

Court No. 1 (E-Court)**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****ORIGINAL APPLICATION No. 366 of 2020**Thursday, this the 12th day of August, 2021**“Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)
Hon’ble Vice Admiral Abhay Raghunath Karve, Member (A)”**

671534-K Ex HFL Sarvesh Kumar Son of Late Rameshwar Dayal, R/o 80 Jalvayu Vihar, Sector – L, Ashiyana, Lucknow-226012 (UP).

..... Applicant

Ld. Counsel for the : **Shri R. Chandra**, Advocate.
Applicant

Versus

1. Union of India, through the Secretary, Ministry of Defence, Government of India, New Delhi-110011.
2. The Chief of the Air Staff, Air Headquarters, New Delhi-110011.
3. Directorate of Air Veterans, Air Headquarters, SMC Building, 1st Floor, Subroto Park, New Delhi-110010.
4. Joint CDA (Air Force), C/o AFCAO, Subroto Park, New Delhi-110010.

.....**Respondents**Ld. Counsel for the : **Ms. Amrita Chakraborty**, Advocate
Respondents. Central Govt. Counsel**ORDER****“Per Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)”**

1. The instant Original Application has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 for the following reliefs :-

- (I) The Hon'ble Tribunal may be pleased to set aside the rejection order dated 04/11/2019 (Annexure No. A-1).*
- (II) The Hon'ble Tribunal may be pleased to direct the respondents to grant last increment due on 01/07/2014 and a fresh Corrigendum PPO be issued duly re-fixation of pension with all consequential benefits along with its arrears and interest thereon at the rate of 18% per annum.*
- (III) Any other appropriate order or direction which the Hon'ble Tribunal may deem just and proper in the nature and circumstances of the case.*

2. Briefly stated, applicant was enrolled in the Indian Air Force on 28.03.1980 and was discharged on 30.06.2014 (AN) after completion of 34 years, 03 months and 05 days. The preferred an Appeal dated 24.09.2019 for grant of increment which was due on 01.07.2014 and re-fixation of pension and for issuance of fresh Corrigendum P.P.O. on the ground that after the Six Central Pay Commission the Central Government fixed 1st July as the date of increment for all Government Employees. The said Appeal was rejected by the respondents vide letter dated 04.11.2019. It is in this perspective that the applicant has preferred the present Original Application.

3. Learned Counsel for the applicant pleaded 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 is entitled for grant of last increment due on 01.07.2014. He relied upon the law laid down by the Hon'ble

Madras High Court in the case of ***P. Ayamperumal Versus the Registrar, Central Administrative Tribunal, Madras Bench and Others*** (W.P. No. 15732 of 2017, decided on 15.09.2017).

4. 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. 30.06.2014 since the date of annual increment fall on the following day i.e. 01.07.2014 as per Special Air Force Instruction No.1/S/2008. Although, he conceded that against the Judgment dated 15.09.2017 passed by the Hon'ble Madras High Court in Writ Petition No.15753 of 2017 an Special Leave Petition (Civil) Diary No. 22282 of 2018 was filed by the Union of India before the Hon'ble Supreme Court which was dismissed vide order dated 23.07.2018.

5. We have heard Ld. Counsel for the applicant as also Ld. Counsel for the respondents and gone through the records and we find that the only question which needs to be answered is that whether the applicant is entitled for one notional increment?

6. The law on notional increment has already been settled by the Hon'ble Madra High Court in the case of ***P. Ayamperumal Versus the Registrar, Central Administrative Tribunal, Madras Bench and Others*** (Supra). Against the said Judgment the Union

of India had preferred Special Leave Petition (Civil) Diary No.22282 of 2018 which 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:-

“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, ie., 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."

8. 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 30.06.2014, but the increment fell due on 01.07.2014, on which date he was not in service. In view of the above judgment, 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.

9. In view of the above, the Original Application No. 366 of 2020 deserves to be allowed, hence **allowed**. The impugned order dated 04.11.2019, annexed as Annexure No. A-1 with Original Application, is set aside. The applicant shall be given one notional

increment for the period from 01.07.2013 to 30.06.2014, as he has completed one full year of service, though his increment fell on 01.07.2014, for the purpose of pensionary benefits and not for any other purpose. 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

10. No order as to costs.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

Dated : 12 August, 2021

AKD/-