

**Court No. 2**  
**(Ser No. 13)**

**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW**

**ORIGINAL APPLICATION No. 479 of 2023**

**Friday, this the 4<sup>th</sup> day of August, 2023**

**“Hon’ble Mr. Justice Anil Kumar, Member (J)**  
**Hon’ble Vice Admiral Atul Kumar Jain, Member (A)”**

Ex No. 6381069-L Hav Samser Ali

S/o Aliser

R/o House No. 5B/D-24, Sector-5, Awas Vikas Vrindavan,  
Girdhar Kunj, Telibagh, PO-Sector-6 Vrindavan Colony, Raebareli  
Road, Lucknow (UP) - 226029

..... Applicant

Ld. Counsel for the Applicant : **Mohd. Zafar Khan**, Advocate

Versus

1. Union of India, through Secretary Ministry of Defence (Army) South Block, New Delhi-110010.
2. Chief of the Army Staff, IHQ of MoD (Army) South Block, New Delhi.
3. Chief Records Officer, ASC (Sup), Records (South), PIN-900493, C/o 56 APO.
4. PCDA (Pension), Draupadi Ghat, Allahabad.

.....**Respondents**

Ld. Counsel for the Respondents : **Shri Ram Saran Awasthi**,  
Central Govt. Counsel

**ORDER (Oral)**

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

- A. *To issue/pass a direction and order to the respondents to grant notional increment to the applicant on 30 Jun 2011 for the period 01 Jul 2010 to 30 Jun 2011 and revise the pension accordingly with effect from 01.07.2011 after computing said increment in last pay drawn and to pay the arrears alongwith @ 12% interest on arrear.*
- B. *To issue/pass an order or directions of appropriate nature to the respondents to grant the pensionary benefits which were due on 30 Jun 2011 after computing said increment in last pay drawn and to pay the arrears along with @ 12% interest on arrear.*
- C. *To issue/pass any other order or direction as this Hon'ble Tribunal may deem just, fit and proper under the circumstances of the case in favour of the applicant.*
- D. *To allow this original application with costs."*

2. Counter affidavit filed by the respondents is taken on record.

3. Briefly stated, applicant was enrolled in the Indian Army on 12.06.1985 and was discharged from service on 30.06.2011 (AN). The applicant preferred an application dated 05.08.2022 for grant of increment which was due on 01.07.2011 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 the respondents have not taken any action in this regard. It is in this perspective that the applicant has preferred the present Original Application.

4. 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 01.07.2011. 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. 366 of 2020, **HFL Sarvesh Kumar vs. Union of India and Others**, decided on 12.08.2021.

5. 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. 30.06.2011 since the date of annual increment fall on the following day i.e. 01.07.2011. Since the applicant was not on the effective strength of Indian Army on 01.07.2011, therefore, he has not been granted annual increment on 01.07.2011 as per policy in vogue. He further submitted that in similar case, this Tribunal delivered judgment in favour of the applicant in OA No. 753 of 2020, dated 25.08.2021 in which Special Leave to Petition was contemplated on the orders of Central Agency Section, Ministry of law and Justice, Department of Legal Affairs, Civil Appeal No. 874/2023 titled **Union of India & Others vs. Ramesh Chandra**, the Hon'ble

Supreme Court vide its order dated 31.01.2023 stayed AFT (RB) Lucknow order dated 25.08.2021. He pleaded for dismissal of O.A. being devoid of merits.

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. In view of law laid down by the Hon'ble Madras High Court, upheld by the Hon'ble Supreme Court in Civil Appeal No. 4339 of 2023 (arising out of Diary No. 16764 of 2013) **Union of India vs. Anand Kumar Singh**, decided on 10.07.2023 in which the Hon'ble Supreme Court dismissed the Appeal of Union of India and has held that annual increment to be granted to an employee on the last day of service for rendering one year service. In view of the Hon'ble Supreme Court judgment in **Union of India vs. Anand Kumar Singh** (supra), the applicant has to be treated as having completed one full year of service as on 30.06.2011, though the date of increment falls on the next day of his retirement and accordingly, applicant is entitled for one increment for his full year of service as on 01.07.2011.

9. 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 01.07.2010 to 30.06.2011, as he has completed one full year of service, though his increment fell on 01.07.2011, 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.

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

**(Vice Admiral Atul Kumar Jain)**  
**Member (A)**

**(Justice Anil Kumar)**  
**Member (J)**

Dated : 4<sup>th</sup> August, 2023  
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