holding the post on the day when the increment becomes payable. This cannot be a valid ground for denying increment since the day following the date on which increment is earned only serves the purpose of ensuring completion of a year's service with good conduct and no other purpose can be culled out for it. The concept of day following which the increment is earned has otherwise no purpose to achieve. In isolation of the purpose it serves the fixation of day succeeding the date of entitlement has no intelligible differentia nor any object is to be achieved by it. The central government servant retiring on 30th June has already completed a year of service and the increment has been earned provided his conduct was good. It would thus be wholly arbitrary if the increment earned by the central government employee on the basis of his good conduct for a year is denied only on the ground that he was not in employment on the succeeding day when increment became payable. In the case of a government servant retiring on 30th of June the next day on which increment falls due/becomes payable

looses significance and must give way to the right of the government servant to receive increment due to satisfactory services of a year so that the scheme is not construed in a manner that if offends the spirit of reasonableness enshrined in Article 14 of the Constitution of India. The scheme for payment of increment would have to be read as whole and one part of Article 151 of CSR cannot be read in isolation so as to frustrate the other part particularly when the other part creates right in the central government servant to receive increment. This would ensure that scheme of progressive appointment remains intact and the rights earned by a government servant remains protected and are not denied due to a fortuitous circumstance."

6.7 Similar view has also been expressed by different High Courts, namely, the Gujarat High Court, the Madhya Pradesh High Court, the Orissa High Court and the Madras High Court. As observed hereinabove, to interpret Regulation 40(1) of the Regulations in the manner in which the appellants have understood and/or interpretated would lead

to arbitrariness and denying a government servant the benefit of annual increment which he has already earned while rendering specified period of service with good conduct and efficiently in the last preceding year. It would be punishing a person for no fault of him. As observed hereinabove, the increment can be withheld only by way of punishment or he has not performed the duty efficiently. Any interpretation which would lead to arbitrariness and/or unreasonableness should be avoided. If the interpretation as suggested on behalf of the appellants and the view taken by the Full Bench of the Andhra Pradesh High Court is accepted, in that case it would tantamount to denying a government servant the annual increment which he has earned for the services he has rendered over a

year subject to his good behaviour. The entitlement to receive increment therefore crystallises when the government servant completes requisite length of service with good conduct and becomes payable on the succeeding day. In the present case the word "accrue" should be understood liberally and would mean payable on the succeeding day. Any contrary view would lead to arbitrariness and unreasonableness and denying a government servant legitimate one annual increment though he is entitled to for rendering the services over a year with good behaviour and efficiently and therefore, such a narrow interpretation should be avoided. We are in complete agreement with the view taken by the Madras High Court in the case of **P. Ayyamperumal (supra);** the Delhi High

Court in the case of **Gopal Singh (supra)**; the Allahabad High Court in the case of **Nand Vijay Singh (supra)**; the Madhya Pradesh High Court in the case of **Yogendra Singh Bhadauria (supra)**; the Orissa High Court in the case of **AFR Arun Kumar Biswal (supra)**; and the Gujarat High Court in the case of **Takhatsinh Udesinh Songara (supra)**. We do not approve the contrary view taken by the Full Bench of the Andhra Pradesh High Court in the case of **Principal Accountant-General, Andhra Pradesh (supra)** and the decisions of the Kerala High Court in the case of **Union of India Vs. Pavithran (O.P.(CAT) No. 111/2020 decided on 22.11.2022)** and the Himachal Pradesh High Court in the case of **Hari Prakash Vs. State of Himachal**

Pradesh & Ors. (CWP No. 2503/2016 decided on 06.11.2020).

7. In view of the above and for the reasons stated above, 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.

.....J.
[M.R. SHAH]

.....J.
[C.T. RAVIKUMAR]

NEW DELHI;
APRIL 11, 2023

Annex-C

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2023
(@ SPECIAL LEAVE PETITION (C) No. 4722 of 2021)

UNION OF INDIA & ANR. **.....APPELLANT(S)**

VERSUS

M. SIDDARAJ **... RESPONDENT(S)**

WITH

CIVIL APPEAL NO(S). OF 2023
(@ SPECIAL LEAVE PETITION (C) No(s). of 2023
@Diary No. 40684/2022)

CIVIL APPEAL NO. OF 2023
(@ SPECIAL LEAVE PETITION (C) No. 5699 of 2023)

CIVIL APPEAL NO(S). OF 2023
@Diary No. 2853/2023)

CIVIL APPEAL NO. OF 2023
(@ SPECIAL LEAVE PETITION (C) No. 4129 of 2022)

CIVIL APPEAL NO. OF 2023
(@ SPECIAL LEAVE PETITION (C) No. 12190 of 2022)

CIVIL APPEAL NO. OF 2023
(@ SPECIAL LEAVE PETITION (C) No. 12439 of 2022)

CIVIL APPEAL NO. OF 2023
(@ SPECIAL LEAVE PETITION (C) No. 3419 of 2023)

CIVIL APPEAL NOS. OF 2023
(@ SPECIAL LEAVE PETITION (C) Nos. 6784-6785 of 2023)

CIVIL APPEAL NO. OF 2023

(@ SPECIAL LEAVE PETITION (C) No. 3420 of 2023)

CIVIL APPEAL NO. OF 2023
(@ SPECIAL LEAVE PETITION (C) No. 1001 of 2023)

AND

CIVIL APPEAL NO(S). OF 2023
@Diary No. 874/2023)

ORDER

Applications for leave to appeal in Diary No. 2853/2023 & Diary No. 874/2023 are allowed.

Delay condoned.

Leave granted.

The issue raised in these appeals is squarely covered by a judgment rendered in Civil Appeal No. 2471 of 2023 decided on 11.04.2023 titled as Director (Admn. And HR) KPTCL and Others Vs. C.P. Mundinamani and Others (2023) SCC Online SC 401.

The issue being same, the present civil appeals also stand disposed of in terms of the aforesaid judgment.

All the intervention applications are allowed and the intervenors shall also be entitled to the same relief.

Pending application(s), if any, also stand disposed of.

.....,J.
(KRISHNA MURARI)

.....,J.
(SANJAY KUMAR)

NEW DELHI;
19TH MAY, 2023

ITEM NO.56 COURT NO.8 SECTION IV-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 4722/2021

(Arising out of impugned final judgment and order dated 22-10-2020 in WP No. 146967/2020 passed by the High Court Of Karnataka Circuit Bench At Dharwad)

UNION OF INDIA & ANR. Petitioner(s)

VERSUS

M. SIDDARAJ Respondent(s)

(OFFICE REPORT FOR DIRECTION
IA No. 155624/2021 - APPLICATION FOR PERMISSION
IA No. 130658/2021 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 130647/2021 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 168502/2021 - INTERVENTION APPLICATION
IA No. 126159/2021 - INTERVENTION/IMPLEADMENT
IA No. 132377/2021 - INTERVENTION/IMPLEADMENT
IA No. 130653/2021 - INTERVENTION/IMPLEADMENT
IA No. 130642/2021 - INTERVENTION/IMPLEADMENT
IA No. 66111/2023 - INTERVENTION/IMPLEADMENT
IA No. 126161/2021 - PERMISSION TO APPEAR AND ARGUE IN PERSON)

WITH
Diary No(s). 40684/2022 (IX)
(IA No.14366/2023-CONDONATION OF DELAY IN FILING and IA No.14368/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.14369/2023-CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS)

SLP(C) No. 5699/2023 (IX)
(FOR ADMISSION and I.R. and IA No.40796/2023-CONDONATION OF DELAY IN FILING and IA No.40798/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.40800/2023-CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS)

Diary No(s). 2853/2023 (XVII)
(IA No.32344/2023-CONDONATION OF DELAY IN FILING and IA No.32345/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.32342/2023-EX-PARTE STAY and IA No.32347/2023-LEAVE TO APPEAL U/S 31(1) OF THE ARMED FORCES TRIBUNAL ACT, 2007)

SLP(C) No. 4129/2022 (XI)
(IA No.33692/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT
IA No. 118510/2022 - APPLICATION FOR TRANSPOSITION
IA No. 33692/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED

JUDGMENT)

SLP(C) No. 12190/2022 (XI)

IA No. 94664/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 12439/2022 (XI)

SLP(C) No. 3419/2023 (IX)
(FOR ADMISSION and I.R. and IA No.154490/2022-CONDONATION OF DELAY IN FILING and IA No.154492/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.154493/2022-EXEMPTION FROM FILING O.T. and IA No.154489/2022-CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS)

SLP(C) No. 6784-6785/2023 (IX)
(FOR ADMISSION and I.R. and IA No.145192/2022-CONDONATION OF DELAY IN FILING and IA No.145193/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 3420/2023 (IX)
(IA No.189873/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.189872/2022-CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS)

SLP(C) No. 1001/2023 (IX)
(FOR ADMISSION and I.R. and IA No.189546/2022-CONDONATION OF DELAY IN FILING and IA No.189547/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.189549/2022-EXEMPTION FROM FILING O.T.)

Diary No(s). 874/2023 (XVII)
(FOR ADMISSION and IA No.12727/2023-STAY APPLICATION and IA No.12731/2023-CONDONATION OF DELAY IN FILING APPEAL and IA No.12729/2023-LEAVE TO APPEAL U/S 31(1) OF THE ARMED FORCES TRIBUNAL ACT, 2007)

Date : 19-05-2023 These matters were called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE KRISHNA MURARI
HON'BLE MR. JUSTICE SANJAY KUMAR

For Petitioner(s)
Ms. Madhvi Divan, A.S.G.
Ms. Aishwarya Bhati, Ld. ASG
Mr. Mukesh Kumar Maroria, AOR
Ms. Anamika Agarwal, Adv.
Mr. Amit Sharma B, Adv.
Mr. Rajesh Kumar Singh, Adv.
Ms. Swarupama Chaturvedi, Adv.
Mr. Raghav Sharma, Adv.

Ms. Vaishali Verma, Adv.

Mrs. Madhavi Divan, A.S.G.
Mrs. Aishwarya Bhati, A.S.G.
Mr. Nidhi Khanna, Adv.
Ms. Ameyavikrama Thanvi, Adv.
Ms. Nidhi Khanna, Adv.
Mr. Anmol Chandan, Adv.
Mr. Sanjay Kumar Tyagi, Adv.
Mr. Ashok Panigrahi, Adv.
Mr. Digvijay Dam, Adv.
Mr. Ishaan Sharma, Adv.
Ms. Priyanka Das, Adv.
Mr. Nachiketa Joshi, Adv.
Mr. Prashant Rawat, Adv.
Ms. Preeti Rani, Adv.
Mr. Arvind Kumar Sharma, AOR

Mr. Suhaskumar Kadam, Adv.
Mr. Prashant Kumar, Adv.
Mr. Ganpatrao Katkar, Adv.
M/S. Black & White Solicitors, AOR

Mr. J.N. Singh, Adv.
Mr. Abhisek Singh, Adv.
Mrs. Sadhana Singh, Adv.
Mr. Shashwat Goel, AOR

Mr. Chandra Prakash, AOR

Mrs. Madhvi Divan, A.S.G.
Mr. Amrish Kumar, AOR
Mr. Nachiketa Joshi, Adv.
Mr. Amit Sharma B, Adv.
Mrs. Vaishali Verma, Adv.
Mr. Akshay Amritanshu, Adv.

Mr. Yashwant Singh Yadav, Adv.
Mr. Anubhav, Adv.
Mr. Vijay Pal, Adv.
Ms. Namrata Trivedi, ADv.
Mr. Anil Kumar, Adv.
Mr. Umang Tripathi, Adv.
Ms. Preeti Yadav, Adv.
Mr. Amit Garg, Adv.
Mr. Rameshwar P. Goyal, AOR

For Respondent(s)

Mr. Amit Yadav, Adv.
Mr. Nilakanta Nayak, Adv.
Mr. B.d. Das, Adv.

Mr. Shishir Deshpande, AOR

Mr. Shreeyash Uday Lalit, Adv.
Mr. Ishaan George, AOR
Mr. Abhinav Aggarwal, Adv.
Mr. Krishnagopal Abhay, Adv.
Ms. Runjhun Garg, Adv.

Mr. Pahlad Singh Sharma, AOR
Ms. Manju Jetley, AOR
Mr. Dinesh Kumar Gupta, AOR

Mr. Arvind Kumar Shukla, Adv.
Ms. Reetu Sharma, AOR
Mr. Nihal Ahmad, Adv.
Mr. Shantanu Shukla, Adv.
Mr. Tushar Swami, Adv.

Mr. Anand Sanjay M. Nuli, Adv.
Mr. Suraj Kaushik, Adv.
Ms. Nandini Pandey, Adv.
Mr. Nanda Kumar K.B, Adv.
Mr. Shiva Swaroop, Adv.
M/S. Nuli & Nuli, AOR

Mr. Rameshwar Prasad Goyal, AOR
Mr. Pranay Dubey, Adv.
Ms. Ratna Priya Pradhan, Adv.
Mr. Rajat Kapoor, Adv.
Ms. Sulekha Sharma, Adv.
Mr. Navin Kumar, Adv.

Mr. Anand Dilip Landge, Adv.
Mr. Siddharth Dharmadhikari, Adv.
Mr. Aaditya Aniruddha Pande, AOR
Mr. Bharat Bagla, Adv.
Mr. Sourav Singh, Adv.

Applicant-in-person, AOR

Mr. R. C. Kaushik, AOR
Mr. Vidya Sagar, Adv.
Mr. Amolak, Adv.
Ms. Bano Deswal, Adv.

Mr. Venkita Subramoniam T.R, AOR
Mr. Likhi Chand Bonsle, Adv.
Mr. Rahat Bansal, Adv.

Ms. Shirin Khajuria, AOR
Ms. Nayan Gupta, Adv.
Ms. Oshi Verma, Adv.

Mr. Hrishikesh Chitaley, Adv.
Mr. Vijay Kari Singh, Adv.
Mr. Rajat Joseph, AOR

Mr. Devesh Chauvia, Adv.
Mr. Kumar Dushyant Singh, AOR
Mr. Mukul Lather, Adv.
Ms. Subasri Jaganathan, Adv.

Mr. Abhishek Kaushik, Adv.
Mr. Gopal Singh, Adv.
Mr. Kumar Mihir, AOR

UPON hearing the counsel the Court made the following

O R D E R

Permission to appear and argue in person is granted.

Applications for leave to appeal in Diary No. 2853/2023 & Diary No. 874/2023 are allowed.

Delay condoned.

Leave granted.

The civil appeals stand disposed of in terms of the signed order.

All the intervention applications are allowed and the intervenors shall also be entitled to the same relief.

Pending application(s), if any, also stand disposed of.

(SONIA GULATI)
SENIOR PERSONAL ASSISTANT

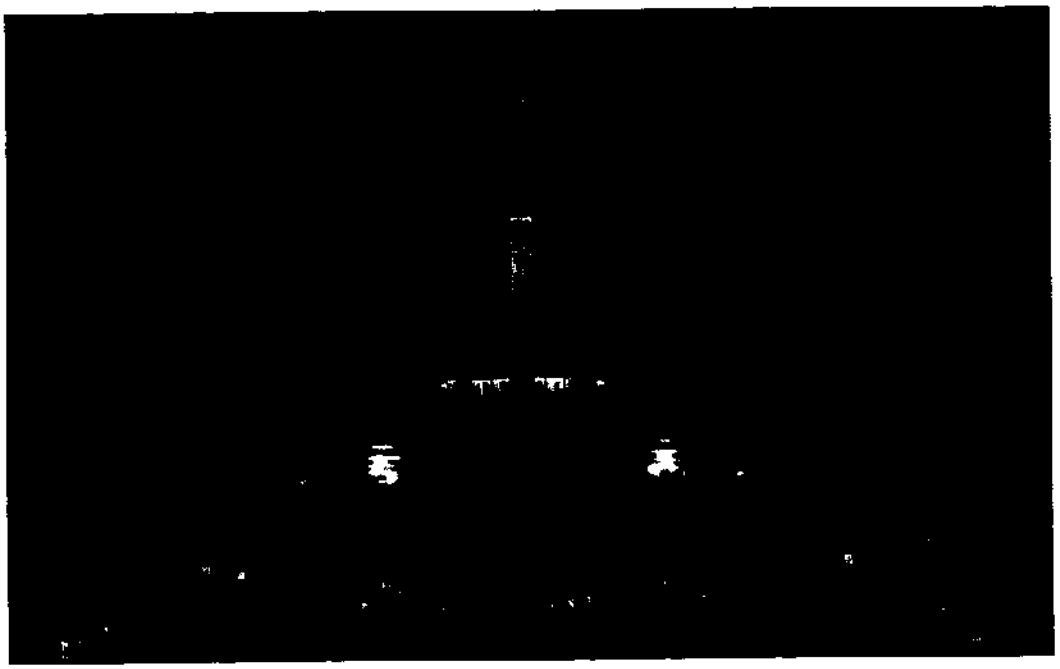
(BEENA JOLLY)
COURT MASTER (NSH)

(Signed order is placed on the file)

Annex-D

CABINET SECRETARIAT
मंत्रिमंडल सचिवालय

THE GOVERNMENT OF INDIA (TRANSACTION OF BUSINESS) RULES, 1961
भारत सरकार (कार्यकरण) नियम, 1961



(As amended upto Amendment Series no. 72, dated 3rd April, 2020)

(संशोधन अवली सं 72, दिनांक 3 अप्रैल, 2020 तक यथा संशोधित)

RASHTRAPATI BHAVAN
NEW DELHI
January 14, 1961.

Pausa 24, 1882(S)

ORDER

THE GOVERNMENT OF INDIA (TRANSACTION OF BUSINESS) RULES

In exercise of the powers conferred by clause (3) of article 77 of the Constitution and in supersession of all previous rules and orders on the subject, the President hereby makes the following rules for the more convenient transaction of the business of the Government of India: -

1. **Short Title**.- These rules may be called the Government of India (Transaction of Business) Rules, 1961.

2. **Definition**.- In these rules, "department" means any of the Ministries, Departments, Secretariats and Offices specified in the First Schedule to the Government of India (Allocation of Business) Rules, 1961.

3. **Disposal of Business by Ministries**.- Subject to the provisions of these Rules in regard to consultation with other departments and submission of cases to the Prime Minister, the Cabinet and its Committees and the President, all business allotted to a department under the Government of India (Allocation of Business) Rules, 1961, shall be disposed of by, or under the general or special directions of, the Minister-in-charge.

4. **Inter-Departmental Consultations**.-

(1) When the subject of a case concerns more than one department, no decision be taken or order issued until all such departments have concurred, or, failing such concurrence, a decision thereon has been taken by or under the authority of the Cabinet.

Explanation- Every case in which a decision, if taken in one Department, is likely to affect the transaction of business allotted to another department, shall be deemed to be a case the subject of which concerns more than one department.

(2) Unless the case is fully covered by powers to sanction expenditure or to appropriate or re-appropriate funds, conferred by any general or special orders made by the Ministry of Finance, no department shall, without the previous concurrence of the Ministry of Finance, issue any orders which may-

(a) involve any abandonment of revenue or involve any expenditure for which no provision has been made in the appropriation act;

(b) involve any grant of land or assignment of revenue or concession, grant, lease or licence of mineral or forest rights or a right to water power or any easement or privilege in respect of such concession;

(c) relate to the number or grade of posts, or to the strength of a service, or to the pay or allowances of Government servants or to any other conditions of their service having financial implications; or

(d) otherwise have a financial bearing whether involving expenditure or not;

Provided that no orders of the nature specified in clause (c) shall be issued in respect of the Ministry of Finance without the previous concurrence of the Department of Personnel and Training.

(3) The Ministry of Law shall be consulted on-

(a) proposals for legislation;

(b) the making of rules and orders of a general character in the exercise of a statutory power conferred on the Government; and

(c) the preparation of important contracts to be entered into by the Government.

(4) Unless the case is fully covered by a decision or advice previously given by the Department of Personnel and Training that Department shall be consulted on all matters involving-

(a) the determination of the methods of recruitment and conditions of service of general application to Government servants in civil employment; and

(b) the interpretation of the existing orders of general application relating to such recruitment or conditions of service.

(5) Unless the case is fully covered by the instructions issued or advice given by that Ministry, the Ministry of External Affairs shall be consulted on all matters affecting India's external relations.

5. Requests for Papers.-

(1) The Prime Minister may call for papers from any Department.

(2) The Finance Minister may call for papers from any Department in which financial consideration is involved.

(3) Any Minister may ask to see papers in any other Department if they are related to or required for the consideration of any case before him.

6. Committees of the Cabinet.-

(1) There shall be Standing Committees of the Cabinet as set out in the First Schedule to these Rules with the functions specified therein. The Prime Minister may from time to time amend the Schedule by adding to or reducing the numbers of such Committees or by modifying the functions assigned to them.

(2) Each Standing Committee shall consist of such Ministers as the Prime Minister may from time to time specify.

(3) Subject to the provisions of rule 7, each Standing Committee shall have the power to consider and take decisions on matters referred to it by order of the Minister concerned or by the Cabinet.

(4) Ad hoc Committees of Ministers including Group of Ministers may be appointed by the Cabinet, the Standing Committees of the Cabinet or by the Prime Minister for investigating and reporting to the Cabinet on such matters as may be specified, and, if so authorised by the Cabinet, Standing Committees of the Cabinet or the Prime Minister, for taking decisions on such matters.

(5) To the extent, there is a commonality between the cases enumerated in the Second Schedule and the cases set out in the First Schedule, the Standing Committees of the Cabinet, shall be competent to take a final decision in the matter except in cases where the relevant entries in the First Schedule or the Second Schedule, preclude the Committees from taking such decisions.

(6) Any decision taken by a Standing or Ad hoc Committee may be reviewed by the Cabinet.

(7) No case which concerns more than one Department shall be brought before a Standing or Ad hoc Committee of the Cabinet until all the Departments concerned have been consulted.

7. Submission of Cases to the Cabinet.-

(i) all cases specified in the Second Schedule to these Rules except cases covered by sub-rule(5) of rule 6, shall be brought before the Cabinet :

Provided that no case which concerns more than one Department shall, save in cases of urgency, be brought before the Cabinet until all the Departments concerned have been consulted.

Provided further that no case which falls under entry (h) of the Second Schedule and where specific powers have been delegated to Ministries/ Departments or Public Sector Undertakings under a decision of the Cabinet or a Standing Committee of the Cabinet and duly notified by the concerned Department, shall be brought before the Cabinet .

Provided also that cases pertaining to the implementation of the nuclear doctrine and handling/deployment of the strategic assets, including matters

relating to staffing and creation of the assets, shall be brought before the Political Council of the Nuclear Command Authority, headed by the Prime Minister.

(ii) The Prime Minister may from time to time amend the Second Schedule by adding to or reducing the number or class of cases required to be placed before the Cabinet.

8. Submission of Cases to the Prime Minister and the President.-

All cases of the nature specified in the Third Schedule to these Rules shall, before the issue of orders thereon, be submitted to the Prime Minister or to the President or to the Prime Minister and the President, as indicated in that Schedule.

9. Submission of Periodical Returns to the Cabinet.-

Each department shall submit to the Cabinet a monthly summary of its principal activities and such other periodical returns as the Cabinet or the Prime Minister may from time to time require.

10. Submission of Certain Papers to the President.-

The periodical reports and other papers specified in the Fourth Schedule to these Rules shall be submitted to the President for information as early as possible.

11. Responsibility of Departmental Secretaries.-

In each department, the Secretary (which term includes the Special Secretary or Additional Secretary or Joint Secretary in independent charge) shall be the administrative head thereof, and shall be responsible for the proper transaction of business and the careful observance of these rules in that department.

12. Departure from Rules.-

The Prime Minister may, in any case or classes of cases, permit or condone a departure from these rules to the extent he deems necessary.

DR. RAJENDRA PRASAD
PRESIDENT

Annex-E

19/4/2023-Estt.(Pay-I)

I/3026583/2023

No. 19/4/2023-Estt. (Pay-I)
Government of India
Ministry of Personnel, Public Grievances & Pensions
(Department of Personnel & Training)
****

North Block, New Delhi
Dated June,2023

OFFICE MEMORANDUM

Subject: Representation seeking notional increment and revision of consequential pensionary benefit – regarding.
***

Reference is invited to the M/o Railways' OM No. PC-VI/2020/Misc./01 dated 16.05.2023 on the subject mentioned above.

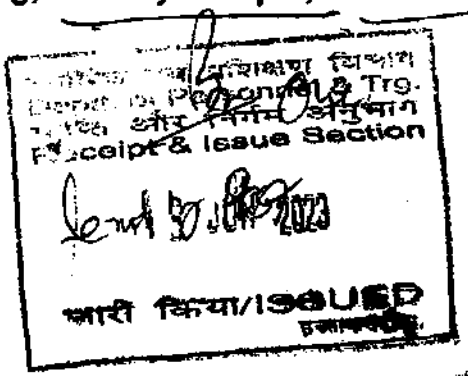
2. In this regard it is informed that the matter relating to grant of notional increment to the Government servants who superannuated on 30th June or 31st December is presently under examination in consultation with the D/o Expenditure in light of the Orders dated 11.04.2023 of the Hon'ble Supreme Court in CA No. 2471 of 2023 (@SLP(C) No. 6185/2020) – Director (Admn and HR) KPTCL & Ors. Vs C.P. Mundinamani & Ors. and dismissal of SLP No. 4722/2021 filed by Union of India vide Order dated 19.05.2023 of the Hon'ble Supreme Court. Further action, as may be required in this regard, will be taken on completion of the consultation process.

Signed by Shukdeo Sah
Date: 14-06-2023 16:56:09
Reason: Approved
(Shukdeo Sah)
Under Secretary to the Govt. of India
☎ 011-23040 489

To

Railway Board
{Shri Jaya Kumar G, Dy. Director}
Pay Commission- VII & HRMS
COFMOW Building, Railway Comple, Tilak Bridge
New Delhi

O/C



Annexure F

MOST IMMEDIATE
COURT CASE MATTER

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No. PC-VI/2020/CC/13

New Delhi, dated: 20.06.2023

The General Manager (P),
All Indian Railways
& Production Units

(Attn.: All PCPOs)

Sub: Grant of notional increment (as due on 1st July) for the pensionary benefits to those employees who had retired on 30th of June before drawing the same – Clarification reg.

Ref: Board's letter of even number dated 13.04.2021.

Attention is invited to Board's letter under reference whereby a copy of Hon'ble Supreme Court's order dated 05.04.2021 pronounced in SLP (C) No. 4722/2021 (Union of India & Ors Vs M. Siddaraj) whereby interim stay was granted on implementation of Hon'ble CAT/ Bangalore Bench's order grating benefit of notional increment was circulated to all Zonal Railways/ PUs.

2. The aforesaid SLP has recently been dismissed by Hon'ble Supreme Court vide their order dated 19.05.2023 **(copy enclosed)** inter-alia disposing all similar pending applications and directing the Union of India to grant the benefit of notional increment to all the original applicants & intervenors.

3. Considering the repercussions & far reaching implications of Hon'ble Supreme Court above judgement whereby the law involved on this issue has been interpreted on merit; this Ministry has already referred the matter to DOP&T (being the nodal department on the issue) vide Board's O.M. dated 21.04.2023 **(copy enclosed)** seeking further course of action to be adopted in contesting the cases on notional increment and further remedial measures/ legal provisions, if any available, to safeguard the interests of Union of India. This Ministry is persistently following up the matter with DOP&T; however, the solicited response on the policy aspects of grant of benefit of notional increment is still awaited.

4. Necessary clarification/ guidelines will subsequently be issued to all Zonal Railways/ PUs on receipt of the same from DOP&T. Meanwhile, it is advised that a Miscellaneous Application may be filed before the concerned Tribunal/ Court in consultation with the contesting counsel seeking further time for compliance of orders/ filing of reply, as the case may be.

5. This issues with the approval of the competent authority.

DA: As above

20/6/23

(Jaya Kumar G)
Dy. Director, Pay Commission – VII & HRMS
Railway Board
Tel. No. 011-47845125
Email add: jaya.kumarg@gov.in
4th floor, Room No. 6

I/3065748/2023

MOST URGENT
COURT CASE

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No. PC-VI/2020/Misc./01 New Delhi, dated: 21.04.2023

OFFICE MEMORANDUM

Sub: Grant of benefit of one notional increment (as due on 1st July) for the pensionary benefits to those employees who had retired on 30th of June before drawing the same.

The undersigned is directed to refer to DOP&T's O.M. No. 1442509/2021-Estt (Pay-I) dated 11.02.2021 whereby a copy of DOP&T's guidelines/ instructions issued vide O.M. No. 19/2/201/-Estt (Pay-I) dated 03.02.2021 was forwarded to this Ministry to effectively utilize the same while defending the cases on the issue of grant of notional (as due on 1st July of the retirement year) for the purpose of pensionary benefits to those employees who had retired on 30th of June before drawing the same.

2. This Ministry has been contesting all such cases based on the above advice of DOP&T. In one such case viz. SLP (C) No. 4722/2021 (Union of India & Ors Vs M. Siddaraj) filed before Hon'ble Supreme Court of India against the order dated 22.10.2020 pronounced by Hon'ble High Court of Karnataka's in W. P. No. 146967 of 2020 (UOI & Ors Vs M. Siddaraj) challenging Hon'ble CAT/ Bangalore Bench's order dated 18.12.2019 in O.A. No. 170/677/2019; Hon'ble Supreme Court vide their order dated 05.04.2021 had granted stay on implementation of order dated 18.12.2019. A copy of the stay order was also forwarded to DOP&T vide this Ministry's O.M. dated 28.05.2021 **(copy enclosed)** for utilizing the same in defending the cases on the similar issue to ensure unified stand before courts of law.

3. Subsequent to above, another SLP (C) No. 012439/2022 (Union of India & Ors Vs Anil Kumar Gupta & Ors) on the similar issue of notional increment was filed before Hon'ble Supreme Court and tagged with SLP (C) No. 4722/2021 (UOI & Ors Vs M. Siddaraj) and is presently pending for adjudication before the Hon'ble Supreme Court. Further, in yet another similar proposal for filing SLP, Ld. ASG Ms. Aishwarya Bhati, has opined that it is a fit case for preferring an SLP against the impugned order dated 18.01.2023 passed by the Hon'ble High Court of Allahabad in WP No. 11368 of 2023 in the matter of UOI & Ors Vs S. K. Misra & Ors as it raises important questions of law of general public importance and the issue is also pending consideration before the Hon'ble Supreme Court. A copy of opinion tendered by Ld. ASG is also enclosed herewith.

4. Meanwhile, it has come to the notice of this Ministry that Hon'ble Supreme Court vide their order dated 11.04.2023 **(copy enclosed)** has dismissed Civil Appeal No. 2471 of 2023 arising out of SLP (C) No. 6185 of 2020 (The Director (Admn. and HR) KPTCL & Ors Vs C. P. Mundinamani & Ors) with the following observations:

> *"In view of the above and for the reasons stated above, 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."*

5. Vide aforesaid order, the Hon'ble Supreme Court has interpreted the law involved and decided the issue of notional increment on merit through a detailed reasoned judgement dated 11.04.2023 taking into consideration all relevant judgements pronounced various courts of law on the issue of notional increment which have been decided in favour & also against the interests of Union of India. The aforesaid judgement would have far reaching implications and there is a high probability that the same would be cited/ highlighted by the petitioners in similar cases being contested before various courts of law seeking the benefit of notional increment which would eventually have a cascading effect on such cases including those dismissed or adjourned sine die subject to the outcome of SLP (C) No. 4722/2021 (UOI & Ors Vs M. Siddaraj).

...Contd.

6. Consequent to the said judgement, the issue of notional increment seems to have attained finality and the judgement pronounced by the Hon'ble Apex Court has become the law of land under Article 141 and all the lower courts are bound to abide by the same. Thus, the stand adopted by this Ministry in similar cases may get infructuous as very clear & specific directions have been given by Hon'ble Apex Court subsequent to the stay order dated 05.04.2021 in M. Siddaraj SLP.

7. Such implications/ cascading effects would not be limited to this Ministry only, but, would also impact other Ministries/ Departments of Govt. of India to a greater extent. Accordingly, DOP&T is hereby requested to:

(i) Furnish the considered opinion/ views on the judgement dated 11.04.2023 pronounced by Hon'ble Supreme Court in SLP (C) No. 6185 of 2020 (The Director (Admn. and HR) KPTCL & Ors Vs C. P. Mundinamani & Ors).

(ii) Apprise this Ministry of the action taken/ stand adopted by DOP&T in contesting/defending cases on the issue of notional increment consequent to above judgement of Hon'ble Apex Court.

(iii) Apprise this Ministry of remedial measures/ legal provisions, if any available, to safeguard the interests of Union of India in notional increment cases.

DA: As above

21/04/2023

(Sundeep Pal)
Executive Director, Pay Commission
Railway Board
Tel. No. 011-47845117
Email add: sundeep.p@gov.in
4th floor, Room No. 7

Ministry of Personnel, PG & Pension
{Kind Attn: Shri Manoj Kumar Dwivedi, Addl. Secretary (E)}
(DOP&T), Room No. 109,
North Block, New Delhi – 110001

Annexure-G

Office of Director General (HR)
Railway Board
E-office No. 184/872
Date 31/07/24

Fwd: Notional Increment - Meeting with Ld. AG

CR ChairmanRailwayBoard RailwayBoard <crb@rb.railnet.gov.in>
Tue, 30 Jul 2024 3:23:42 PM +0530

To "DG HR" <dghrrailway.rbr@nic.in>

From: "MAHESH KUMAR" <m.kumar1965@gov.in>
To: "ChairmanRailwayBoard RailwayBoard" <crb@rb.railnet.gov.in>
Sent: Tuesday, July 30, 2024 2:51:54 PM
Subject: Notional increment - Meeting with Ld. AG

Sir,

PFA a copy of this Department's O.M. No.19/4/2023-Pers. Policy. Pay dated 30.07.2024.

Regards,

Mahesh Kumar
Under Secretary (Pay)
Department of Personnel & Training
Tel:23040489

⊖ **1 Attachment(s)** · Download as Zip

OM dated 30.07.2024.pdf
611.1 KB ·

DDPC-7 & HRMS
31/7

DG/HR
31-07-24

Am/SL 44

Sr/PC

ED/PC is nominated.
Sh. Tarun
ASP
31/07/24.

CRB 30.7.24

DH/HR

COURT MATTER
MOST IMMEDIATE

No.19/4/2023-Pers. Policy. Pay
Government of India
Ministry of Personnel, Public Grievances & Pension
Department of Personnel & Training.

North Block, New Delhi
Dated the 30th July, 2024.

OFFICE MEMORANDUM

Subject: Grant of notional increment on 1st July / 1st January to the employees who retired from Central Government service on 30th June / 31st December respectively for the purpose of calculating their pensionary benefits.

The undersigned is directed to inform that the Clarificatory Petition (M.A. Dy. No. 2400/2024) filed by M/o Railways before the Hon'ble Supreme Court in the matter relating to grant of 'notional increment' on 1st July / 1st January to the employees who retired from Central Government service on 30th June / 31st December respectively for the purpose of calculating their pensionary benefits came up for hearing on 22.07.2024 when the Hon'ble Supreme Court issued following Orders:

"Re-list after two weeks.

In the meantime, learned counsel for the Union of India shall examine as to whether the Union of India needs to file an application in Civil Appeal No.2471/2023, titled "The Director (Admn. and HR) KPTCL & Ors Vs. C.P. Mundinamani & Ors", which was disposed of vide judgment dated 11.4.2023.

Respondents are permitted to file additional document."

2. Referring the above directions of the Hon'ble Court M/o Railways have vide OM No. PC-VI/2020/CC/13 dated 26.07.2024 requested this Department to take necessary action in the matter and file appropriate additional documents/ affidavit/ Misc. Application in CA No. 2471/2023 seeking necessary clarification from the Apex Court in the matter.

3. Reference is also invited to the D/o Expenditure's ID Notes No. 06-09/2019-E.III.A dated 15.05.2024 and 21.06.2024 in the context of the Orders dated 07.03.2024 of the Hon'ble CAT, PB, New Delhi, in OAs No.961/2024 and 952/2024 directing DoPT and D/o Expenditure to issue comprehensive instructions to all the Government Departments that due consideration for grant of notional increment be given to all the retired employees. D/o Expenditure have been apprised about the developments in the matter vide this Department's ID Note of even number dated 26.07.2024

...2/-

4. A meeting has been scheduled with the Ld. Attorney General at **6 pm on 01.08.2024** to discuss the issues associated with compliance of Orders of the Apex Court on the issue involving grant of 'notional increment' and other related issues and to seek his advice on further course of action in the matter. D/o Expenditure and M/o Railways are requested to nominate a suitable officer well conversant with the subject matter to attend the meeting with Ld. AG. It is also requested that a brief on points for discussion in this regard may please be provided to this Department before the meeting through email at m.kumar1965@gov.in).

5. This issues with the approval of the Competent Authority.

30.07.2024

(Mahesh Kumar)
Under Secretary to the Govt. of India
011-23040489

1. **The Secretary**
   Department of Expenditure
   North Block
   New Delhi

2. **The Chairman**
   Railway Board
   Rail Bhawan
   New Delhi

Annex- H

RECORDS OF PROCEEDINGS

S.NO.	DATE OF RECORD OF PROCEEDINGS	PAGES

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

M.A. NO. OF 2024
IN
SPECIAL LEAVE PETITION (C) No. 4722 OF 2021

IN THE MATTER OF:

1. UNION OF INDIA
   REPRESENTED BY SECRETARY
   RAILWAY BOARD, RAIL BHAVAN,
   NEW DELHI.

2. PRINCIPAL OFFICER
   Principal officer SOUTH WESTERN
   RAILWAY, HUBALLI, KARNATAKA ....APPLICANTS

VERSUS

M. SIDDARAJ
S/O A. MURUGESAN
RETIRED CHIEF STAFF AND WELFARE
INSPECTOR O/O CHIEF PERSONAL OFFICER,
S.W. RAILWAY, HUBLI , KARNATAKA..... ..Respondent

APPLICATION ON BEHALF OF THE APPLICANT/ APPELLANT FOR CLARIFICATION ON THE JUDGMENT AND ORDER DATED 19.05.2023

PASSED BY THIS HON'BLE COURT IN SPECIAL LEAVE PETITION (C) NO. 4722 of 2021 AND CONNECTED INTERVENTION APPLICATIONS

TO

THE HON'BLE THE CHIEF JUSTICE OF INDIA AND HIS COMPANION JUSTICES OF THE HON'BLE SUPREME COURT OF INDIA.

The Humble Petition of the Petitioners above named.

MOST RESPECTFULLY SHOWETH:

1. The present application is being filed by the Union of India seeking clarification on the judgment and order dated 19.05.2023 passed by this Hon'ble Court in SLP (C) No. 4722 of 2021 whereby this Hon'ble Court disposed of the appeal filed by the applicant i.e. Union of India against the final judgment and order dated 22.10.2020 in W.P. No. 146967/2020 (S-CAT) passed by the Hon'ble High Court of Karnataka at Dharwad. A copy of the Order dated 19.05.2023 passed by this Hon'ble Court in S.L.P.[c]No.4722 of

2021 is annexed and marked as **ANNEXURE-A-1** [Pg. 14-29]

2. It is respectfully submitted that vide aforesaid order dated 19.05.2023, this Hon'ble Court has referred to an earlier judgment dated 11.04.2023 rendered in Civil Appeal No. 2471 of 2023 titled as *Director (Admn. And HR) KPTCL and Others Vs C. P. Mundinamani and Others* (2023) SCC Online SC 401 wherein this Hon'ble Court had granted the benefit of notional increment to the Respondents.

3. In that case, the court was considering the issue of whether an employee who has earned the annual increment is entitled to the same despite the fact that he has retired a day prior to the accrual the increment. This Hon'ble court while noting that there are divergent views of various high courts on above issue dismissed the appeal and directed to grant annual increment to employees who have earned on the last day of service for rendering one year service

prior to their retirement with good behaviour and effectively.

4. The court, while holding that the employees are entitled to annual increment and taking note of the object and purpose of the grant of annual increment, made the following observations as under:

   a. Annual increment is based on good conduct during one year of service. Increments are awarded annually to employees with good conduct unless withheld as a form of punishment or tied to efficiency.

   b. The increment is earned by rendering service with good conduct in a specified period. Once a government servant has rendered service for a specified period with good conduct in a time scale, they are entitled to the annual increment.

   c. Denying annual increment to a government servant which he has already earned while rendering specified period of service with good

conduct and efficiency in the last preceding year would be arbitrary.

d. The entitlement to receive increment crystallises when the government servant completes requisite length of service with good conduct and becomes payable on the succeeding day.

5. This Hon'ble Court in light of the foregoing and for the reasons stated above, dismissed the civil appeal and concurred entirely with the view taken by the High Court of Karnataka wherein it directed the appellants to award the original applicants one annual increment earned on the last day of their service for the preceding year, considering their good behaviour and efficient service.

6. It is respectfully submitted that the implementation of the decision of this Hon'ble Court is expected to face various difficulties. The challenges outlined below encompass the intricacies involved in the practical aspects of carrying out the judgment and

also involve legal and procedural complexities, thereby requiring clarification:

a) This Hon'ble Apex Court while granting the benefit of notional increment has not quashed the relevant Fundamental Rules governing grant of increment FR-24, nor FRs relating to emoluments for pensionary purposes etc,

b) This Hon'ble court has not specified a definite date for the implementation of the judgment, which is likely to result in increased litigation and pose a financial burden on the exchequers.

c) The scope for fresh demands being raised by persons retired but were not granted annual increment is also a matter of concern.

d) Grant of increment is subject to certain set of conditions such as availability not just in service in a post but also availability on duty in the post held on the crucial date of grant of increment i.e. 1st day of the month. Hence, it would appear that mere crystallization of

entitlement for satisfactory, efficient service rendered does not ipso facto lead to accrual on the day following which the increment can be said to be earned even for all employees in service.

e) An employee legally retires on attaining the age of superannuation i.e. 60 years and as per the decision; the relationship of employer employee is terminated. They continue thereafter as a grace period given to the employee under FR 56, for reasons of administrative convenience. However, it would not be correct to consider this grace stage period prior to his actual date of retirement, as qualifying service for the purpose of reckoning entitlement. for increment due in the succeeding month at par with employees in service and on duty in the post/scale held in which the increment accrues.

f) Grant of notional increment to the retirees will result in grant of dual benefits i.e. the benefits

being available to serving employees for increment due on the first of succeeding month and the pension payable for retiring employees from the same date.

g) Presently, it would appear that the judgement covers those who would have earned an increment on 01st July and 01st January of the succeeding year for retirees on 30th June or 31st December of the year.

h) There is a high probability that cases which materialized during Pay Commissions prior to 6th CPC may also crop up, as every similar case of increment accrued just after date of superannuation may become payable notionally for recalculating pensionary benefits.

i) Pension is limited to only pension/family pension/ commutation and not to other pensionary benefits such as gratuity, leave encashment. The above matter and also the aspect of pension arrears payable needs clarification.

j) The implementation of the orders may lead to procedural problems as two different set of pensioners will be available in the month of June and December as entire pensioners retiring in the month will not be eligible for grant of the notional increment. Moreover, there would be procedural problems and delays in such cases for calculation of pensionary benefits only after the entitlement of notional increment is first established.

k) Applicability of same interpretation may also be extendable to other such monetary and other time bound entitlements such as MACP, non-functional upgradation etc, if the concept of entitlement crystallizing is to prevail irrespective of the date of accrual.

7. It is well established that this Hon'ble Court can entertain an application for clarification or modification when it is demonstrated that such action is necessary in the interest of justice. The

court has not specified a definite date for the implementation of the judgment, potentially opening the floodgates to litigation and imposing a financial burden on the exchequer. This is particularly concerning as the concerned departments have previously resolved disputes by not granting the annual increment to various employees who got retired.

8: In the facts and circumstances explained above, the applicant is filing the present application seeking this Hon'ble Court's clarification regarding the date of applicability of judgment dated 19.05.2023 and the date of effect of the benefit of notional increment as granted by the said judgment.

9. The application is being filed bona fide.

PRAYER

It is, therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to:

A. Clarify the date of applicability of the judgment dated 19.05.2023 pronounced in SLP (C) No. 4722/2021 titled *Union of India & Ors Vs M. Siddaraj*.

B. Clarify the date of effect of the benefit of notional increment as granted by the aforesaid judgment.

C. To pass orders to stay the implementation of the impugned judgment till the clarification on the issues raised in the instant petition is given by the Hon'ble Court keeping in view the huge ramification and maintain uniformity.

D. Pass any other orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.

AND FOR THIS ACT OF KINDNESS YOUR HUMBLE PETITIONER AS IN DUTY BOUND SHALL EVER PRAY.

Drawn by:

Mr. Raman Yadav
Advocate

Filed by:

[AMRISH KUMAR]
Advocate on Record for Petitioner

NEW DELHI:
DATED: .01.2024

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

M.A. NO. OF 2024
IN
SPECIAL LEAVE PETITION (C) No. 4722 OF 2021

IN THE MATTER OF:

UNION OF INDIA & ORS. Applicant(s)

Versus

M. SIDDARAJ Respondent

AFFIDAVIT

I, S.Purandara Naik aged about 57 years Working as Deputy Chief personnel Officer, South Western Railway, Hubballi, Karnataka, presently at New Delhi do hereby solemnly affirm and state as under:-

1. That I am the authorized person on behalf the Petitioner/s in the aforesaid matter and as such fully conversant with the facts and circumstances of the present case and also able to swear this affidavit.

2. That I have read the accompanying Application for modification and understood the contents thereof. The facts stated therein are true and correct to the record of the case, which I believe to be true.

3. That the Annexures filed herewith are true copies of their respective originals.

DEPONENT

VERIFICATION:

Verified on this the 15th day of January 2024 that the above named deponent do hereby verify that the contents of the above affidavit are true and correct and belief. No part of it is false and nothing material has been concealed therefrom.

DEPONENT

1 ANNEXURE-A-1

CORRECTED

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2023
(@ SPECIAL LEAVE PETITION (C) No. 4722 of 2021)

UNION OF INDIA & ANR. .....APPELLANT(S)

VERSUS

M. SIDDARAJ ... RESPONDENT(S)

WITH

CIVIL APPEAL NO(S). OF 2023
(@ SPECIAL LEAVE PETITION (C) No(s). of 2023
@Diary No. 40684/2022)

CIVIL APPEAL NO. OF 2023
(@ SPECIAL LEAVE PETITION (C) No. 5699 of 2023)

CIVIL APPEAL NO(S). OF 2023
@Diary No. 2853/2023)

CIVIL APPEAL NO. OF 2023
(@ SPECIAL LEAVE PETITION (C) No. 4129 of 2022)

CIVIL APPEAL NO. OF 2023
(@ SPECIAL LEAVE PETITION (C) No. 12190 of 2022)

CIVIL APPEAL NO. OF 2023
(@ SPECIAL LEAVE PETITION (C) No. 12439 of 2022)

CIVIL APPEAL NO. OF 2023
(@ SPECIAL LEAVE PETITION (C) No. 3419 of 2023)

CIVIL APPEAL NOS. OF 2023
(@ SPECIAL LEAVE PETITION (C) Nos. 6784-6785 of 2023)

CIVIL APPEAL NO. OF 2023

(@ SPECIAL LEAVE PETITION (C) No. 3420 of 2023)

CIVIL APPEAL NO. OF 2023
(@ SPECIAL LEAVE PETITION (C) No. 1001 of 2023)

AND

CIVIL APPEAL NO(S). OF 2023
@Diary No. 874/2023)

ORDER

Applications for leave to appeal in Diary No. 2853/2023 & Diary No. 874/2023 are allowed.

Delay condoned.

Leave granted.

The issue raised in these appeals is squarely covered by a judgment rendered in Civil Appeal No. 2471 of 2023 decided on 11.04.2023 titled as Director (Admn. And HR) KPTCL and Others Vs. C.P. Mundinamani and Others (2023) SCC Online SC 401.

The issue being same, the present civil appeals also stand disposed of in terms of the aforesaid judgment.

All the intervention applications/impleadment applications are allowed and the intervenors/impleaded respondents shall also be entitled to the same relief.

Pending application(s), if any, also stand disposed of.

.....J.
(KRISHNA MURARI)

.....J.
(SANJAY KUMAR)

NEW DELHI;
19TH MAY, 2023

REVISED

ITEM NO.56 COURT NO.8 SECTION IV-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 4722/2021

(Arising out of impugned final judgment and order dated 22-10-2020 in WP No. 146967/2020 passed by the High Court Of Karnataka Circuit Bench At Dharwad)

UNION OF INDIA & ANR. Petitioner(s)

VERSUS

N. SIDDARAJ Respondent(s)

(OFFICE REPORT FOR DIRECTION
IA No. 155624/2021 - APPLICATION FOR PERMISSION
IA No. 130658/2021 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 130647/2021 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 168502/2021 - INTERVENTION APPLICATION
IA No. 126159/2021 - INTERVENTION/IMPLEADMENT
IA No. 132377/2021 - INTERVENTION/IMPLEADMENT
IA No. 130653/2021 - INTERVENTION/IMPLEADMENT
IA No. 130642/2021 - INTERVENTION/IMPLEADMENT
IA No. 68111/2023 - INTERVENTION/IMPLEADMENT
IA No. 196926, 197184/2023 - INTERVENTION/IMPLEADMENT
IA No. 81393/2023 - INTERVENTION/IMPLEADMENT
IA No. 126161/2021 - PERMISSION TO APPEAR AND ARGUE IN PERSON)

WITH
Diary No(s). 40684/2022 (IX)
(IA No.14366/2023-CONDONATION OF DELAY IN FILING and IA No.14368/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.14369/2023-CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS)

SLP(C) No. 5899/2023 (IX)
(FOR ADMISSION and I.R. and IA No.40796/2023-CONDONATION OF DELAY IN FILING and IA No.40798/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.40800/2023-CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS)

Diary No(s). 2853/2023 (XVII)
(IA No.32344/2023-CONDONATION OF DELAY IN FILING and IA No.32345/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.32342/2023-EX-PARTE STAY and IA No.32347/2023-LEAVE TO APPEAL U/S 31(1) OF THE ARMED FORCES TRIBUNAL ACT, 2007)

SLP(C) No. 4129/2022 (XI)
(IA No.33692/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED

JUDGMENT
IA No. 118518/2022 - APPLICATION FOR TRANSPOSITION
IA No. 33092/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 12198/2022 (XI)

IA No. 94604/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 12439/2022 (XI)

SLP(C) No. 3419/2023 (IX)
(FOR ADMISSION and I.R. and IA No.154490/2022-CONDONATION OF DELAY IN FILING and IA No.154492/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.154493/2022-EXEMPTION FROM FILING O.T. and IA No.154489/2022-CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS)

SLP(C) No. 6784-6785/2023 (IX)
(FOR ADMISSION and I.R. and IA No.145192/2022-CONDONATION OF DELAY IN FILING and IA No.145193/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 3429/2023 (IX)
(IA No.189873/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.189872/2022-CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS)

SLP(C) No. 1001/2023 (IX)
(FOR ADMISSION and I.R. and IA No.189546/2022-CONDONATION OF DELAY IN FILING and IA No.189547/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No.189549/2022-EXEMPTION FROM FILING O.T. and IA Diary No. 88669/2023- INTERVENTION/IMPLEADMENT)

Diary No(s). 874/2023 (XVII)
(FOR ADMISSION and IA No.12727/2023-STAY APPLICATION and IA No.12731/2023-CONDONATION OF DELAY IN FILING APPEAL and IA No.12729/2023-LEAVE TO APPEAL U/S 31(1) OF THE ARMED FORCES TRIBUNAL ACT, 2007)

Date : 19-05-2023 These matters were called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE KRISHNA MURARI
HON'BLE MR. JUSTICE SANJAY KUMAR

For Petitioner(s)
Ms. Madhvi Divan, A.S.G.
Ms. Aishwarya Bhati, Ld. ASG
Mr. Mukesh Kumar Maroria, AOR

Ms. Anamika Agarwal, Adv.
Mr. Amit Sharma B, Adv.
Mr. Rajesh Kumar Singh, Adv.
Ms. Swarupama Chaturvedi, Adv.
Mr. Raghav Sharma, Adv.
Ms. Vaishali Verma, Adv.

Mrs. Madhavi Divan, A.S.G.
Mrs. Aishwarya Bhati, A.S.G.
Mr. Nidhi Khanna, Adv.
Ms. Ameyavikrama Thanvi, Adv.
Ms. Nidhi Khanna, Adv.
Mr. Anmol Chandan, Adv.
Mr. Sanjay Kumar Tyagi, Adv.
Mr. Ashok Panigrahi, Adv.
Mr. Digvijay Das, Adv.
Mr. Ishaan Sharma, Adv.
Ms. Priyanka Das, Adv.
Mr. Nachiketa Joshi, Adv.
Mr. Prashant Rawat, Adv.
Ms. Preeti Rani, Adv.
Mr. Arvind Kumar Sharma, AOR

Mr. Suhaskumar Kadam, Adv.
Mr. Prashant Kumar, Adv.
Mr. Ganpatrao Katkar, Adv.
M/S. Black & White Solicitors, AOR

Mr. J.N. Singh, Adv.
Mr. Abhisek Singh, Adv.
Mrs. Sadhana Singh, Adv.
Mr. Shashwat Goel, AOR

Mr. Chandra Prakash, AOR

Mrs. Madhvi Divan, A.S.G.
Mr. Amrish Kumar, AOR
Mr. Nachiketa Joshi, Adv.
Mr. Amit Sharma B, Adv.
Mrs. Vaishali Verma, Adv.
Mr. Akshay Amritanshu, Adv.

Mr. Yashwant Singh Yadav, Adv.
Mr. Anubhav, Adv.
Mr. Vijay Pal, Adv.
Ms. Namrata Trivedi, Adv.
Mr. Anil Kumar, Adv.
Mr. Umang Tripathi, Adv.
Ms. Preeti Yadav, Adv.
Mr. Amit Garg, Adv.
Mr. Rameshwar P. Goyal, AOR

For Respondent(s)

Mr. Amit Yadav, Adv.
Mr. Nilakanta Nayak, Adv.
Mr. B.d. Das, Adv.
Mr. Shishir Deshpande, AOR

Mr. Shreeyash Uday Lalit, Adv.
Mr. Ishaan George, AOR
Mr. Abhinav Aggarwal, Adv.
Mr. Krishnagopal Abhay, Adv.
Ms. Runjhun Garg, Adv.

Mr. Pahlad Singh Sharma, AOR
Ms. Manju Jetley, AOR
Mr. Dinesh Kumar Gupta, AOR

Mr. Arvind Kumar Shukla, Adv.
Ms. Reetu Sharma, AOR
Mr. Nihal Ahmad, Adv.
Mr. Shantanu Shukla, Adv.
Mr. Tushar Swami, Adv.

Mr. Anand Sanjay M. Nuli, Adv.
Mr. Suraj Kaushik, Adv.
Ms. Nandini Pandey, Adv.
Mr. Nanda Kumar K.B, Adv.
Mr. Shiva Swaroop, Adv.
M/S. Nuli & Nuli, AOR

Mr. Rameshwar Prasad Goyal, AOR
Mr. Pranay Dubey, Adv.
Ms. Ratna Priya Pradhan, Adv.
Mr. Rajat Kapoor, Adv.
Ms. Sulekha Sharma, Adv.
Mr. Navin Kumar, Adv.

Mr. Anand Dilip Landge, Adv.
Mr. Siddharth Dharmadhikari, Adv.
Mr. Aaditya Aniruddha Pande, AOR
Mr. Bharat Bagla, Adv.
Mr. Sourav Singh, Adv.

Applicant-in-person, AOR

Mr. R. C. Kaushik, AOR
Mr. Vidya Sagar, Adv.
Mr. Amolak, Adv.
Ms. Sano Deswal, Adv.

Mr. Venkita Subramoniam T.R, AOR
Mr. Likhi Chand Bonsle, Adv.

Mr. Rahat Bansal, Adv.

Ms. Shirin Khajuria, AOR
Ms. Nayan Gupta, Adv.
Ms. Oshi Verma, Adv.

Mr. Hrishikesh Chitaley, Adv.
Mr. Vijay Kari Singh, Adv.
Mr. Rajat Joseph, AOR

Mr. Devesh Chauvia, Adv.
Mr. Kumar Dushyant Singh, AOR
Mr. Mukul Lather, Adv.
Ms. Subasri Jaganathan, Adv.

Mr. Abhishek Kaushik, Adv.
Mr. Gopal Singh, Adv.
Mr. Kumar Mihir, AOR

UPON hearing the counsel the Court made the following

O R D E R

Permission to appear and argue in person is granted.

Applications for leave to appeal in Diary No. 2853/2023 & Diary No. 874/2023 are allowed.

Delay condoned.

Leave granted.

The civil appeals stand disposed of in terms of the signed order.

All the intervention applications/impleadment applications are allowed and the intervenors/impleaded respondents shall also be entitled to the same relief. Cause title be amended accordingly.

Pending application(s), if any, also stand disposed of.

(SONIA GULATI)
SENIOR PERSONAL ASSISTANT

(BEENA JOLLY)
COURT MASTER (NSH)

(Corrected Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2023
(@ SPECIAL LEAVE PETITION (C) No. 4722 of 2021)

UNION OF INDIA & ANR. .....APPELLANT(S)

VERSUS

M. SIDDARAJ ... RESPONDENT(S)

WITH

CIVIL APPEAL NO(S). OF 2023
(@ SPECIAL LEAVE PETITION (C) No(s). of 2023
@Diary No. 40684/2022)

CIVIL APPEAL NO. OF 2023
(@ SPECIAL LEAVE PETITION (C) No. 5699 of 2023)

CIVIL APPEAL NO(S). OF 2023
@Diary No. 2053/2023)

CIVIL APPEAL NO. OF 2023
(@ SPECIAL LEAVE PETITION (C) No. 4129 of 2022)

CIVIL APPEAL NO. OF 2023
(@ SPECIAL LEAVE PETITION (C) No. 12190 of 2022)

CIVIL APPEAL NO. OF 2023
(@ SPECIAL LEAVE PETITION (C) No. 12439 of 2022)

CIVIL APPEAL NO. OF 2023
(@ SPECIAL LEAVE PETITION (C) No. 3419 of 2023)

CIVIL APPEAL NOS. OF 2023
(@ SPECIAL LEAVE PETITION (C) Nos. 6784-6785 of 2023)

CIVIL APPEAL NO. OF 2023

(@ SPECIAL LEAVE PETITION (C) No. 3420 of 2023)

CIVIL APPEAL NO. OF 2023
(@ SPECIAL LEAVE PETITION (C) No. 1001 of 2023)

AND

CIVIL APPEAL NO(S). OF 2023
@Diary No. 874/2023)

ORDER

Applications for leave to appeal in Diary No. 2853/2023 & Diary No. 874/2023 are allowed.

Delay condoned.

Leave granted.

The issue raised in these appeals is squarely covered by a judgment rendered in Civil Appeal No. 2471 of 2023 decided on 11.04.2023 titled as Director (Admn. And HR) KPTCL and Others Vs. C.P. Mundinamani and Others (2023) SCC Online SC 401.

The issue being same, the present civil appeals also stand disposed of in terms of the aforesaid judgment.

All the intervention applications are allowed and the intervenors shall also be entitled to the same relief.

Pending application(s), if any, also stand disposed of.

.....J.
(KRISHNA MURARI)

.....J.
(SANJAY KUMAR)

NEW DELHI;
19TH MAY, 2023

ITEM NO.56 COURT NO.8 SECTION IV-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 4722/2021

(Arising out of impugned final judgment and order dated 22-10-2020 in WP No. 146967/2020 passed by the High Court Of Karnataka Circuit Bench At Dharwad)

UNION OF INDIA & ANR. Petitioner(s)

VERSUS

N. SIDDARAJ Respondent(s)

(OFFICE REPORT FOR DIRECTION
IA No. 155624/2021 - APPLICATION FOR PERMISSION
IA No. 130658/2021 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 130647/2021 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 168582/2021 - INTERVENTION APPLICATION
IA No. 126159/2021 - INTERVENTION/IMPLEADMENT
IA No. 132377/2021 - INTERVENTION/IMPLEADMENT
IA No. 130653/2021 - INTERVENTION/IMPLEADMENT
IA No. 130642/2021 - INTERVENTION/IMPLEADMENT
IA No. 66111/2023 - INTERVENTION/IMPLEADMENT
IA No. 126161/2021 - PERMISSION TO APPEAR AND ARGUE IN PERSON)

WITH
Diary No(s). 40684/2022 (IX)
(IA No.14366/2023-CONDONATION OF DELAY IN FILING and IA No.14368/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.14369/2023-CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS)

SLP(C) No. 5899/2023 (IX)
(FOR ADMISSION and I.R. and IA No.40796/2023-CONDONATION OF DELAY IN FILING and IA No.40798/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.40800/2023-CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS)

Diary No(s). 2853/2023 (XVII)
(IA No.32344/2023-CONDONATION OF DELAY IN FILING and IA No.32345/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.32342/2023-EX-PARTE STAY and IA No.32347/2023-LEAVE TO APPEAL U/S 31(1) OF THE ARMED FORCES TRIBUNAL ACT, 2007)

SLP(C) No. 4129/2022 (XI)
(IA No.33692/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT
IA No. 118610/2022 - APPLICATION FOR TRANSPOSITION
IA No. 33692/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED

JUDGMENT)

SLP(C) No. 12190/2022 (XI)

IA No. 94864/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 12439/2022 (XI)

SLP(C) No. 3419/2023 (IX)
(FOR ADMISSION and I.R. and IA No.154488/2022-CONDONATION OF DELAY IN FILING and IA No.154492/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.154493/2022-EXEMPTION FROM FILING O.T. and IA No.154489/2022-CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS)

SLP(C) No. 5784-5785/2023 (IX)
(FOR ADMISSION and I.R. and IA No.145192/2022-CONDONATION OF DELAY IN FILING and IA No.145193/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 3420/2023 (IX)
(IA No.189873/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.189872/2022-CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS)

SLP(C) No. 1001/2023 (IX)
(FOR ADMISSION and I.R. and IA No.189546/2022-CONDONATION OF DELAY IN FILING and IA No.189547/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.189549/2022-EXEMPTION FROM FILING O.T.)

Diary No(s). 874/2023 (XVII)
(FOR ADMISSION and IA No.12727/2023-STAY APPLICATION and IA No.12731/2023-CONDONATION OF DELAY IN FILING APPEAL and IA No.12729/2023-LEAVE TO APPEAL U/S 31(1) OF THE ARMED FORCES TRIBUNAL ACT, 2007)

Date : 19-05-2023 These matters were called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE KRISHNA MURARI
HON'BLE MR. JUSTICE SANJAY KUMAR

For Petitioner(s)
Ms. Madhvi Divan, A.S.G.
Ms. Aishwarya Bhati, Ld. ASG
Mr. Mukesh Kumar Maroria, AOR
Ms. Anamika Agarwal, Adv.
Mr. Amit Sharma B, Adv.
Mr. Rajesh Kumar Singh, Adv.
Ms. Swarupama Chaturvedi, Adv.
Mr. Raghav Sharma, Adv.

Ms. Vaishali Verma, Adv.

Mrs. Madhavi Divan, A.S.G.
Mrs. Aishwarya Bhati, A.S.G.
Mr. Nidhi Khanna, Adv.
Ms. Ameyavikrama Thanvi, Adv.
Ms. Nidhi Khanna, Adv.
Mr. Anmol Chandan, Adv.
Mr. Sanjay Kumar Tyagi, Adv.
Mr. Ashok Panigrahi, Adv.
Mr. Digvijay Das, Adv.
Mr. Ishaan Sharma, Adv.
Ms. Priyanka Das, Adv.
Mr. Nachiketa Joshi, Adv.
Mr. Prashant Rawat, Adv.
Ms. Preeti Rani, Adv.
Mr. Arvind Kumar Sharma, AOR

Mr. Suhaskumar Kadam, Adv.
Mr. Prashant Kumar, Adv.
Mr. Sanpatrao Katkar, Adv.
M/S. Black & White Solicitors, AOR

Mr. J.N. Singh, Adv.
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Mrs. Sadhana Singh, Adv.
Mr. Shashwat Goel, AOR

Mr. Chandra Prakash, AOR

Mrs. Madhvi Divan, A.S.G.
Mr. Aarish Kumar, AOR
Mr. Nachiketa Joshi, Adv.
Mr. Amit Sharma B, Adv.
Mrs. Vaishali Verma, Adv.
Mr. Akshay Amritanshu, Adv.

Mr. Yashwant Singh Yadav, Adv.
Mr. Anubhav, Adv.
Mr. Vijay Pal, Adv.
Ms. Namrata Trivedi, ADV.
Mr. Anil Kumar, Adv.
Mr. Umang Tripathi, Adv.
Ms. Preeti Yadav, Adv.
Mr. Amit Garg, Adv.
Mr. Rameshwar P. Goyal, AOR

For Respondent(s)

Mr. Amit Yadav, Adv.
Mr. Nilakanta Nayak, Adv.
Mr. B.d. Das, Adv.

Mr. Shishir Deshpande, AOR

Mr. Shreeyash Uday Lalit, Adv.
Mr. Ishaan George, AOR
Mr. Abhinav Aggarwal, Adv.
Mr. Krishnagopal Abhay, Adv.
Ms. Runjhun Garg, Adv.

Mr. Pahlad Singh Sharma, AOR
Ms. Manju Jetley, AOR
Mr. Dinesh Kumar Gupta, AOR

Mr. Arvind Kumar Shukla, Adv.
Ms. Reetu Sharma, AOR
Mr. Nihal Ahmad, Adv.
Mr. Shantanu Shukla, Adv.
Mr. Tushar Swami, Adv.

Mr. Anand Sanjay M. Nuli, Adv.
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Ms. Nandini Pandey, Adv.
Mr. Nanda Kumar K.B, Adv.
Mr. Shiva Swaroop, Adv.
M/S. Nuli & Nuli, AOR

Mr. Rameshwar Prasad Goyal, AOR
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Ms. Sulekha Sharma, Adv.
Mr. Navin Kumar, Adv.

Mr. Anand Dilip Landge, Adv.
Mr. Siddharth Dharmadhikari, Adv.
Mr. Aaditya Aniruddha Pande, AOR
Mr. Bharat Bagla, Adv.
Mr. Sourav Singh, Adv.

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Mr. Rahat Bansal, Adv.

Ms. Shirin Khajuria, AOR
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Ms. Oshi Verma, Adv.

Mr. Hrishikesh Chitaley, Adv.
Mr. Vijay Kari Singh, Adv.
Mr. Rajat Joseph, AOR

Mr. Devesh Chauvia, Adv.
Mr. Kumar Dushyant Singh, AOR
Mr. Mukul Lather, Adv.
Ms. Subasri Jaganathan, Adv.

Mr. Abhishek Kaushik, Adv.
Mr. Gopal Singh, Adv.
Mr. Kumar Mihir, AOR

UPON hearing the counsel the Court made the following

O R D E R

Permission to appear and argue in person is granted.

Applications for leave to appeal in Diary No. 2853/2023 & Diary No. 874/2023 are allowed.

Delay condoned.

Leave granted.

The civil appeals stand disposed of in terms of the signed order.

All the intervention applications are allowed and the intervenors shall also be entitled to the same relief.

Pending application(s), if any, also stand disposed of.

(SONIA GULATI)
SENIOR PERSONAL ASSISTANT

(BEENA JOLLY)
COURT MASTER (NSH)

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

I.A.NO._____OF 2024
IN
M.A. NO. OF 2024
IN
SPECIAL LEAVE PETITION (C) No. 4722 OF 2021

IN THE MATTER OF

UNION OF INDIA AND ORS .....Applicants

Versus

M.SIDDARAJ. ..... Respondents

AN APPLICATION FOR CONDONATION OF DELAY IN FILING CLARIFICATION OF THE ORDER DATED 19.05.2023

TO

THE HON'BLE THE CHIEF JUSTICE OF INDIA AND HIS COMPANION JUSTICES OF THE HON'BLE SUPREME COURT OF INDIA.

The Humble Application of the Applicant above named

MOST RESPECTFULLY SHOWETH

1. The present application is being filed by the Union of India seeking clarification on the judgment and order dated 19.05.2023 passed by this Hon'ble Court in SLP (C) No. 4722 of 2021 whereby this Hon'ble Court disposed of the appeal filed by the applicant i.e. Union of India against the final judgment and order dated 22.10.2020 in W.P. No. 146967/2020 (S-CAT) passed by the Hon'ble High Court of Karnataka at Dharwad.

2. It is respectfully submitted that vide aforesaid order dated 19.05.2023, this Hon'ble Court has referred to an earlier judgment dated 11.04.2023 rendered in Civil Appeal No. 2471 of 2023 titled as *Director (Admn. And HR) KPTCL and Others Vs C. P. Mundinamani and Others* (2023) SCC Online SC 401 wherein this Hon'ble Court had granted the benefit of notional increment to the Respondents.

3) There is a delay of _____days in filing the above Application. It is respectfully submitted that the delay in filing the above Application which has been

occasioned on account of unavoidable circumstances beyond the control of the Applicant's Department, as would be evident from the following reasons:

19.05.2023	That the Hon'ble Supreme Court vide order dated 19.05.2023 dismissed the SLP (C) No. 4722/2021 filed by the appellant.
14.06.2023	That DOP&T apprised Ministry of Railways that the matter is presently under examination in consultation with the Deptt. of Expenditure in light of orders pronounced by the Hon'ble Apex Court.
July'2023 to Nov'2023	That the matter has been consistently followed up with DOP&T by Ministry of Railways through various reminders dated 24.07.2023, 30.08.2023 & 01.11.2023 for requisite guidelines on the issue of notional increment.

13.12.2023	That DOP&T advised Ministry of Railways to explore, in consultation with Ld. Attorney General of India, the possibility of filing petition for clarification before Hon'ble Supreme Court.
26.12.2023	That Ministry of Railways requested the Incharge, Central Agency Section/Supreme Court for placing the matter before Ld. Attorney General of India for his considered opinion.
06.01.2024	That draft application for clarification is received in Ministry of Railways through email from the office of Ld. Attorney General of India.
15.01.2024	Approval from Competent Authority was granted and the approved application was forwarded to Central Agency Section for further necessary action.

15.01.2024	Reasons for delay was mailed to the Panel Counsel.
15.01.2024	Application for condonation of delay was prepared and mailed to the petitioner.
	MA has been filed.

4. It is respectfully submitted that this Hon'ble Court has time and again held that a liberal and justice-oriented approach is required to be adopted while dealing with an application for condonation of delay, for the courts are not supposed to legalise injustice but are obliged to remove injustice.

5. This Hon'ble Court has also held that Substantial justice being paramount and pivotal the technical considerations should not be given undue and uncalled for emphasis, so that in the ultimate eventuate there is no real failure of justice.

6. Accordingly, some time was also taken in drafting and research work of the matter and by that time prescribed period of limitation was already expired.

7. It is respectfully submitted that the aforesaid delay is neither deliberate nor intentional but because of the aforesaid circumstances which were beyond control.

8. It is thus submitted that in view of the above said reasons it would be in the highest interest of justice that the delay is condoned and the matter heard on its merits.

PRAYER

The Petitioner, therefore, prays that this Hon'ble Court may kindly be pleased to:-

a) Condone the delay of _____days in filing this Application for Clarification against the Order dated 19.05.2023 passed by this Hon'ble Court in SLP (C) No. 4722 of 2021 and connected intervention applications.

b) Pass any other order and/ or direction, as this Hon'ble Court may deem fit and proper.

AND FOR THIS ACT OF KINDNESS THE APPELLANT SHALL AS IN DUTY BOUND SHALL EVER PRAY.

DRAWN BY.

Advocate

FILED BY

[AMRISH KUMAR]
AOR for the Applicants

Filed on: .01.2024
Place: New Delhi.

Annex-I

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
I.A. NO._____ OF 2024

IN

M.A. (Dy) No.2400 OF 2024

IN THE MATTER OF:

UOI & ANR ...PETITIONER

VS.

M.SIDDARAJ ...RESPONDENT

AND IN THE MATTER OF:

Department of Personnel and Training
North Block, New Delhi-110001
APPLICANT/INTERVENTION

I.A. NO. ____ OF 2024
APPLICATION FOR INTERVENTION

PAPER BOOK
(Kindly see Index Inside)

ADVOCATE FOR THE APPLICANT/INTERVENTION: S.N. TERDAL

INDEX

S. No.	Particulars of documents	Page No. of Part of which it belongs		Rema-rks
		Part I (contents of papa book (iii)	Part II (contents of file alone (iv)	(v)
(i)	(ii)	(iii)	(iv)	(v)
1.	Court Fees		240/-	
2.	Cover Page of Paper Book		A	
3.	Application for intervention with Affidavit.	1-8		
4.	**ANNEXURE A-1** True copy of order dated 11.04.2023 passed by the Hon'ble Court in Civil Appeal No.2471 of 2023.	9-36		
5.	**ANNEXURE A-2** True copy of order dated 19.05.2023 passed by the Hon'ble Court in SLP © No.4722/2021.	37-39		
6.	**ANNEXURE A-3** True copy of order dated 07.03.2024 passed by the Central Administrative Tribunal Principal Bench, New Delhi in MA no.908/2024	40-44		
7.				

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

I.A. NO._____ OF 2024

IN

M.A. (Dy) No.2400 OF 2024

IN THE MATTER OF:

UOI & ANR ...PETITIONER

VS.

M.SIDDARAJ ...RESPONDENT

AND IN THE MATTER OF:

Department of Personnel and Training
North Block, New Delhi-110001
APPLICANT/INTERVENTION

APPLICATION FOR INTERVENTION

To

THE CHIEF JUSTICE OF INDIA HIS COMPANION JUSTICES OF THE HO'BLE SUPREME COURT OF INDIA.

THE HUMBLE APPLICATION OF THE PETITIONER ABOVE NAMED

MOSTRESPECTFULLYSHOWETH:-

1. That the Applicants are constrained to file the instant Application seeking Intervention in the above mentioned Miscellaneous Application for Clarification filed vide Dy. No. 2400/2024 on the judgement dated 19.05.2023 pronounced by this Hon'ble Court in SLP (C) No. 4722/2021 (Union of India & Ors Vs M. Siddaraj).

2. That the Applicants herein have vital stake in the outcome of the above mentioned Miscellaneous Application and it is respectfully submitted that this Hon'ble Court ought to hear the Applicants in the interest of justice while deciding the MA.

3. That recently, this Hon'ble Court has decided the issue of notional increment vide their order dated 11.04.2023 pronounced in Civil Appeal No. 2471 of 2023 arising out of SLP (C) No. 6185 of 2020 {The Director (Admn. and HR) KPTCL &Ors Vs C. P. Mundinamani&Ors} (Copy of order dated

11.04.2023 is annexed herewith as **Annexure- A-1 Page [9 -36]**

4. That, subsequently relying upon their aforesaid order dated 11.04.2023, this Hon'ble Court had dismissed the SLP (C) No. 4722/2021 (Union of India Vs M. Siddaraj) vide their order dated 19.05.2023. (Copy of order dated 19.05.2023 is annexed herewith as **Annexure- A-2 Page [37 - 39]**

5. That, Ministry of Railways had, thereafter, filed a Miscellaneous Application vide Dy. No. 2400/2024 on the grounds of various difficulties, legal and procedural complexities being faced in implementation of order dated 19.05.2023.

6. That, it is humbly submitted that DOP&T, the nodal department has not been a party in any of the cases wherein the aforesaid judgements have been pronounced by this Hon'ble Court.

7. That, in a recent judgement dated 07.03.2024 pronounced by Hon'ble CAT/ Principal Bench in O.A. No. 951/2024 (Anita Khirbat & Ors Vs Union of India & Ors) has allowed the O.A. with a direction to respondents to send a copy of the order to the Secretary, DOP&T and the Secretary, Department of Expenditure, Ministry of Finance to issue comprehensive instructions to all the Government Departments that due consideration for grant of notional increment be given to all the retired employees instead of forcing them to expensive and avoidable litigation.(Copy of order dated 07.03.2024 is annexed herewith as **Annexure-A-3 Page [40-44]**

8. That, the above judgements have wide ramifications & repercussions and huge financial implications spread across all the Ministries/ Departments under Govt. of India and also the State Governments.

PRAYER

In view of the above facts and circumstances, and considering the fact that the applicants do not have a chance to submit its arguments on a vital policy issue having wide ramifications and huge financial implications and require modifications of various FRs which have been in existence for decades the Applicants most respectfully pray that this Hon'ble Court may graciously be pleased to:-

(i) Permit the applicants to intervene in this Miscellaneous Application for Clarification.

(ii) Permit the applicants to make oral submissions and place written submissions and documents before this Hon'ble Court in the instant Miscellaneous Application.

(iii) Grant a stay on the implementation of the impugned judgement till such time the Petition before the Hon'ble Court is decided as non- grant of stay will result in

pronouncing of favourable judgements by subordinate courts in a continuous manner, thereby making the Petition infructuous.

(iv) Pass any other order or direction in the interest of justice, in favour of the applicants/Union of India.

Settled by Ld. AG

Filed by:

[S.N. TERDAL]
Advocate for the Petitioners

Filed On: 22.07.2024

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

I.A. NO._____ OF 2024

IN

M.A. (Dy) No.2400 OF 2024

IN THE MATTER OF:

UOI & ANR ...PETITIONER

VS.

M.SIDDARAJ ...RESPONDENT

AND IN THE MATTER OF:

Department of Personnel and Training
North Block, New Delhi-110001
APPLICANT/INTERVENTION

AFFIDAVIT

I Mahesh Kumar S/o. Late Shri Laxman, R/o 295 Sector-110-A, Gurugram (Haryana), presently at New Delhi,

1. That in my applicant/Intervention in the instant Intervention application and as such I am well conversant with the facts and circumstances of the case and thus competent to swear this affidavit.

2. That the contents of the accompanying Intervention Application Para 1 to 8 have been understood and state that the same are true and correct to the best of my

NOTARY PUBLIC
K. BANDANA
Delhi
Regn. No. 19718
Date of Expiry
09.02.2025
Govt of India

knowledge and belief derived from the records of the case which I believe to be true.

3. That the annexure A-1 to A-3 filed with the Intervention application is true and correct copy of their originals.

22.7.2024
DEPONENT

(महेश कुमार)
(MAHESH KUMAR)
अवर सचिव / Under Secretary
कार्मिक एवं प्रशिक्षण विभाग
Deptt. of Personnel Training
भारत सरकार / Govt. of India

VERIFICATION:-

Verified at New Delhi on this 22 day of July, 2024 that the contents of the aforesaid affidavit are true and correct to best of my knowledge and belief and no part of it is false and nothing material has been concealed therefrom.

22.7.2024
DEPONENT

22.7.2024
IDENTIFIED

22 JUL 2024

(महेश कुमार)
(MAHESH KUMAR)
अवर सचिव / Under Secretary
कार्मिक एवं प्रशिक्षण विभाग
Deptt. of Personnel Training
भारत सरकार / Govt. of India

NOTARY PUBLIC * Govt of India *
K. BANDANA
Regn. No. 3213
Delhi
Date of Expiry
28.02.2028

ATTESTED
NOTARY PUBLIC DELHI
Govt. of India
Mob.: 9650768496

ANNEXURE-A-1

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2471 OF 2023

(@ SLP (C) No. 6185/2020)

The Director (Admn. and HR) KPTCL & Ors. **..Appellant(s)**

Versus

C.P. Mundinamani & Ors. **...Respondent(s)**

J U D G M E N T

M.R. SHAH, J.

1. Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the High Court of Karnataka at Bengaluru in Writ Appeal No. 4193/2017, by which, the Division Bench of the High Court has allowed the said appeal preferred by the employees -

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respondents herein by quashing and setting aside the judgment and order passed by the learned Single Judge and directing the appellants to grant one annual increment which the respondents had earned one day prior to they retired on attaining the age of superannuation, the management – KPTCL has preferred the present appeal.

2. The undisputed facts are that one day earlier than the retirement and on completion of one year service preceding the date of retirement all the employees earned one annual increment. However, taking into consideration Regulation 40(1) of the Karnataka Electricity Board Employees Service Regulations, 1997 (hereinafter referred to as the Regulations), which

provides that an increment accrues from the day following that on which it is earned, the appellants denied the annual increment on the ground that the day on which the increment accrued the respective employees – original writ petitioners were not in service. The writ petition(s) filed by the original writ petitioners claiming the annual increment came to be dismissed by the learned Single Judge. By the impugned judgment and order and following the decision of the Andhra Pradesh High Court in the case of **Union of India and Ors. Vs. R. Malakondaiah and ors. reported in 2002(4) ALT 550 (D.B.)** and relying upon the decisions of other High Courts, the Division Bench of the Karnataka High Court has allowed the appeal and has directed that the appellants to grant one

annual increment to the respective employees-respondents by observing that the respective employees as such earned the increment for rendering their one-year service prior to their retirement.

2.1 Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the Division Bench of the High Court, the management – KPTCL has preferred the present appeal.

3. Shri Huzefa Ahmadi, learned Senior Advocate has appeared on behalf of the appellants and Shri Mallikarjun S. Mylar, learned counsel has appeared on behalf of the respective employees – respondents.

3.1 Shri Ahmadi, learned Senior Advocate appearing on behalf of the appellants has vehemently submitted that the decision of the Andhra Pradesh High Court in the case of **R. Malakondaiah (supra)** which has been relied upon by the Division Bench of the High Court while passing the impugned judgment and order has been subsequently overruled by the Full Bench of the Andhra Pradesh High Court in the case of **Principal Accountant-General, Andhra Pradesh and Anr. Vs. C. Subba Rao reported in 2005 (2) LLN 592.**

3.2 It is further submitted by Shri Ahmadi, learned Senior Advocate appearing on behalf of the appellants that there are divergent views of different High Courts on the issue. It is submitted that the Madras High Court, the

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Delhi High Court, the Allahabad High Court, the Madhya Pradesh High Court, the Gujarat High Court have taken a contrary view than the view taken by the Full Bench of the Andhra Pradesh High Court, the Kerala High Court and the Himachal Pradesh High Court. It is submitted that various High Courts taking the contrary view have as such followed the decision of the Madras High Court in the case of **P. Ayyamperumal Vs. The Registrar and Ors. (W.P. No. 15732/2017 decided on 15.09.2017).**

3.3 On merits, Shri Ahmadi, learned Senior Advocate appearing on behalf of the appellants has vehemently submitted that the words used in Regulation 40(1) of the Regulations are very clear and unambiguous.

It is submitted that it categorically provides that "an increment accrues from the day following that on which it is earned." It is submitted that therefore, when the right to get the increment is accrued the employee must be in service. It is submitted that in the present case when the right to get the increment accrues in favour of the respective respondents they were not in service but on their superannuation retired from the services. It is submitted that therefore, they shall not be entitled to the annual increment which might have been earned one day earlier i.e., on the last day of their service.

3.4 It is further submitted by Shri Ahmadi, learned Senior Advocate appearing on behalf of the appellants that the annual increment is

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in the form of a good service and it is an incentive so that the concerned employee may serve effectively and may render good services. It is submitted that therefore, when the concerned employees are not in service due to their retirement there is no question of grant of any annual increment which as such is in the form of incentive to encourage the employee for better performance.

3.5 Shri Ahmadi, learned Senior Advocate appearing on behalf of the appellants has also taken us to the definition of the word "accrue" in the Law Lexicon (the encyclopaedic law dictionary) and the definition of the word "increment." It is submitted that as per the Law Lexicon, "increment" means a unit of increase in quantity or value. It means a

promotion from a lower grade to a higher grade. As per the definition "increment" means an upward change in something. It is submitted that as per the Law Lexicon the word "accrue" means to come into existence as an enforceable claim or right. It is submitted that therefore, on true interpretation of Regulation 40(1) of the Regulations, an increment accrues from the day following that on which it is earned. It is submitted that therefore; the Division Bench of the High Court has materially erred. It is submitted that therefore, the view taken by the Division Bench of the High Court and other High Courts that the concerned employees shall be entitled to the benefit of one annual increment which they earned one day prior to their retirement is erroneous and

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is on mis-interpretation of the relevant statutory provisions. Making the above submissions, it is prayed to allow the present appeal.

4. Learned counsel appearing on behalf of the respective employees – respondents, has heavily relied upon the decision of the Madras High Court in the case of **P. Ayyamperumal (supra)** and the decisions of the Gujarat High Court, the Delhi High Court, the Allahabad High Court, the Madhya Pradesh High Court and the Orissa High Court taking the view that the concerned employees who earned the annual increment for rendering one year service prior to their retirement they cannot be denied the benefit of the annual increment which they actually earned, solely on the

ground that they retired on attaining the age of superannuation on the very next day. It is submitted that therefore, the Division Bench of the High Court has not committed any error in allowing one annual increment in favour of the respective employees which they actually earned.

4.1 Making the above submissions, it is prayed to dismiss the present appeal.

5. We have heard learned counsel appearing on behalf of the respective parties.

6. The short question which is posed for the consideration of this Court is whether an employee who has earned the annual increment is entitled to the same despite the

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fact that he has retired on the very next day of earning the increment?

6.1 In the present case, the relevant provision is Regulation 40(1) of the Regulations which reads as under: -

> **"Drawals and postponements of increments**
> 40(1) An increment accrues from the day following that on which it is earned. An increment that has accrued shall ordinarily be drawn as a matter of course unless it is withheld. An increment may be withheld from an employee by the competent authority, if his conduct has not been good, or his work has not been satisfactory. In ordering the withholding of an increment, the withholding authority shall state the period for which it is withheld, and whether the postponement shall have the effect of postponing future increments."

6.2 It is the case on behalf of the appellants that the word used in Regulation 40(1) is that an increment accrues from the day following that on which it is earned and in the present case the increment accrued on the day when they

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retired and therefore, on that day they were not in service and therefore, not entitled to the annual increment which they might have earned one day earlier. It is also the case on behalf of the appellants that as the increment is in the form of incentive and therefore, when the employees are not in service there is no question of granting them any annual increment which as such is in the form of incentive.

6.3 At this stage, it is required to be noted that there are divergent views of various High Courts on the issue involved. The Full Bench of the Andhra Pradesh High Court, the Himachal Pradesh High Court and the Kerala High Court have taken a contrary view and have taken the view canvassed on behalf of

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the appellants. On the other hand, the Madras High Court in the case of **P. Ayyamperumal (supra)**; the Delhi high Court in the case of **Gopal Singh Vs. Union of India and Ors. (Writ Petition (C) No. 10509/2019 decided on 23.01.2020)**; the Allahabad High Court in the case of **Nand Vijay Singh and Ors. Vs. Union of India and Ors. (Writ A No. 13299/2020 decided on 29.06.2021)**; the Madhya Pradesh High Court in the case of **Yogendra Singh Bhadauria and Ors. Vs. State of Madhya Pradesh**; the Orissa High Court in the case of **AFR Arun Kumar Biswal Vs. State of Odisha and Anr. (Writ Petition No. 17715/2020 decided on 30.07.2021)**; and the Gujarat High Court in the case of **State**

of Gujarat Vs. Takhatsinh Udesinh Songara (Letters Patent Appeal No. 868/2021) have taken a divergent view than the view taken by the Full Bench of the Andhra Pradesh High Court and have taken the view that once an employee has earned the increment on completing one year service he cannot be denied the benefit of such annual increment on his attaining the age of superannuation and/or the day of retirement on the very next day.

6.4 Now so far as the submission on behalf of the appellants that the annual increment is in the form of incentive and to encourage an employee to perform well and therefore, once he is not in service, there is no question of grant of annual increment is concerned, the

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aforesaid has no substance. In a given case, it may happen that the employee earns the increment three days before his date of superannuation and therefore, even according to the Regulation 40(1) increment is accrued on the next day in that case also such an employee would not have one year service thereafter. It is to be noted that increment is earned on one year past service rendered in a time scale. Therefore, the aforesaid submission is not to be accepted.

6.5 Now, so far as the submission on behalf of the appellants that as the increment has accrued on the next day on which it is earned and therefore, even in a case where an employee has earned the increment one day prior to his retirement but he is not in service

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the day on which the increment is accrued is concerned, while considering the aforesaid issue, the object and purpose of grant of annual increment is required to be considered. A government servant is granted the annual increment on the basis of his good conduct while rendering one year service. Increments are given annually to officers with good conduct unless such increments are withheld as a measure of punishment or linked with efficiency. Therefore, the increment is earned for rendering service with good conduct in a year/specified period. Therefore, the moment a government servant has rendered service for a specified period with good conduct, in a time scale, he is entitled to the annual increment and it can be said that he has earned the annual increment

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for rendering the specified period of service with good conduct. Therefore, as such, he is entitled to the benefit of the annual increment on the eventuality of having served for a specified period (one year) with good conduct efficiently. Merely because, the government servant has retired on the very next day, how can he be denied the annual increment which he has earned and/or is entitled to for rendering the service with good conduct and efficiently in the preceding one year. In the case of **Gopal Singh (supra)** in paragraphs 20, 23 and 24, the Delhi High Court has observed and held as under: -

(para 20)

"Payment of salary and increment to a central government servant is regulated by the provisions of F.R., CSR and Central Civil Services (Pension) Rules.

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Pay defined in F.R. 9(21) means the amount drawn monthly by a central government servant and includes the increment. A plain composite reading of applicable provisions leaves no ambiguity that annual increment is given to a government servant to enable him to discharge duties of the post and that pay and allowances are also attached to the post. Article 43 of the CSR defines progressive appointment to mean an appointment wherein the pay is progressive, subject to good behaviour of an officer. It connotes that pay rises, by periodical increments from a minimum to a maximum. The increment in case of progressive appointment is specified in Article 151 of the CSR to mean that increment accrues from the date following that on which it is earned. The scheme, taken cumulatively, clearly suggests that appointment of a central government servant is a progressive appointment and periodical increment in pay from a minimum to maximum is part of the pay structure. Article 151 of CSR contemplates that increment accrues from the day following which it is earned. This increment is not a matter of course but is dependent upon good conduct of the central government servant. It is, therefore, apparent that central government employee earns increment on the basis of his good conduct for specified period i.e. a year in case of annual increment. Increment in pay is thus an integral part of

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progressive appointment and accrues from the day following which it is earned."
(para 23)

"Annual increment though is attached to the post & becomes payable on a day following which it is earned but the day on which increment accrues or becomes payable is not conclusive or determinative. In the statutory scheme governing progressive appointment increment becomes due for the services rendered over a year by the government servant subject to his good behaviour. The pay of a central government servant rises, by periodical increments, from a minimum to the maximum in the prescribed scale. The entitlement to receive increment therefore crystallises when the government servant completes requisite length of service with good conduct and becomes payable on the succeeding day."

(para 24)

"In isolation of the purpose it serves the fixation of day succeeding the date of entitlement has no intelligible differentia nor any object is to be achieved by it. The central government servant retiring on 30th June has already completed a year of service and the increment has been earned provided his conduct was good. It would thus be wholly arbitrary if the increment earned by the central

> government employee on the basis of his good conduct for a year is denied only on the ground that he was not in employment on the succeeding day when increment became payable."
>
> "In the case of a government servant retiring on 30th of June the next day on which increment falls due/becomes payable looses significance and must give way to the right of the government servant to receive increment due to satisfactory services of a year so that the scheme is not construed in a manner that if offends the spirit of reasonableness enshrined in Article 14 of the Constitution of India. The scheme for payment of increment would have to be read as whole and one part of Article 151 of CSR cannot be read in isolation so as to frustrate the other part particularly when the other part creates right in the central government servant to receive increment. This would ensure that scheme of progressive appointment remains intact and the rights earned by a government servant remains protected and are not denied due to a fortuitous circumstance."

6.6 The Allahabad High Court in the case of **Nand Vijay Singh (supra)** while dealing with the same issue has observed and held in paragraph 24 as under: -

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"24. Law is settled that where entitlement to receive a benefit crystallises in law its denial would be arbitrary unless it is for a valid reason. The only reason for denying benefit of increment, culled out from the scheme is that the central government servant is not holding the post on the day when the increment becomes payable. This cannot be a valid ground for denying increment since the day following the date on which increment is earned only serves the purpose of ensuring completion of a year's service with good conduct and no other purpose can be culled out for it. The concept of day following which the increment is earned has otherwise no purpose to achieve. In isolation of the purpose it serves the fixation of day succeeding the date of entitlement has no intelligible differentia nor any object is to be achieved by it. The central government servant retiring on 30th June has already completed a year of service and the increment has been earned provided his conduct was good. It would thus be wholly arbitrary if the increment earned by the central government employee on the basis of his good conduct for a year is denied only on the ground that he was not in employment on the succeeding day when increment became payable. In the case of a government servant retiring on 30th of June the next day on which increment falls due/becomes payable

looses significance and must give way to the right of the government servant to receive increment due to satisfactory services of a year so that the scheme is not construed in a manner that if offends the spirit of reasonableness enshrined in Article 14 of the Constitution of India. The scheme for payment of increment would have to be read as whole and one part of Article 151 of CSR cannot be read in isolation so as to frustrate the other part particularly when the other part creates right in the central government servant to receive increment. This would ensure that scheme of progressive appointment remains intact and the rights earned by a government servant remains protected and are not denied due to a fortuitous circumstance."

6.7 Similar view has also been expressed by different High Courts, namely, the Gujarat High Court, the Madhya Pradesh High Court, the Orissa High Court and the Madras High Court. As observed hereinabove, to interpret Regulation 40(1) of the Regulations in the manner in which the appellants have understood and/or interpretated would lead

to arbitrariness and denying a government servant the benefit of annual increment which he has already earned while rendering specified period of service with good conduct and efficiently in the last preceding year. It would be punishing a person for no fault of him. As observed hereinabove, the increment can be withheld only by way of punishment or he has not performed the duty efficiently. Any interpretation which would lead to arbitrariness and/or unreasonableness should be avoided. If the interpretation as suggested on behalf of the appellants and the view taken by the Full Bench of the Andhra Pradesh High Court is accepted, in that case it would tantamount to denying a government servant the annual increment which he has earned for the services he has rendered over a

year subject to his good behaviour. The entitlement to receive increment therefore crystallises when the government servant completes requisite length of service with good conduct and becomes payable on the succeeding day. In the present case the word "accrue" should be understood liberally and would mean payable on the succeeding day. Any contrary view would lead to arbitrariness and unreasonableness and denying a government servant legitimate one annual increment though he is entitled to for rendering the services over a year with good behaviour and efficiently and therefore, such a narrow interpretation should be avoided. We are in complete agreement with the view taken by the Madras High Court in the case of **P. Ayyamperumal (supra);** the Delhi High

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Court in the case of **Gopal Singh (supra)**; the Allahabad High Court in the case of **Nand Vijay Singh (supra)**; the Madhya Pradesh High Court in the case of **Yogendra Singh Bhadauria (supra)**; the Orissa High Court in the case of **AFR Arun Kumar Biswal (supra)**; and the Gujarat High Court in the case of **Takhatsinh Udesinh Songara (supra)**. We do not approve the contrary view taken by the Full Bench of the Andhra Pradesh High Court in the case of **Principal Accountant-General, Andhra Pradesh (supra)** and the decisions of the Kerala High Court in the case of **Union of India Vs. Pavithran (O.P.(CAT) No. 111/2020 decided on 22.11.2022)** and the Himachal Pradesh High Court in the case of **Hari Prakash Vs. State of Himachal**

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Pradesh & Ors. (CWP No. 2503/2016 decided on 06.11.2020).

7. In view of the above and for the reasons stated above, 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.

(50) 36

I.A. No. 149091/2022 stands disposed of in terms of the above.

.....J.
[M.R. SHAH]

.....J.
[C.T. RAVIKUMAR]

NEW DELHI;
APRIL 11, 2023

"True Copy"

22.7.2024

ANNEXURE-A-2

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2023
(@ SPECIAL LEAVE PETITION (C) No. 4722 of 2021)

UNION OF INDIA & ANR. .....APPELLANT(S)

VERSUS

M. SIDDARAJ ... RESPONDENT(S)

WITH

CIVIL APPEAL NO(S). OF 2023
(@ SPECIAL LEAVE PETITION (C) No(s). of 2023
@Diary No. 40684/2022)

CIVIL APPEAL NO. OF 2023
(@ SPECIAL LEAVE PETITION (C) No. 5699 of 2023)

CIVIL APPEAL NO(S). OF 2023
@Diary No. 2853/2023)

CIVIL APPEAL NO. OF 2023
(@ SPECIAL LEAVE PETITION (C) No. 4129 of 2022)

CIVIL APPEAL NO. OF 2023
(@ SPECIAL LEAVE PETITION (C) No. 12190 of 2022)

CIVIL APPEAL NO. OF 2023
(@ SPECIAL LEAVE PETITION (C) No. 12439 of 2022)

CIVIL APPEAL NO. OF 2023
(@ SPECIAL LEAVE PETITION (C) No. 3419 of 2023)

CIVIL APPEAL NOS. OF 2023
(@ SPECIAL LEAVE PETITION (C) Nos. 6784-6785 of 2023)

CIVIL APPEAL NO. OF 2023

(@ SPECIAL LEAVE PETITION (C) No. 3420 of 2023)

CIVIL APPEAL NO. OF 2023
(@ SPECIAL LEAVE PETITION (C) No. 1001 of 2023)

AND

CIVIL APPEAL NO(S). OF 2023
@Diary No. 874/2023)

ORDER

Applications for leave to appeal in Diary No. 2853/2023 & Diary No. 874/2023 are allowed.

Delay condoned.

Leave granted.

The issue raised in these appeals is squarely covered by a judgment rendered in Civil Appeal No. 2471 of 2023 decided on 11.04.2023 titled as Director (Admn. And HR) KPTCL and Others Vs. C.P. Mundinamani and Others (2023) SCC Online SC 401.

The issue being same, the present civil appeals also stand disposed of in terms of the aforesaid judgment.

All the intervention applications are allowed and the intervenors shall also be entitled to the same relief.

Pending application(s), if any, also stand disposed of.

.....,J.
(KRISHNA MURARI)

.....,J.
(SANJAY KUMAR)

NEW DELHI;
19TH MAY, 2023

"True Copy"

22.7.2020

ANNEXURE-A-3

Item No. 4/C-4

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Central Administrative Tribunal
Principal Bench, New Delhi

OA No. 951/2024
MA No. 908/2024

This the 7th day of March, 2024

Hon'ble Mr. Tarun Shridhar, Member (A)

1. Anita Khirbat
Retired PGT, Gr. B. Age 62 years
Resident of 409/Pkt C8,
Sector-8 MIG DDA Flats, Rohini, Delhi

2. Suman Sharma
Retd. TGT
Resident of DA-332, SFS Flats,
Shalimar Bagh Delhi-110088

3. Kamlesh Rohilla
Retired PGT
Resident of 29-D. DDA MIG Flats
Shivam Encalve, Jhilmil, Delhi-32

4. Subhash Singh
Retd. Vice Principal
Resident of H. No. 1103,
Sector 3 Vasundhara, Ghaziabad-201012

...Applicants

(By Advocate : Mr. Vidya Sagar)

Versus

1. Govt. of NCT of Delhi
Through: Chief Secretary, Delhi Sachivalaya
I.P. Estate, New Delhi-110002

2. Director of Education Old Secretariat,
New Delhi-110054

3. Union of India
Through Secretary,
Department of Personnel & Training
North Block New Delhi-110001

...Respondents

(By Advocates : Mr. Girish C. Jha for R- 1 and 2,
Mr. Ashish Rai for R-3)

ORDER (ORAL)

MA No. 908/2024

The applicants, herein, seek identical relief of one notional increment on account of their having retired on 30th June. This issue has been adjudicated in a large number of OAs and the relief sought is similar to all.

2. For the reasons stated in the MA and as recorded above, MA is allowed. The applicants are permitted to pursue the associated OA jointly in terms of Rule 4 (5) of the CAT Procedure Rules, 1987.

OA No. 951/2024

The applicants, herein, retired from Government service on attaining the age of superannuation on 30.06.2021. By virtue of the present OA, they seek the benefit of one notional increment for computing and calculating their terminal dues on retirement, including pension. To this effect, they have made the following reliefs vide para 8 of this OA:-

> *"(a) re-calculate the Applicants' pension and other retirement benefits from the date of their retirement, i.e., 30-6-2021 by notionally taking into account the last increment falling due on the date of retirement;*
>
> *(b) granted arrears of pension and other retirement benefits as indicated above, along with interest at 9% p.a.;*
>
> *(c) Allow the costs of this OA, and/or*

(d) Any other relief in the applicants favour, as deemed appropriate by this Hon'ble Tribunal."

2. Heard. Issue notice to the respondents. Mr. Girish C. Jha and Mr. Ashish Rai, learned counsel, who appeared on advance service accepted notice on behalf of Respondent No. 1 & 2 and Respondent No. 3, respectively. They seek a reasonable period of time to either file a comprehensive reply to the OA or, in the alternative, obtain appropriate instructions against the background of the fact that the issue has been adjudicated upto the level of Hon'ble Apex Court.

3. While recognizing the right of the respondents to file an appropriate response to the OA, I am of the considered view that since this matter has been adjudicated upon in a large number of OAs by different Benches of this Tribunal with the highest degree of consistency and further that the challenge made to the orders of this Tribunal upto the level of Apex Court has not been successful, no useful purpose would be served in dwelling upon any further upon this OA.

4. The limited issue is that whether an employee, who retires on 30th June or 31st December, would be entitled to the benefit of a notional increment for the purpose of

determining his retiral dues including pension. Invariably, it has been held that an employee is entitled to an annual increment on successful completion of one year of service in the case of an employee, who retires he gets denied the benefit of this increment because the increment is typically released on first of the month following the last date on which one year is completed. In the instant matter, since the employee stands retired a day prior to the day when the increment is to be released in his favour, he gets denied the benefit only on account of these typical circumstances. Therefore, what has been held is that the benefit shall be extended on notional basis for the purpose of calculation of retiral benefits, including pension.

5. Since the issue has been conclusively decided upto the level of the Hon'ble Apex Court and subsequently implemented in a large number of cases, there could be no cause now to take any divergent view. Further, the respondents and the other Departments should ensure that retired employees are not pushed into unnecessary litigation and the benefit of notional increment is now extended to all the retired employees.

6. Against this background, the present OA is allowed with a direction to the Competent Authority amongst the

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respondents to re-fix the retiral dues, including pension, of the applicants by giving them the benefit of one notional increment on the date of their retirement. After such re-fixation, arrears as accrue to the applicant shall be released expeditiously. The directions contained herein shall be complied with within a period of eight weeks from the date of receipt of a certified copy of this order.

7. Let a copy of this order be sent to the Secretary, DoPT and the Secretary, Department of Expenditure, Ministry of Finance to issue comprehensive instructions to all the Government Departments that due consideration for grant of notional increment be given to all the retired employees instead of forcing them to expensive and avoidable litigation.

8. No order as to costs.

(Tarun Shridhar)
Member (A)

/akshaya/

|| True copy ||

22.7.2024

Annex-J

ITEM NO.52 COURT NO.2 SECTION IV-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

MISCELLANEOUS APPLICATION Diary No. 2400/2024
in
SPECIAL LEAVE PETITION (CIVIL) No. 4722/2021

UNION OF INDIA & ANR. Petitioner(s)

VERSUS

M. SIDDARAJ Respondent(s)

(IA No. 11504/2024 - CLARIFICATION/DIRECTION and IA No. 11514/2024 - CONDONATION OF DELAY IN FILING)

WITH

Diary No. 38437/2023 (IV-A)

Diary No. 38438/2023 (IV-A)

Diary No. 11336/2024 (IV-A)

Diary No. 26733/2023 (IV-A)
(IA No. 126464/2023 - APPROPRIATE ORDERS/DIRECTIONS)

Date : 22-07-2024 These matters were called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE SANJAY KUMAR

For Petitioner(s)
Mr. Rajat Joseph, AOR

Mr. Gopal Singh, Adv.
Mr. K.R. Anand, Adv.
Mr. Kumar Mihir, AOR

Mr. R. Venkataramani, AG (N/P)
Mr. Vikramjit Banerjee, A.S.G. (N/P)
Mr. Raman Yadav, Adv.
Mr. Chitvan Singhal, Adv.
Mr. Amit Sharma B, Adv.
Mr. Nachiketa Joshi, Adv.
Mr. Abhishek Pandey, Adv.
Mr. Amrish Kumar, AOR

For Respondent(s)

Mr. Anand Sanjay M. Nuli, Sr. Adv.
Mr. Suraj Kaushik, Adv.
Mr. Agam Sharma, Adv.
M/s. Nuli & Nuli, AOR

Applicant-in-person, AOR

Ms. Geeta Luthra, Sr. Adv.
Mr. Vidya Sagar, Adv.
Mr. Amolak, Adv, Adv.
Mr. Vedant Pradhan, Adv.
Mr. R.C. Kaushik, AOR

Mr. Venkita Subramoniam T.R., AOR
Mr. Rahat Bansal, Adv.
Mr. Varun Mudgal, Adv.
Mrs. Meenakshi Jha, Adv.

Mr. Rajat Joseph, AOR
Mr. Hrishikesh Chitaley, Adv.
Mr. Vijay Kari Singh, Adv.
Mr. Kaustubh Kadasne, Adv.

Mr. Lather Mukul Kanwar Singh, AOR
Mr. Devesh Chauvia, Adv.
Mr. Ashish Singh, Adv.
Mrs. Pratibha Singh, Adv.
Mr. Praveen Kumar, Adv.

Ms. Shirin Khajuria, Sr. Adv.
Ms. Ranu Purohit, AOR
Ms. Swati Tiwari, Adv.
Ms. Niharika Singh, Adv.

Mr. Rameshwar Prasad Goyal, AOR
Mr. Anubhav, Adv.
Mr. Yashwant Singh Yadav, Adv.
Mr. Vijay Pal, Adv.
Mr. Arvind, Adv.
Mrs. Preeti Yadav, Adv.
Mr. D.N. Ojha, Adv.
Mr. Rajesh Kumar Rath, Adv.
Mr. Pradeep Kumar R., Adv.
Mr. Sahil Agnihotri, Adv.
Mr. Purushottam Sharma, Adv.
Mr. Raj Vir Singh, Adv.
Mr. Ravi Karahana, Adv.
Mr. Umang Tripathi, Adv.
Mr. Mahendra Singh, Adv.

UPON hearing the counsel, the Court made the following

O R D E R

Re-list after two weeks.

In the meanwhile, learned counsel for the Union of India shall examine as to whether the Union of India needs to file an application in Civil Appeal No. 2471/2023, titled *"The Director (Admn. and HR) KPTCL & Ors.* v. *C.P. Mundinamani & Ors."*, which was disposed of *vide* judgment dated 11.04.2023.

Respondents are permitted to file additional documents.

(DEEPAK GUGLANI)
AR-cum-PS

(R.S. NARAYANAN)
ASSISTANT REGISTRAR

Annex- K

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No. PC-VI/2024/CC/05 **New Delhi, dated: 02.07.2024**

The Dy. CAO (G)
Headquarter Office,
Accounts Department,
Northern Railway,
Baroda House, New Delhi,

Sub: O.A. No. 3071/2023 filed by Shri Naresh Kumar Gupta vs UOI & Ors before Hon'ble CAT/PB/New Delhi on the issue of grant of notional increment (as due on 1st July) for the pensionary benefits.

Ref: Northern Railway's letter No. 2024/Adm-VI/Legal/CC/CAT/NKG dated 24.05.2024.

Please connect Northern Railway's letter under reference wherein Board's guidelines/directions were sought for further course of action to be adopted w.r.t the order dated 29.04.2024 pronounced by Hon'ble CAT/PB/New Delhi in aforesaid O.A.

2. Regarding the grant of the benefit of notional increment, the Hon'ble Apex Court vide their order dated 11.04.2023 pronounced in Civil Appeal No. 2471 of 2023 arising out of SLP (C) No. 6185 of 2020 {The Director (Admn. and HR) KPTCL & Ors Vs C. P. Mundinamani & Ors} had granted the benefit of notional increment to those retired pensioners who had earned it on the last day of their service for rendering 12 months of services from the date of last annual increment.

3. The instant case is on a slightly different footing on comparison with other notional increment cases. In the instant case, consequent to grant of upgradation in Level-10, applicant has exercised the option for fixation of pay w.e.f 01.01.2021 and his increment was due on 01.07.2021. Applicant has not earned any annual increment in the promotional grade. In other cases relating to notional increment, Applicants had claimed the benefit of annual increment on the plea that they had served 12 months since the grant of last annual increment and hence legally due for annual increment which has been agreed by the court.

4. Since the facts and circumstances are different, the finite aspects of law needs be adjudicated before a Higher Court and principles of national increment may perhaps be not extended in this case, in a liberal manner. Therefore, Northern Railway is advised to challenge the order dated 29.04.2024 pronounced by the Hon'ble CAT/ Principal Bench in O.A. No. 3071/2023 before Hon'ble High Court of Delhi by filing a Writ Petition.

5. This issues with the approval of the competent authority.

(Jaya Kumar G)
Dy. Director, Pay Commission-VII & HRMS
Railway Board
Email id: jaya.kumarg@gov.in
Tel. 011-47845125
4th Floor, Room No. 6

MOST IMMEDIATE
CONTEMPT CASE

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No. PC-VI/2024/Misc./03

New Delhi, dated: 22.07.2024

The General Manager (P)
North Central Railway,
Subedarganj, Prayagraj,
Pin – 211015

Sub: Contempt Petition filed before Hon'ble CAT/Allahabad Bench on the issue of grant of notional increment (as due on 1st July) for the pensionary benefits to those employees who had retired on 30th of June before drawing the same.

Ref: North Central Railway's letter No. 797- ई/राज/वेतन/निर्धारण/उमरे/2023 dated 01.07.2024.

Please connect North Central Railway's letter under reference wherein Board's guidelines/directions were sought for further course of action to be adopted in C.P. No. 98/2024 arising out of O.A. No. 330/1085/2023 filed by Shri Suresh Narayan Vyas before Hon'ble CAT/Allahabad Bench.

2. In this regard, it is stated that Hon'ble Apex Court vide their order dated 11.04.2023 pronounced in Civil Appeal No. 2471 of 2023 arising out of SLP (C) No. 6185 of 2020 {The Director (Admn. and HR) KPTCL & Ors Vs C. P. Mundinamani & Ors} had granted the benefit of notional increment to those retired pensioners who had earned it on the last day of their service for rendering 12 months of services from the date of last annual increment.

3. In the instant case, it has been observed from the information furnished by North Central Railway that owing to promotion in G.P. Rs. 6600; Shri Suresh Narayan Vyas had got the benefit of promotional increment on 23.07.2014 and thereafter, he had retired on 30.06.2015. Since the applicant had not earned any annual increment in his promotional grade (i.e. Rs. 6600) and had also not completed 12 months of service on the date of his superannuation from the date of accrual of his last increment. As such, he does not appear to be eligible for grant of benefit of notional increment.

4. Therefore, North Central Railway is hereby advised to defend the case by filing an affidavit in C.P. No. 98/2024 (Shri Suresh Narayan Vyas vs UOI & Ors) before Hon'ble Tribunal, bringing out the above mentioned facts to the kind notice of Hon'ble Tribunal and seek closure of contempt petition.

5. This issues with the approval of the competent authority.

(Jaya Kumar G)
Dy. Director, Pay Commission-VII & HRMS
Railway Board
Email id: jaya.kumarg@gov.in
Tel. 011-47845125
4th Floor, Room No. 6

Annex-L

ITEM NO.23 COURT NO.2 SECTION IV-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

MISCELLANEOUS APPLICATION Diary No. 2400/2024
IN
SPECIAL LEAVE PETITION (C) NO. 4722/2021

UNION OF INDIA & ANR. Petitioner(s)

VERSUS

M. SIDDARAJ Respondent(s)

(IA No. 11504/2024 - CLARIFICATION/DIRECTION
IA No. 11514/2024 - CONDONATION OF DELAY IN FILING
IA No. 152780/2024 - EXEMPTION FROM FILING O.T.
IA No. 138880/2024 - EXEMPTION FROM FILING O.T.
IA No. 156900/2024 - INTERVENTION APPLICATION
IA No. 172293/2024 - INTERVENTION/IMPLEADMENT
IA No. 155003/2024 - INTERVENTION/IMPLEADMENT)

WITH
Diary No(s). 26733/2023 (IV-A)
(IA No. 126464/2023 - APPROPRIATE ORDERS/DIRECTIONS)

Diary No(s). 38437/2023 (IV-A)

Diary No(s). 38438/2023 (IV-A)

Diary No(s). 11336/2024 (IV-A)

Diary No(s). 20636/2024 (IV-A)

Date : 06-09-2024 These matters were called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE SANJAY KUMAR

For Petitioner(s) Mr. Rajat Joseph, AOR

Ms. Shirin Khajuria, Sr. Adv.
Ms. Ranu Purohit, AOR
Ms. Swati Tiwari, Adv.
Ms. Niharika Singh, Adv.

Mr. Gopal Singh, Adv.
Mr. K R Anand, Adv.
Mr. Kumar Mihir, AOR

Mr. Shreekant Neelappa Terdal, AOR

Mr. R Venkataramani, A G for India(N/P)
Mr. Vikramjit Banerjee, A.S.G.
Mr. Amit Sharma B, Adv.
Mr. Chitvan Singhal, Adv.
Mr. Abhishek Kumar Pandey, Adv.
Mr. Raman Yadav, Adv.
Mr. Nachiketa Joshi, Adv.
Mr. Amrish Kumar, AOR

For Respondent(s) M/s. Nuli & Nuli, AOR

Mr. Lather Mukul Kanwar Singh, AOR
Mr. Devesh Kumar Chauvia, Adv.
Mr. Ashish Kumar Singh, Adv.
Mrs. Pratibha Singh, Adv.

Ms. Shirin Khajuria, Sr. Adv.
Ms. Ranu Purohit, AOR
Ms. Niharika Singh, Adv.
Ms. Swati Tiwari, Adv.

Mr. Rameshwar Prasad Goyal, AOR
Mr. Anubhav, Adv.
Mr. Yashwant Singh Yadav, Adv.
Mr. Vijay Pal, Adv.
Mr. Arvind, Adv.
Mr. Ravi Karahana, Adv.
Mr. Shivkumar Raghunath Golwalkar, Adv.

Applicant-in-person, AOR

Ms. Geeta Luthra, Sr. Adv.
Ms. Vidya Sagar, Adv.
Mr. Amolak, Adv.
Ms. Ishita Agrawal, Adv., Adv.
Mr. R. C. Kaushik, AOR

Mr. Venkita Subramoniam T.r, AOR
Mr. Rahat Bansal, Adv.
Mr. Varun Mudgal, Adv.

Mr. Rajat Joseph, AOR

UPON hearing the counsel, the Court made the following

O R D E R

It is stated that the Review Petition in Diary No. 36418/2024 filed by the Union of India is pending.

The issue raised in the present applications requires consideration, insofar as the date of applicability of the judgment dated 11.04.2023 in Civil Appeal No. 2471/2023, titled *"Director (Admn. and HR) KPTCL and Others* v. *C.P. Mundinamani and Others"*, to third parties is concerned.

We are informed that a large number of fresh writ petitions have been filed.

To prevent any further litigation and confusion, by of an interim order we direct that:

(a) The judgment dated 11.04.2023 will be given effect to in case of third parties from the date of the judgment, that is, the pension by taking into account one increment will be payable on and after 01.05.2023. Enhanced pension for the period prior to 31.04.2023 will not be paid.

(b) For persons who have filed writ petitions and succeeded, the directions given in the said judgment will operate as *res judicata*, and accordingly, an enhanced pension by taking one increment would have to be paid.

(c) The direction in (b) will not apply, where the judgment has not attained finality, and cases where an appeal has been

preferred, or if filed, is entertained by the appellate court.

(d) In case any retired employee has filed any application for intervention/impleadment in Civil Appeal No. 3933/2023 or any other writ petition and a beneficial order has been passed, the enhanced pension by including one increment will be payable from the month in which the application for intervention/impleadment was filed.

This interim order will continue till further orders of this Court. However, no person who has already received an enhanced pension including arrears, will be affected by the directions in (a), (c) and (d).

Re-list in the week commencing 04.11.2024.

(BABITA PANDEY)
COURT MASTER (SH)

(R.S. NARAYANAN)
ASSISTANT REGISTRAR