

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.3 (Sl. No.1)

O.A. No. 58 of 2023 with M.A. No. 53 of 2023

Smt Kalawati W/o Late Ex Nk Triloki Nath Applicant
By Legal Practitioner for the Applicant

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>18.01.2023</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Maj Gen Sanjay Singh, Member (A)</u></p> <p>Memo of appearance filed by Shri Ashish Kumar Singh, Advocate on behalf of the respondents is taken on record. His name shall be shown in the cause list when the case is listed next.</p> <p>On the case being taken up for hearing Shri Jay Prakash Singh and Shri MVS Chauhan, Ld. Counsel for the applicant and Shri Ashish Kumar Singh, Ld. Counsel for the respondents are present.</p> <p>This application has been filed for grant of second service pension with delay of 17 years, 11 months and 25 days.</p> <p>Learned counsel for the respondents seeks and is allowed two weeks time to file objection on delay condonation application.</p> <p>List on 16.02.2023.</p> <p style="text-align: center;">(Maj Gen Sanjay Singh) Member (A)</p> <p style="text-align: center;">(Justice Anil Kumar) Member (J)</p> <p>rathore</p>

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.3 (Sl. No.2)

R.A. No. 2 of 2023 Inre O.A. No. 236 of 2022

Sanjay Singh, Grandson of Late Nk Nathu Lal
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>18.01.2023</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Maj Gen Sanjay Singh, Member (A)</u></p> <p>Memo of appearance filed by Ms Appoli Srivastava, Advocate on behalf of the respondents is taken on record. His name shall be shown in the cause list when the case is listed next.</p> <p>On the case being taken up for hearing Shri Manoj Kumar Awasthi, Ld. Counsel for the applicant and Ms Appoli Srivastava, Ld. Counsel for the respondents are present.</p> <p>List before the appropriate Bench on 16.02.2023.</p> <p style="text-align: center;">(Maj Gen Sanjay Singh) Member (A)</p> <p style="text-align: center;">(Justice Anil Kumar) Member (J)</p> <p>rathore</p>

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.3 (Sl. No.3)

EX-A. No. 221 of 2022 Inre O.A. No. 688 of 2021

Ex Nk Neerpal Singh
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>18.01.2023</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Maj Gen Sanjay Singh, Member (A)</u></p> <p>On the case being taken up for hearing Shri R Chandra, Ld. Counsel for the applicant and Shri Rajeev Narayan Pandey, Ld. Counsel for the respondents are present.</p> <p>On request of learned counsel for the respondents four weeks further time is granted to file compliance report subject to payment of cost of Rs 12,000/- which shall be payable to the applicant.</p> <p>List on 03.03.2023.</p> <p style="text-align: center;">(Maj Gen Sanjay Singh) Member (A)</p> <p style="text-align: center;">(Justice Anil Kumar) Member (J)</p> <p>rathore</p>

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.3 (Sl. No.4)

EX-A. No. 225 of 2022 with M.A. No. 64 of 2023 Inre O.A. No. 77 of 2021

Daya Shankar Pandey
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>18.01.2023</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Maj Gen Sanjay Singh, Member (A)</u></p> <p>On the case being taken up for hearing Shri Parijaat Belaura, Ld. Counsel for the applicant and Shri Asheesh Agnihotri Ld. Counsel for the respondents are present.</p> <p><u>M.A. No. 64 of 2023</u></p> <p>Substitution application filed on behalf of the applicant is taken on record.</p> <p>In the substitution application a prayer has been made to substitute legal heirs of the applicant who died on 21.10.2022.</p> <p>There being sufficient ground, substitution application is allowed. M.A. No 64 of 2023 is disposed of.</p> <p>Learned counsel for the applicant to incorporate the amendment within a week.</p> <p><u>EX-A. No. 225 of 2022</u></p> <p>Learned counsel for the respondents prays for and is allowed two weeks further time to file compliance report.</p> <p>List on 22.02.2023.</p> <p style="text-align: center;">(Maj Gen Sanjay Singh) Member (A)</p> <p style="text-align: center;">(Justice Anil Kumar) Member (J)</p> <p>rathore</p>

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.3 (Sl. No.5)

O.A. No. 422 of 2022

Ex Sub Ajay Kumar Awasthi
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>18.01.2023</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Maj Gen Sanjay Singh, Member (A)</u></p> <p>On the case being taken up for hearing Shri Rohitash Kumar Sharma, Ld. Counsel for the applicant and Shri Asheesh Agnihotri Ld. Counsel for the respondents are present.</p> <p>As prayed, learned counsel for the respondents is allowed two weeks time to file supplementary affidavit.</p> <p>List on 06.02.2023.</p> <p style="text-align: center;">(Maj Gen Sanjay Singh) Member (A)</p> <p style="text-align: center;">(Justice Anil Kumar) Member (J)</p> <p>rathore</p>

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.3 (Sl. No.6)

O.A. No. 432 of 2022

Smt Nasiran Bibi W/o Late Sep Pyare Ali Khan
(Through her Daughter Najma Begum)
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>18.01.2023</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Maj Gen Sanjay Singh, Member (A)</u></p> <p>On the case being taken up for hearing Shri Faiz Ali Khan, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present.</p> <p>Learned counsel for the respondents prays for and is granted two weeks time to file counter affidavit.</p> <p>List on 17.02.2023.</p> <p style="text-align: center;">(Maj Gen Sanjay Singh) Member (A)</p> <p style="text-align: center;">(Justice Anil Kumar) Member (J)</p> <p>rathore</p>

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.3 (Sl. No.7)

O.A. No. 464 of 2022 alongwith T.A. No. 35 of 2016 (Decided)

Smt Parbati widow of Late Spr Parashu Ram Singh
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>18.01.2023</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Maj Gen Sanjay Singh, Member (A)</u></p> <p>On the case being taken up for hearing Shri Parijaat Belaura, Ld. Counsel for the applicant and Dr. Shailendra Sharma Atal, Ld. Counsel for the respondents are present.</p> <p>Learned counsel for the respondents prays for and is granted two weeks time to file counter affidavit.</p> <p>List on 17.02.2023.</p> <p style="text-align: center;">(Maj Gen Sanjay Singh) Member (A)</p> <p style="text-align: center;">(Justice Anil Kumar) Member (J)</p> <p>rathore</p>

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.3 (Sl. No.8)

O.A. No. 607 of 2022

Ex Hony Sub Anil Yadav
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>18.01.2023</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Maj Gen Sanjay Singh, Member (A)</u></p> <p>On the case being taken up for hearing Shri KP Datta, Ld. Counsel for the applicant and Shri DK Pandey, Ld. Counsel for the respondents are present.</p> <p>Counter affidavit filed on behalf of the respondents is taken on record.</p> <p>Learned counsel for the applicant seeks and is allowed two weeks time to file amendment application.</p> <p>List on 17.02.2023.</p> <p style="text-align: center;">(Maj Gen Sanjay Singh) Member (A)</p> <p style="text-align: center;">(Justice Anil Kumar) Member (J)</p> <p>rathore</p>

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.3 (Sl. No.9)

O.A. No.618 of 2022

Ex Sgt Ashish Kumar
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>18.01.2023</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Maj Gen Sanjay Singh, Member (A)</u></p> <p>On the case being taken up for hearing Wg Cdr Ajit Kakkar (Retd), Ld. Counsel for the applicant and Ms. Amrita Chakraborty, Ld. Counsel for the respondents are present.</p> <p>Counter affidavit on behalf of the respondents is taken on record.</p> <p>Rejoinder affidavit, if any, may be filed by learned counsel for the applicant within two weeks.</p> <p>List on 17.02.2023.</p> <p style="text-align: center;">(Maj Gen Sanjay Singh) Member (A)</p> <p style="text-align: center;">(Justice Anil Kumar) Member (J)</p> <p>rathore</p>

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.3 (Sl. No.10)

O.A. No. 642 of 2022

Smt Ran Maya Gurung W/o Rfn Am Bahadur Gurung
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>18.01.2023</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Maj Gen Sanjay Singh, Member (A)</u></p> <p>On the case being taken up for hearing Shri Vijay Kumar Pandey and Shri TK Shukla, Ld. Counsel for the applicant and Shri Namit Sharma, Ld. Counsel for the respondents are present.</p> <p>Counter affidavit on behalf of the respondents is taken on record.</p> <p>Rejoinder affidavit, if any, may be filed by learned counsel for the applicant within two weeks.</p> <p>List on 17.02.2023.</p> <p style="text-align: center;">(Maj Gen Sanjay Singh) Member (A)</p> <p style="text-align: center;">(Justice Anil Kumar) Member (J)</p> <p>rathore</p>

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.3 (Sl. No.11)

O.A. No. 1069 of 2022

BHM Jeewan Chandra Papnai (Retd)
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>18.01.2023</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Maj Gen Sanjay Singh, Member (A)</u></p> <p>1. Heard Shri Kapil Sharma and Shri Raj Kumar Mishra, Ld. Counsel for the applicant and Shri Ram Saran Awasthi, Ld. Counsel for the respondents.</p> <p>2. Learned Counsel for the applicant submits that after the Six Central Pay Commission, the Central Government fixed 1st July, as the date of increment for all Government Employees, thereafter, the applicant being enrolled on 26.06.1990 and retired on 30.06.2016 is entitled for grant of last increment due on 01.07.2016 as per decision of the Hon'ble Madras High Court in the case of <i>P. Ayamperumal Versus the Registrar, Central Administrative Tribunal, Madras Bench and Others</i> (W.P. No. 15732 of 2017, decided on 15.09.2017) and this Tribunal judgment in OA 366 of 2020, <i>Ex HFL Sarvesh Kumar vs. Union of India & Ors</i>, decided on 12.08.2021.</p> <p>3. On the other hand, Ld. Counsel for the respondents contended that the applicant had served for complete one year from the date of his last annual increment, but he had not been granted annual increment as on the date of his discharge i.e. 30.06.2016 as per policy in vogue since the date of annual increment falls on the following day i.e. 01.07.2016. Therefore, benefit of the Hon'ble Madras High Court order being <i>in personam</i> cannot be extended to the applicant and hence, Original Application is liable to be dismissed.</p> <p>4. The law on notional increment has already been settled by the Hon'ble Madras High Court in the case of <i>P. Ayamperumal Versus the Registrar, Central Administrative Tribunal, Madras Bench and Others</i> (Supra). Against the said Judgment the Union of India had preferred Special Leave Petition (Civil) Diary No. 22282 of 2018 which was dismissed by the Hon'ble Supreme Court vide order dated 23.07.2018. The relevant portion of the Judgment passed by the Hon'ble Madras Court is excerpted below:-</p> <p style="text-align: center;">“5. <i>The petitioner retired as Additional Director General, Chennai on</i></p>

30.06.2013 on attaining the age of superannuation. After the Sixth Pay Commission, the Central Government fixed 1st July as the date of increment for all employees by amending Rule 10 of the Central Civil Services (Revised Pay) Rules, 2008. In view of the said amendment, the petitioner was denied the last increment, though he completed a full one year in service, i.e., from 01.07.2012 to 30.06.2013. Hence, the petitioner filed the original application in O.A.No.310/00917/2015 before the Central Administrative Tribunal, Madras Bench, and the same was rejected on the ground that an incumbent is only entitled to increment on 1st July if he continued in service on that day.

6. In the case on hand, the petitioner got retired on 30.06.2013. As per the Central Civil Services (Revised Pay) Rules, 2008, the increment has to be given only on 01.07.2013, but he had been superannuated on 30.06.2013 itself. The judgment referred to by the petitioner in State of Tamil Nadu, rep. by its **Secretary to Government, Finance Department and others v. M. Balasubramaniam**, reported in CDJ 2012 MHC 6525, was passed under similar circumstances on 20.09.2012, wherein this Court confirmed the order passed in W.P.No.8440 of 2011 allowing the writ petition filed by the employee, by observing that the employee had completed one full year of service from 01.04.2002 to 31.03.2003, which entitled him to the benefit of increment which accrued to him during that period.

7. The petitioner herein had completed one full year service as on 30.06.2013, but the increment fell due on 01.07.2013, on which date he was not in service. In view of the above judgment of this Court, naturally he has to be treated as having completed one full year of service, though the date of increment falls on the next day of his retirement. Applying the said judgment to the present case, the writ petition is allowed and the impugned order passed by the first respondent-Tribunal dated 21.03.2017 is quashed. The petitioner shall be given one notional increment for the period from 01.07.2012 to 30.06.2013, as he has completed one full year of service, though his increment fell on 01.07.2013, for the purpose of pensionary benefits and not for any other purpose. No costs.”

5. In view of law laid down by the Hon'ble Madras High Court, upheld by the Hon'ble Apex Court, we are of the view that since the applicant had completed one full year service as on 30.06.2016, but the increment fell due on the next day of his retirement 01.07.2016, on which date he was not in service, he has to be treated as having completed one full year of service.

6. In view of the above, the Original Application is **allowed**. The impugned order, if any, is set aside. The applicant shall be given one notional increment for the period from 01.07.2015 to 30.06.2016, as he has completed one full year of service, though his increment fell on 01.07.2016, for the purpose of pensionary benefits and not for any other purpose, after verifying documents. The respondents are directed to issue fresh Corrigendum P.P.O. accordingly. The respondents are further directed to give effect to this order within a period of four months from the date of receipt of a certified copy of this order. Default will invite interest @ 8% per annum till the actual payment

7. Let a copy of this order be provided to the learned Counsel for the parties.

8. No order as to costs.

(Maj Gen Sanjay Singh)
Member (A)

(Justice Anil Kumar)
Member (J)

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.3 (Sl. No.12)

O.A. No. 1070 of 2022

Ex Sgt Kalika Prasad
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>18.01.2023</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Maj Gen Sanjay Singh, Member (A)</u></p> <p>1. Heard Shri Bipin Kumar Sharma, Shri Kapil Sharma and Shri Raj Kumar Mishra, Ld. Counsel for the applicant and Shri Asheesh Agnihotri and Shri RKS Chauhan, Ld. Counsel for the respondents.</p> <p>2. Learned Counsel for the applicant submits that after the Six Central Pay Commission, the Central Government fixed 1st July, as the date of increment for all Government Employees, thereafter, the applicant being enrolled on 20.06.2001 and retired on 30.06.2021 is entitled for grant of last increment due on 01.07.2021 as per decision of the Hon'ble Madras High Court in the case of <i>P. Ayamperumal Versus the Registrar, Central Administrative Tribunal, Madras Bench and Others</i> (W.P. No. 15732 of 2017, decided on 15.09.2017) and this Tribunal judgment in OA 366 of 2020, <i>Ex HFL Sarvesh Kumar vs. Union of India & Ors</i>, decided on 12.08.2021.</p> <p>3. On the other hand, Ld. Counsel for the respondents contended that the applicant had served for complete one year from the date of his last annual increment, but he had not been granted annual increment as on the date of his discharge i.e. 30.06.2021 as per policy in vogue since the date of annual increment falls on the following day i.e. 01.07.2021. Therefore, benefit of the Hon'ble Madras High Court order being <i>in personam</i> cannot be extended to the applicant and hence, Original Application is liable to be dismissed.</p> <p>4. The law on notional increment has already been settled by the Hon'ble Madras High Court in the case of <i>P. Ayamperumal Versus the Registrar, Central Administrative Tribunal, Madras Bench and Others</i> (Supra). Against the said Judgment the Union of India had preferred Special Leave Petition (Civil) Diary No. 22282 of 2018 which was dismissed by the Hon'ble Supreme Court vide order dated 23.07.2018. The relevant portion of the Judgment passed by the Hon'ble Madras Court is excerpted below:-</p>

“5. The petitioner retired as Additional Director General, Chennai on 30.06.2013 on attaining the age of superannuation. After the Sixth Pay Commission, the Central Government fixed 1st July as the date of increment for all employees by amending Rule 10 of the Central Civil Services (Revised Pay) Rules, 2008. In view of the said amendment, the petitioner was denied the last increment, though he completed a full one year in service, i.e., from 01.07.2012 to 30.06.2013. Hence, the petitioner filed the original application in O.A.No.310/00917/2015 before the Central Administrative Tribunal, Madras Bench, and the same was rejected on the ground that an incumbent is only entitled to increment on 1st July if he continued in service on that day.

6. In the case on hand, the petitioner got retired on 30.06.2013. As per the Central Civil Services (Revised Pay) Rules, 2008, the increment has to be given only on 01.07.2013, but he had been superannuated on 30.06.2013 itself. The judgment referred to by the petitioner in State of Tamil Nadu, rep. by its **Secretary to Government, Finance Department and others v. M. Balasubramaniam**, reported in CDJ 2012 MHC 6525, was passed under similar circumstances on 20.09.2012, wherein this Court confirmed the order passed in W.P.No.8440 of 2011 allowing the writ petition filed by the employee, by observing that the employee had completed one full year of service from 01.04.2002 to 31.03.2003, which entitled him to the benefit of increment which accrued to him during that period.

7. The petitioner herein had completed one full year service as on 30.06.2013, but the increment fell due on 01.07.2013, on which date he was not in service. In view of the above judgment of this Court, naturally he has to be treated as having completed one full year of service, though the date of increment falls on the next day of his retirement. Applying the said judgment to the present case, the writ petition is allowed and the impugned order passed by the first respondent-Tribunal dated 21.03.2017 is quashed. The petitioner shall be given one notional increment for the period from 01.07.2012 to 30.06.2013, as he has completed one full year of service, though his increment fell on 01.07.2013, for the purpose of pensionary benefits and not for any other purpose. No costs.”

5. In view of law laid down by the Hon'ble Madras High Court, upheld by the Hon'ble Apex Court, we are of the view that since the applicant had completed one full year service as on 30.06.2021, but the increment fell due on the next day of his retirement 01.07.2022, on which date he was not in service, he has to be treated as having completed one full year of service.

6. In view of the above, the Original Application is **allowed**. The impugned order, if any, is set aside. The applicant shall be given one notional increment for the period from 01.07.2020 to 30.06.2021, as he has completed one full year of service, though his increment fell on 01.07.2021, for the purpose of pensionary benefits and not for any other purpose, after verifying documents. The respondents are directed to issue fresh Corrigendum P.P.O. accordingly. The respondents are further directed to give effect to this order within a period of four months from the date of receipt of a certified copy of this order. Default will invite interest @ 8% per annum till the actual payment

7. Let a copy of this order be provided to the learned Counsel for the parties.

8. No order as to costs.

(Maj Gen Sanjay Singh)
Member (A)

(Justice Anil Kumar)
Member (J)

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.3 (Sl. No.13)

O.A. No. 1071 of 2022

Ex Sgt Deepak Verma
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>18.01.2023</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Maj Gen Sanjay Singh, Member (A)</u></p> <p>1. Heard Shri Bipin Kumar Sharma, Shri Kapil Sharma and Shri Raj Kumar Mishra, Ld. Counsel for the applicant and Shri Arun Kumar Sahu, Ld. Counsel for the respondents.</p> <p>2. Learned Counsel for the applicant submits that after the Six Central Pay Commission, the Central Government fixed 1st July, as the date of increment for all Government Employees, thereafter, the applicant being enrolled on 17.06.2002 and retired on 30.06.2022 is entitled for grant of last increment due on 01.07.2022 as per decision of the Hon'ble Madras High Court in the case of <i>P. Ayamperumal Versus the Registrar, Central Administrative Tribunal, Madras Bench and Others</i> (W.P. No. 15732 of 2017, decided on 15.09.2017) and this Tribunal judgment in OA 366 of 2020, <i>Ex HFL Sarvesh Kumar vs. Union of India & Ors</i>, decided on 12.08.2021.</p> <p>3. On the other hand, Ld. Counsel for the respondents contended that the applicant had served for complete one year from the date of his last annual increment, but he had not been granted annual increment as on the date of his discharge i.e. 30.06.2022 as per policy in vogue since the date of annual increment falls on the following day i.e. 01.07.2022. Therefore, benefit of the Hon'ble Madras High Court order being <i>in personam</i> cannot be extended to the applicant and hence, Original Application is liable to be dismissed.</p> <p>4. The law on notional increment has already been settled by the Hon'ble Madras High Court in the case of <i>P. Ayamperumal Versus the Registrar, Central Administrative Tribunal, Madras Bench and Others</i> (Supra). Against the said Judgment the Union of India had preferred Special Leave Petition (Civil) Diary No. 22282 of 2018 which was dismissed by the Hon'ble Supreme Court vide order dated 23.07.2018. The relevant portion of the Judgment passed by the Hon'ble Madras Court is excerpted below:-</p>

“5. The petitioner retired as Additional Director General, Chennai on 30.06.2013 on attaining the age of superannuation. After the Sixth Pay Commission, the Central Government fixed 1st July as the date of increment for all employees by amending Rule 10 of the Central Civil Services (Revised Pay) Rules, 2008. In view of the said amendment, the petitioner was denied the last increment, though he completed a full one year in service, i.e., from 01.07.2012 to 30.06.2013. Hence, the petitioner filed the original application in O.A.No.310/00917/2015 before the Central Administrative Tribunal, Madras Bench, and the same was rejected on the ground that an incumbent is only entitled to increment on 1st July if he continued in service on that day.

6. In the case on hand, the petitioner got retired on 30.06.2013. As per the Central Civil Services (Revised Pay) Rules, 2008, the increment has to be given only on 01.07.2013, but he had been superannuated on 30.06.2013 itself. The judgment referred to by the petitioner in State of Tamil Nadu, rep. by its **Secretary to Government, Finance Department and others v. M. Balasubramaniam**, reported in CDJ 2012 MHC 6525, was passed under similar circumstances on 20.09.2012, wherein this Court confirmed the order passed in W.P.No.8440 of 2011 allowing the writ petition filed by the employee, by observing that the employee had completed one full year of service from 01.04.2002 to 31.03.2003, which entitled him to the benefit of increment which accrued to him during that period.

7. The petitioner herein had completed one full year service as on 30.06.2013, but the increment fell due on 01.07.2013, on which date he was not in service. In view of the above judgment of this Court, naturally he has to be treated as having completed one full year of service, though the date of increment falls on the next day of his retirement. Applying the said judgment to the present case, the writ petition is allowed and the impugned order passed by the first respondent-Tribunal dated 21.03.2017 is quashed. The petitioner shall be given one notional increment for the period from 01.07.2012 to 30.06.2013, as he has completed one full year of service, though his increment fell on 01.07.2013, for the purpose of pensionary benefits and not for any other purpose. No costs.”

5. In view of law laid down by the Hon'ble Madras High Court, upheld by the Hon'ble Apex Court, we are of the view that since the applicant had completed one full year service as on 30.06.2022, but the increment fell due on the next day of his retirement 01.07.2022, on which date he was not in service, he has to be treated as having completed one full year of service.

6. In view of the above, the Original Application is **allowed**. The impugned order, if any, is set aside. The applicant shall be given one notional increment for the period from 01.07.2021 to 30.06.2022, as he has completed one full year of service, though his increment fell on 01.07.2022, for the purpose of pensionary benefits and not for any other purpose, after verifying documents. The respondents are directed to issue fresh Corrigendum P.P.O. accordingly. The respondents are further directed to give effect to this order within a period of four months from the date of receipt of a certified copy of this order. Default will invite interest @ 8% per annum till the actual payment

7. Let a copy of this order be provided to the learned Counsel for the parties.

8. No order as to costs.

(Maj Gen Sanjay Singh)
Member (A)

(Justice Anil Kumar)
Member (J)

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.3 (Sl. No.14)

O.A. No. 1072 of 2022

JWO Sanjay Kumar Srivastava (Retd)
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>18.01.2023</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Maj Gen Sanjay Singh, Member (A)</u></p> <p>1. Heard Shri Kapil Sharma, Shri Raj Kumar Mishra and Ms. Upasna Mishra, Ld. Counsel for the applicant and Shri Bipin Kumar Singh, Ld. Counsel for the respondents.</p> <p>2. Learned Counsel for the applicant submits that after the Six Central Pay Commission, the Central Government fixed 1st July, as the date of increment for all Government Employees, thereafter, the applicant being enrolled on 23.08.1985 and retired on 30.06.2022 is entitled for grant of last increment due on 01.07.2022 as per decision of the Hon'ble Madras High Court in the case of <i>P. Ayamperumal Versus the Registrar, Central Administrative Tribunal, Madras Bench and Others</i> (W.P. No. 15732 of 2017, decided on 15.09.2017) and this Tribunal judgment in OA 366 of 2020, <i>Ex HFL Sarvesh Kumar vs. Union of India & Ors</i>, decided on 12.08.2021.</p> <p>3. On the other hand, Ld. Counsel for the respondents contended that the applicant had served for complete one year from the date of his last annual increment, but he had not been granted annual increment as on the date of his discharge i.e. 30.06.2022 as per policy in vogue since the date of annual increment falls on the following day i.e. 01.07.2022. Therefore, benefit of the Hon'ble Madras High Court order being <i>in personam</i> cannot be extended to the applicant and hence, Original Application is liable to be dismissed.</p> <p>4. The law on notional increment has already been settled by the Hon'ble Madras High Court in the case of <i>P. Ayamperumal Versus the Registrar, Central Administrative Tribunal, Madras Bench and Others</i> (Supra). Against the said Judgment the Union of India had preferred Special Leave Petition (Civil) Diary No. 22282 of 2018 which was dismissed by the Hon'ble Supreme Court vide order dated 23.07.2018. The relevant portion of the Judgment passed by the Hon'ble Madras Court is excerpted below:-</p>

“5. The petitioner retired as Additional Director General, Chennai on 30.06.2013 on attaining the age of superannuation. After the Sixth Pay Commission, the Central Government fixed 1st July as the date of increment for all employees by amending Rule 10 of the Central Civil Services (Revised Pay) Rules, 2008. In view of the said amendment, the petitioner was denied the last increment, though he completed a full one year in service, i.e., from 01.07.2012 to 30.06.2013. Hence, the petitioner filed the original application in O.A.No.310/00917/2015 before the Central Administrative Tribunal, Madras Bench, and the same was rejected on the ground that an incumbent is only entitled to increment on 1st July if he continued in service on that day.

6. In the case on hand, the petitioner got retired on 30.06.2013. As per the Central Civil Services (Revised Pay) Rules, 2008, the increment has to be given only on 01.07.2013, but he had been superannuated on 30.06.2013 itself. The judgment referred to by the petitioner in State of Tamil Nadu, rep. by its **Secretary to Government, Finance Department and others v. M. Balasubramaniam**, reported in CDJ 2012 MHC 6525, was passed under similar circumstances on 20.09.2012, wherein this Court confirmed the order passed in W.P.No.8440 of 2011 allowing the writ petition filed by the employee, by observing that the employee had completed one full year of service from 01.04.2002 to 31.03.2003, which entitled him to the benefit of increment which accrued to him during that period.

7. The petitioner herein had completed one full year service as on 30.06.2013, but the increment fell due on 01.07.2013, on which date he was not in service. In view of the above judgment of this Court, naturally he has to be treated as having completed one full year of service, though the date of increment falls on the next day of his retirement. Applying the said judgment to the present case, the writ petition is allowed and the impugned order passed by the first respondent-Tribunal dated 21.03.2017 is quashed. The petitioner shall be given one notional increment for the period from 01.07.2012 to 30.06.2013, as he has completed one full year of service, though his increment fell on 01.07.2013, for the purpose of pensionary benefits and not for any other purpose. No costs.”

5. In view of law laid down by the Hon'ble Madras High Court, upheld by the Hon'ble Apex Court, we are of the view that since the applicant had completed one full year service as on 30.06.2022, but the increment fell due on the next day of his retirement 01.07.2022, on which date he was not in service, he has to be treated as having completed one full year of service.

6. In view of the above, the Original Application is **allowed**. The impugned order, if any, is set aside. The applicant shall be given one notional increment for the period from 01.07.2021 to 30.06.2022, as he has completed one full year of service, though his increment fell on 01.07.2022, for the purpose of pensionary benefits and not for any other purpose, after verifying documents. The respondents are directed to issue fresh Corrigendum P.P.O. accordingly. The respondents are further directed to give effect to this order within a period of four months from the date of receipt of a certified copy of this order. Default will invite interest @ 8% per annum till the actual payment

7. Let a copy of this order be provided to the learned Counsel for the parties.

8. No order as to costs.

(Maj Gen Sanjay Singh)
Member (A)

(Justice Anil Kumar)
Member (J)

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.3 (Sl. No.15)

O.A. No. 1073 of 2022

Cpl Ram Dal Chaudhary (Retd)
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>18.01.2023</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Maj Gen Sanjay Singh, Member (A)</u></p> <p>1. Heard Shri Kapil Sharma, Shri Raj Kumar Mishra and Ms. Upasna Mishra, Ld. Counsel for the applicant and Shri Arvind Kumar Pandey, Ld. Counsel for the respondents.</p> <p>2. Learned Counsel for the applicant submits that after the Six Central Pay Commission, the Central Government fixed 1st July, as the date of increment for all Government Employees, thereafter, the applicant being enrolled on 01.07.1996 and retired on 30.06.2016 is entitled for grant of last increment due on 01.07.2016 as per decision of the Hon'ble Madras High Court in the case of <i>P. Ayamperumal Versus the Registrar, Central Administrative Tribunal, Madras Bench and Others</i> (W.P. No. 15732 of 2017, decided on 15.09.2017) and this Tribunal judgment in OA 366 of 2020, <i>Ex HFL Sarvesh Kumar vs. Union of India & Ors</i>, decided on 12.08.2021.</p> <p>3. On the other hand, Ld. Counsel for the respondents contended that the applicant had served for complete one year from the date of his last annual increment, but he had not been granted annual increment as on the date of his discharge i.e. 30.06.2016 as per policy in vogue since the date of annual increment falls on the following day i.e. 01.07.2016. Therefore, benefit of the Hon'ble Madras High Court order being <i>in personam</i> cannot be extended to the applicant and hence, Original Application is liable to be dismissed.</p> <p>4. The law on notional increment has already been settled by the Hon'ble Madras High Court in the case of <i>P. Ayamperumal Versus the Registrar, Central Administrative Tribunal, Madras Bench and Others</i> (Supra). Against the said Judgment the Union of India had preferred Special Leave Petition (Civil) Diary No. 22282 of 2018 which was dismissed by the Hon'ble Supreme Court vide order dated 23.07.2018. The relevant portion of the Judgment passed by the Hon'ble Madras Court is excerpted below:-</p>

“5. The petitioner retired as Additional Director General, Chennai on 30.06.2013 on attaining the age of superannuation. After the Sixth Pay Commission, the Central Government fixed 1st July as the date of increment for all employees by amending Rule 10 of the Central Civil Services (Revised Pay) Rules, 2008. In view of the said amendment, the petitioner was denied the last increment, though he completed a full one year in service, i.e., from 01.07.2012 to 30.06.2013. Hence, the petitioner filed the original application in O.A.No.310/00917/2015 before the Central Administrative Tribunal, Madras Bench, and the same was rejected on the ground that an incumbent is only entitled to increment on 1st July if he continued in service on that day.

6. In the case on hand, the petitioner got retired on 30.06.2013. As per the Central Civil Services (Revised Pay) Rules, 2008, the increment has to be given only on 01.07.2013, but he had been superannuated on 30.06.2013 itself. The judgment referred to by the petitioner in State of Tamil Nadu, rep. by its **Secretary to Government, Finance Department and others v. M. Balasubramaniam**, reported in CDJ 2012 MHC 6525, was passed under similar circumstances on 20.09.2012, wherein this Court confirmed the order passed in W.P.No.8440 of 2011 allowing the writ petition filed by the employee, by observing that the employee had completed one full year of service from 01.04.2002 to 31.03.2003, which entitled him to the benefit of increment which accrued to him during that period.

7. The petitioner herein had completed one full year service as on 30.06.2013, but the increment fell due on 01.07.2013, on which date he was not in service. In view of the above judgment of this Court, naturally he has to be treated as having completed one full year of service, though the date of increment falls on the next day of his retirement. Applying the said judgment to the present case, the writ petition is allowed and the impugned order passed by the first respondent-Tribunal dated 21.03.2017 is quashed. The petitioner shall be given one notional increment for the period from 01.07.2012 to 30.06.2013, as he has completed one full year of service, though his increment fell on 01.07.2013, for the purpose of pensionary benefits and not for any other purpose. No costs.”

5. In view of law laid down by the Hon'ble Madras High Court, upheld by the Hon'ble Apex Court, we are of the view that since the applicant had completed one full year service as on 30.06.2016, but the increment fell due on the next day of his retirement 01.07.2016, on which date he was not in service, he has to be treated as having completed one full year of service.

6. In view of the above, the Original Application is **allowed**. The impugned order, if any, is set aside. The applicant shall be given one notional increment for the period from 01.07.2015 to 30.06.2016, as he has completed one full year of service, though his increment fell on 01.07.2016, for the purpose of pensionary benefits and not for any other purpose, after verifying documents. The respondents are directed to issue fresh Corrigendum P.P.O. accordingly. The respondents are further directed to give effect to this order within a period of four months from the date of receipt of a certified copy of this order. Default will invite interest @ 8% per annum till the actual payment

7. Let a copy of this order be provided to the learned Counsel for the parties.

8. No order as to costs.

(Maj Gen Sanjay Singh)
Member (A)

(Justice Anil Kumar)
Member (J)

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.3 (Sl. No.16)

T.A. No. 1 of 2022

Wg Cdr Peter Cari Francis D' Souza (Retd)
By Legal Practitioner for the Petitioner

Petitioner

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>18.01.2023</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Maj Gen Sanjay Singh, Member (A)</u></p> <p>On the case being taken up for hearing Shri Anurag Tyagi and Shri Udayan Pratap Singh, Ld. Counsel for the petitioner and Shri Pushpendra Mishra, Ld. Counsel for the respondents are present.</p> <p>Learned counsel for the respondents prays for and is granted three weeks time to file supplementary counter affidavit to the amended portion of T.A.</p> <p>List on 03.03.2023.</p> <p style="text-align: center;">(Maj Gen Sanjay Singh) Member (A)</p> <p style="text-align: center;">(Justice Anil Kumar) Member (J)</p> <p>rathore</p>

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
Court No.3 (Sl. No.17)

O.A. No. 757 of 2021

Smt Munni Mishra W/o Ex Gdsm VN Mishra
By Legal Practitioner for the Petitioner

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>18.01.2023</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Maj Gen Sanjay Singh, Member (A)</u></p> <p>Heard Shri Vijay Kumar Pandey and Shri Girish Tiwari, Ld. Counsel for the applicant and Shri Sunil Sharma, Ld. Counsel for the respondents.</p> <p>The case was heard at length.</p> <p>During the course of hearing, learned counsel for the applicant made a prayer to grant two weeks time to file supplementary affidavit, which is allowed.</p> <p>List on 03.03.2023.</p> <p style="text-align: center;">(Maj Gen Sanjay Singh) Member (A)</p> <p style="text-align: center;">(Justice Anil Kumar) Member (J)</p> <p>rathore</p>