

Court No. 2**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****ORIGINAL APPLICATION No. 728 of 2023**Monday this the 21st day of August, 2023**“Hon’ble Mr. Justice Anil Kumar, Member (J)
Hon’ble Lt Gen Anil Puri, Member (A)”**

No. 114526N Ex. PO WTR Bimal Kumar Tripathi
S/o Late Shri Ram Sajiwan Tripathi,
R/o 185A/2A, Jhule Lal Nagar, Lukerganj,
Allahabad, Uttar Pradesh-211001

..... Applicant

Ld. Counsel for the Applicant : **Shri Mohan Kumar**, Advocate
holding brief of **Shri R. Chandra**,
Advocate

Versus

1. Union of India, through the Secretary Ministry of Defence, Government of India, New Delhi – 110011.
2. The Chief of the Naval Staff, Integrated Headquarters of Ministry of Defence (Navy), New Delhi – 110011.
3. Record Officer/The Commodore, Bureau of Sailors, Chitah Camp, Mankhurd, Bombay-400088.
4. Naval Pension Officer, C/o INS Tanaji, Sion Trombay Road, Mankhurd, Mumbai – 400088.
5. PCDA (N), No. 1 Co-Operge Road, Colaba, Mumbai – 400001.

.....**Respondents**

Ld. Counsel for the Respondents : **Ms. Anju Singh**,
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 :-

- “(I) The Hon’ble Tribunal may be pleased to direct the respondents to grant Notional Increment due on 01.10.2004 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.*
- (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 Navy on 09.07.1985 and was discharged on 30.09.2004 (AN) in the rank of PO. The applicant preferred an application dated 15.07.2022 for grant of one service increment which was due on 01.10.2004 and re-fixation of pension and for issuance of fresh Corrigendum P.P.O. but the respondents have not taken any action in this regard. It is in this perspective that the applicant has preferred the present Original Application.

3. Learned Counsel for the applicant submitted that applicant was getting his annual increment as on 1st October as fixed by the respondents on his promotion to the rank of Petty Officer since 16.10.1993 which is evident from promotion order and Pay Account Slip for the month of Feb. 2001. The last annual increment was granted to the applicant as on 01.10.2003 and therefore, he is entitled for one service increment due on 01.10.2004 for one full year service from 01.10.2003 to 30.09.2004. The Hon’ble Madras High Court vide its order dated 15.09.2017 in Writ Petition No. 15732 of 2017, P Ayyamperumal vs. Union of India and Others

held that increment will be granted to the employees on 01 July 2017 who were retired on 30.06.2017 though not in service on 1st July. SLP (Civil) Diary No. 22283/2018 filed by Union of India and Others (Arising out of impugned final judgment and order dated 15.09.2017 in Writ Petition No. 15732/2017 passed by the High Court of Madras) was dismissed.

4. Learned counsel for the applicant placed reliance 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. 366 of 2020, **HFL Sarvesh Kumar vs. Union of India and Others**, decided on 12.08.2021 and pleaded that applicant is entitled to annual increment due on 01.10.2004.

5. Though, no counter affidavit has been filed by the respondents, however, during the course of hearing, learned 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. 30.09.2004 since the date of annual increment fall on the following day i.e. 01.10.2004. Since the applicant was not on the effective strength of Indian Navy on 01.10.2004, therefore, he has not been granted annual increment on 01.10.2004 as per policy in vogue.

6. 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?

7. 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.”

8. The Civil Appeal No. 4339 of 2023, Arising out of Diary No. 16764 of 2013, **Union of India & Others vs. Anand Kumar Singh** has been dismissed by the Hon’ble Supreme Court vide order dated 10.07.2023 in terms of earlier judgment passed by the Hon’ble Supreme Court in Civil Appeal No. 2471 of 2023, **The Director (Admn. and HR) KPTCL & Ors vs. C.P. Mundinamani & Ors** dated 11.04.2023 in which the Hon’ble Supreme Court has held that an employee who has served for a complete year in an organisation is entitled to annual increment on the last day of service for rendering one full year service.

9. In view of law laid down by the Hon’ble Madras High Court and other courts, upheld by the Hon’ble Supreme Court, we are of the view that applicant has to be treated as having completed one full year of service as on 30.09.2004, though the date of increment falls on the next day of his retirement, i.e. on 01.10.2004 on which date he was not in service, is entitled to annual service increment.

10. In view of the above, the Original Application is **allowed** subject to verification of record. The impugned order, if any, is set aside. The applicant shall be given one notional increment for the period from 01.10.2003 to 30.09.2004, as he has completed one full year of service, though his increment fell on 01.10.2004, 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

11. No order as to costs.

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

(Lt Gen Anil Puri)
Member (A)

(Justice Anil Kumar)
Member (J)

Dated : 21st August, 2023

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