

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

ORIGINAL APPLICATION NO. 180/00935 of 2019

Tuesday, this the 31st day of December, 2019

CORAM

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

Shri T.Chandran
S/o.Late Chathan, aged 67 years
Head Havildar of Central Excise (Retd.)
'Prabhalayam', Kollakadavu P.O
Chengannur-690509
Kerala State. (Mob.8547361782) ... 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.Ramesh, ACGSC for Respondents)

.2.

This application having been heard on 31st December, 2019, the Tribunal on the same day delivered the following :

ORDER (ORAL)

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

The applicant had retired as Head Havildar of Central Excise on 30.06.2012 on superannuation. As per Rule 10 of CCS(RP) Rules, 2008, the date of annual increment is uniformly fixed at 1st July of every year and employees who complete 6 months in the revised pay structure as on 1st July will become eligible for one increment. The applicant, owing to the fact that he retired on 30.6.2012 and was not in service on 1st July of the same year, was denied the benefit of the one increment despite the fact that he had completed a full year's service as on 30.6.2012 since he drew the last increment. The applicant prays for the following reliefs:

"(i) To declare that the applicant is entitled for one notional increment on 01.07.2010 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 01.07.2010 and revise 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. A similar issue raised through an Original application before the CAT,

.3.

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.

3. In view of the above quoted judgment of the Hon'ble High Court of Madras which has attained finality, 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 **UOI & ors. Vs. Shri P.Ayyamperumal** in Writ Petition No.15732 of 2017, which was 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

- 1.** Annexure A1 - True copy of the PPO No.549261200144.
- 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 A5 - True copy of the order in O.A No.1055/2018 and connected cases dated 3.12.2019.
