

**Court No. 1 (E-Court)****ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****ORIGINAL APPLICATION No. 753 of 2020**

Wednesday, this the 25<sup>th</sup> day of August, 2021

**“Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)  
Hon’ble Vice Admiral Abhay Raghunath Karve, Member (A)”**

JC-671370F Ex. Nb. Sub. Ramesh Chanra, Son of Late Gokul Chandra, R/o 594 Gh/115, Bhagwant Nagar, Neelmatha, Post – Neelmatha Bazar, Lucknow Cantt.-226002 (UP).

..... Applicant

Ld. Counsel for the Applicant : **Shri K.C. Ghildiyal**, Advocate.

Versus

1. Union of India, through the Secretary, Ministry of Defence, Government of India, New Delhi-110011.
2. The Chief of the Army Staff, Army Headquarters, New Delhi-110011.
3. Officer-in-Charge, ASC Records (SouthO), Bangalore-560007.
4. PAO (Ors), ASC (South), Bangalore-560007.

.....**Respondents**

Ld. Counsel for the Respondents. : **Shri Somesh Singh**, Advocate  
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 direct the respondents to grant one additional increment to the applicant on 01.07.2010 and revise his pension on the basis of last drawn salary after addition the increment with effect from 01.07.2010. The arrears of pension may be determined paid to the applicant along with interest at the rate of 24% per annum.*
- (II) *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 Army on 05.06.1984 and was discharged on 30.06.2008 (AN) in the rank of Havildar after fulfilling the terms of engagement under Rule 13(3) Item III (i) of the Army Rules, 1954. The applicant was granted service pension with effect from 01.07.2008 for life vide P.P.O. dated 24.06.2008. The applicant had earlier filed Original Application No. 184 of 2010 before this Tribunal (Circuit Bench, Jabalpur), which was allowed vide order dated 12.01.2016. In compliance of the aforesaid order the Government Sanction has accorded vide letter dated 20.02.2017 to grant ante date seniority with pay and allowances in the rank of Havildar with effect from 01.01.1991 as well as to grant notional promotion to the rank of Naib Subedar with all consequential benefits including pay and allowances. Accordingly, the applicant was promoted to the rank of Naib Subedar and was deemed to have retired from service on 30.06.2010. The applicant is in receipt of service pension of Naib Subedar. The applicant preferred an Appeal dated 04.09.2019 for

grant of increment which was due on 01.07.2010 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 1<sup>st</sup> July as the date of increment for all Government Employees but of no avail. 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 1<sup>st</sup> July, as the date of increment for all Government Employees, thereafter, the applicant is entitled for grant of last increment due on 01.07.2010. 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 notionally 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. 30.06.2010 since the date of annual increment fall on the following day i.e. 01.07.2010 as per rules. 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 notionally completed one full year service as on

30.06.2010, but the increment fell due on 01.07.2010, on which date he was not in service. In view of the above judgment, naturally he has to be treated as having notionally 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. 753 of 2020** deserves to be allowed, hence **allowed**. The applicant shall be given one notional increment for the period from 01.07.2009 to 30.06.2010, as he has notionally completed one full year of service, though his increment fell on 01.07.2010, 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 : 25 August, 2021

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