

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

**ORIGINAL APPLICATION NO. 180/00356 of 2019**

**Tuesday, this the 31<sup>st</sup> day of December, 2019**

**CORAM**

**Hon'ble Mr. E.K.Bharat Bhushan, Administrative Member  
Hon'ble Mr.Ashish Kalia, Judicial Member**

Shri M.K.Sasidhara Menon,  
S/o Late Bhaskaran Nair,  
Aged 68 years,  
Superintendent of Central Excise (Retd),  
37/684, 'Deepthi', Ponevazhy New Cross Road,  
AIMS Ponekara P.O.,  
Cochin – 682 041. ... Applicant

(By Advocate Mr.C.S.G.Nair)

Versus

1. The Union of India,  
represented by its Secretary,  
Department of Personnel & Training,  
North Block, New Delhi – 110 001.
2. The Chief commissioner of Central Taxes and Customs,  
Central Revenue Building, I.S.Press Road,  
Cochin – 682 018.
3. The Commissioner of Central Taxes and Customs,  
Central Revenue Building,  
I.S.Press Road,  
Cochin – 682 018.
4. The Pay and Accounts Officer, Central Excise,  
Central Revenue Buildings,  
I.S.Press Road,  
Cochin – 682 018. .... Respondents

(By Advocate, Mr.S.Sreenath, ACGSC for Respondents)

.2.

This application having been heard on 19<sup>th</sup> December, 2019, the Tribunal on 31<sup>st</sup> December, 2019 delivered the following :

**ORDER**

**HON'BLE Mr.E.K.BHARAT BHUSHAN, ...ADMINISTRATIVE MEMBER**

OA No.356/2019 is filed by Shri M.K.Sasidhara Menon, retired Superintendent of Central Excise, Cochin seeking a direction to the respondents to grant annual increment on completion of one year service from 01.07.2010 to 30.06.2011. The reliefs sought in the OA are as follows:

(i) To declare that the applicant is entitled for one notional increment on 01.07.2011 for the period of service from 01.07.2011 to 30.06.2012, for the purpose of pensionary benefits.

(ii) To direct the respondents to grant one notional increment to the applicant on 01.07.2011 and revised his pensionary benefits like pension, gratuity, commutation value etc., including arrears of leave salary within a time frame.

(iii) Grant such other relief or reliefs that may be prayed for or that are found to be just and proper in the nature and circumstances of the case.

(iv) Grant cost of this O.A.

2. The applicant retired as Inspector of Central Excise on attaining the age of superannuation on 30.06.2011. The applicant was not granted the annual increment on completion of one full year service, while reckoning the last pay for the purpose of calculation of pension. As per Rule 10 of CCS (RP) Rules, 2008, a uniform date of annual increment viz., 1<sup>st</sup> July of every

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year was formulated and employees completing 6 months and above in the revised pay structure as on 1<sup>st</sup> July will be eligible to be granted the increment.

3. A similar issue raised in an Original application before the CAT, Madras Bench was rejected, but the same was favourably considered by the Hon'ble High Court of Madras in W.P. NO.15732 of 2017 (Annexure A2). The Hon'ble High Court held that

“7. .... 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 the increment fell on 01.07.2013, for the purpose of pensionary benefits and not for any other purposes”.

The Special Leave Petition No.22283 of 2018 filed against the judgment of the Hon'ble High court was also dismissed by the Hon'ble Supreme Court. Relying on the above judgment of Hon'ble High Court, the applicant submitted a representation for grant of annual increment, for which there was no reply from the respondents. As grounds, the applicant has reiterated the contentions raised in the OA.

4. The respondents have filed a reply statement denying the averments made in the OA. They state that the Rule 10 of CCS (RP) Rules, 2008, is not applicable to the applicant, since he was not in Government service on 1<sup>st</sup> July, 2011. They further submit that the judgment of Hon'ble Supreme

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Court in **UOI & ors. Vs. Shri P.Ayyamperumal**, referred in the OA has not attained finality yet, since the matter has been referred to the Department of Legal Affairs to explore the possibility of review of the Hon'ble Supreme Court's Order.

5. Heard Shri C.S.G.Nair, learned Counsel for the applicant and Shri S.Sreenath, learned ACGSC for the respondents. The applicant had completed one full year service as on 30.06.2011 and was not in service on 01.07.2011, on which date the increment fell due. In view of the above quoted judgment of Hon'ble High Court of Madras, the applicant 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. The OA is allowed. The respondents are directed to grant one notional increment to the applicant for the purpose of calculating the pension and pensionary benefits and not for any other purpose as held by the Hon'ble Madras High Court in P.Ayyamperumal's case (supra), upheld by the Hon'ble Apex Court. The respondents shall implement this order within a period of 90 days from the date of receipt of a copy of this order. There shall be no order as to costs.

**(ASHISH KALIA)**  
**JUDICIAL MEMBER**

**(E.K.BHARAT BHUSHAN)**  
**ADMINISTRATIVE MEMBER**

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**List of Annexures in O.A. No.180/00356/2019**

- 1.** Annexure A1 - True copy of the PPO No.514081100282.
- 2.** Annexure A2 - True copy of the judgment dt. 15.09.2017 in WP No.15732/2017.
- 3.** Annexure A3 - True copy of the order in SLP Dairy No.22283/2018.
- 4.** Annexure A4 - True copy of the representation dated 16.11.2018.
- 5.** Annexure R1 – True copy of the Order, dated 13.03.2019 in MA No.71/2019 in OA.No.170/2019 filed by Shri K.Kandasamy & other before the Honorable Tribunal, Madras Bench.

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