

Court No. 2**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****ORIGINAL APPLICATION No. 476 of 2023**Wednesday this the 8th day of August, 2023**“Hon’ble Mr. Justice Anil Kumar, Member (J)
Hon’ble Maj Gen Sanjay Singh, Member (A)”**

1. Ex Sep (ACP-1) Rakesh Chandra Pandey, (Regimental No. 15693721X), S/O Rama Kant Pandey, 116/492, Keshav Nagar, Rawatpur Gaon, Rawatpur, Kanpur Nagar, (UP) Pin 208019.
2. Ex Sep (ACP-1) Vishnu Gopal, (Regimental No. 15693709W), S/O Gyan Singh, Village-Jamoo, Jamoo, Kanpur Nagar (UP), Pin 209214.
3. Ex Sep (ACP-1) Pawan Kumar Singh, (Regimental No. 15693717P), S/O Anuradha Singh Chauhan, 58-C, Bhawani Nagar, COD, Kanpur Nagar (UP), Pin 208013.
4. Ex Sep (ACP-1) Durgesh Kumar, (Regimental No. 15693719A), S/O Gayadeen Uttam, Tehshil-Bindaki, Nonara, Burhwan, Fatehpur, (UP), Pin 212631.
5. Ex Sep (ACP-1) Radha Raman Pandey, (Regimental No. 15693713Y), S/O Karunapati Pandey, Tarabganj, Ghachabika pur, Gonda (UP), Pin 271309.
6. Ex Sep (ACP-1) Mahendra Singh, (Regimental No. 15693735X), S/O Virendra Singh, Gram-Jamoo, Jamoo, Kanpur Nagar (UP), Pin 209214.
7. Ex Sep (ACP-1) Anit Kumar Bhadauriya, (Regimental No. 15693733M), S/O Rajendra Singh Bhadauriya, Plot No 06, Sadar Form, Ganga Nagar, New Pac Lines, Kanpur Nagar (UP), Pin 208015.

..... Applicant

Ld. Counsel for the : **Shri Chaturbhuj Dwivedi,**
Applicant Advocate

Versus

1. Union of India, through Secretary, Ministry of Defence, Government of India, New Delhi.
2. Chief of the Army Staff, Army Headquarters, New Delhi.

3. Record Officer, Records Office, Corps of Signal, C/o 56 APO, Jabalpur, (MP) Pin-482001.
4. Principal Controller of Defence Accounts (Pension), Draupadi Ghat, Prayagraj.

.....Respondents

Ld. Counsel for the Respondents : **Shri Rajiv Pandey,**
Central Govt. Counsel

ORDER

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

“(a) This Hon’ble Tribunal may pleased to direct the respondents to grant the applicant one notional increment for the purposes of pensionary benefits and accordingly re-fix his pension and other pensionary benefits and pay the arrears along with admissible interest thereupon

(b) Any other relief, which this Hon’ble Tribunal may deem fit and proper in the circumstances of the case may be given in favour of the applicant.

(c) Award the costs of the original application in favour of the applicant.”

2. Briefly stated, applicants were enrolled in the Indian Army on 17.06.2004 and 18.06.2004 and were discharged on 30.06.2021 (AN). The applicants filed representation through his legal counsel on 14.03.2023 for grant of increment which was due on 01.07.2021 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 but the respondents have not taken any action in this regard. It is in this perspective that the applicants have preferred the present Original Application.

3. Learned Counsel for the applicants 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 applicants are entitled for grant of last increment due on 01.07.2021. 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) and AFT (RB), Lucknow judgment in O.A. No. 180 of 2022, ***Ex Sub Rampal Singh Rawat vs. Union of India and Others***, decided on 10.09.2022.

4. On the other hand, Ld. Counsel for the respondents contended that the applicants had served for complete one year from the date of his last annual increment, but they had not been granted annual increment as on the date of his discharge i.e. 30.06.2021, since the date of annual increment fall on the following day i.e. 01.07.2021. Since the applicants were not on the effective strength of Indian Army on 01.07.2021, therefore, they have not been granted annual increment on 01.07.2021 as per policy in vogue. 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. He also submitted that the notional increment could not be granted to the retirees of 30 June in terms of DoPT, Government of India letter No. 19/2/2018-Estt (Pay-1) dated 03.02.2021.

5. We have heard Ld. Counsel for the applicants 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 applicants are 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 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:-

"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.”

7. 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 applicants had completed one full year service as on 30.06.2021, but the increment fell due on 01.07.2021, on which date they were not in service. In view of the above judgment, naturally they have to be treated as having completed one full year of service, though the date of increment falls on the next day of his retirement.

8. In view of the above, the Original Application is **allowed**. The impugned order, if any, is set aside. The applicants shall be given one notional increment for the period from 01.07.2020 to 30.06.2021, as they have 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. The respondents are directed to issue fresh Corrigendum P.P.O. in respect of applicants 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

9. No order as to costs.

10. Pending Misc. Application(s), if any, shall be treated to have been disposed off.

(Maj Gen Sanjay Singh)
Member (A)

(Justice Anil Kumar)
Member (J)

Dated : 8th August, 2023
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