

RESERVED

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

Original Application No.21/235/2019

Hyderabad, this the 27th day of January, 2020

Hon'ble Mr. B.V. Sudhakar, Member (Admn.)



K. Dilli Rao Achari, S/o. late K.V. Achari, Aged 64 years,
Retd. Deputy Chief Labour Commissioner (Central) (Group A),
Bhubaneshwar, R/o. Flat No. A-1, Ground Floor,
Sai Enclave, Neredmet, Near Krupa Complex, Hyderabad – 500 056.

... Applicant

(By Advocate: Mrs. K. Rachna Kumari, proxy counsel representing
Mr. K.R.K.V. Prasad)

Vs.

1. Union of India, Rep. by Secretary,
Ministry of Labour and Employment,
Shram Shakti Bhavan, Rafi Marg, New Delhi.
2. Under Secretary, Government of India,
Ministry of Labour & Employment,
Shram Shakti Bhavan, Rafi Marg, New Delhi.
3. The Chief Labour Commissioner (Central) &
Disciplinary Authority, Government of India,
Ministry of Labour & Employment,
Shram Shakti Bhavan, Rafi Marg, New Delhi.
4. The Secretary, Government of India,
Ministry of Personnel, Public Grievances & Pensions,
Department of Personnel & Training,
North Block, New Delhi – 110 001.
5. The Ministry of Finance, Rep. by
The Secretary, Government of India,
Department of Expenditure, North Block, New Delhi.
6. The Pay & Accounts Officer,
Central Pension Accounting Office,
Ministry of Finance, Govt. of India,
Trikoo II Complex, Bhikaji Cama Place,
R.K. Puram, New Delhi – 110 066. ... Respondents

(By Advocate: Mrs. M. Swarna, Addl. CGSC)

ORDER
{As per B.V. Sudhakar, Member (Admn.)}

2. The OA is filed challenging the order dated 28.01.2019 rejecting the claim of the applicant for grant of increment on 1.07.2014 subsequent to superannuation on 30.6.2014.



3. Brief facts of the case are that the applicant after working for the full year from 1.7.2013 to 30.6.2014 as Deputy Chief Labour Commissioner in the respondents Organisation, has retired on the later date. Having rendered one year service, applicant was eligible for annual notional increment on 1.7.2014. Hon'ble High Court of Madras has rendered a judgment which was later confirmed by the Hon'ble Supreme Court, is in favour of the applicant. Applicant's representation was rejected despite law being on his side and hence, the OA.

4. The contentions of the applicant are that the action of the respondents in rejecting the claim for increment on superannuation is illegal as it goes against the judgment of the Hon'ble High Court of Madras in WP No. 15732/2017, which was confirmed by the Hon'ble Supreme Court in SLP (Civil) diary No. 22283/2018. The judgment rendered is *in rem*. Relief granted to a similarly situated employee if not extended to others, who are similarly placed, is brazen violation of Article 14 of the Constitution. By not granting the eligible increment, applicant is put to severe financial loss.

5. Respondents oppose the contentions by stating that on inquiry they found that the applicant is not staying at the address, which was furnished in the OA. Therefore, the OA cannot be entertained as per Rule 6(2) of the Central Administrative Tribunal (Procedure) Rules, 1987. Further, respondents pointed out that the applicant was granted Non Functional Up-gradation in Pay Band 4 with Grade Pay of Rs.10,000 on 01.04.2014 and hence not eligible for another increment on 1.7.2014. Hence, the judgment of the Hon'ble Madras Court is not relevant to the case.



6. Heard both the counsel and perused the pleadings on record.

7. I) Preliminary objection raised by the respondents is that the applicant is not staying in the address furnished in the OA. However, a perusal of the inquiry report (Annexure –A), at page 6 of the Reply Statement, reveals that the name of the applicant was written on the owner's list and that the house was closed at the time of the visit. Applicant has produced a document confirming the transfer of title in his favour issued by the Municipal Corporation of Hyderabad on 11.6.2019. May be, the applicant would not have been there during the visit of the officer deputed for the purpose. Hence, the objection raised does not sustain.

II) Now coming to the issue under adjudication, it is about grant of notional increment on rendering one year of service by an employee who retired on 30th June of the year in the context of the recommendation of the 6th CPC in fixing a uniform date of increment on 1st July. Hon'ble High Court of Madras while dealing with the issue in WP No. 15732 of 2017 on

15.09.2017 has held that an employee who retires on 30th of June is eligible for notional increment on 1st July though he ceases to be an in service employee on the said date, provided one year of service from the previous increment date is rendered. The judgment of the Hon'ble Madras High Court when challenged in the Hon'ble Supreme Court in SLP (C) diary No 22283 of 2018, the SLP was dismissed on 23.07.2018.



III) In order to apply the aforesaid judgment, if we look at the facts of the case, the applicant was granted non functional up gradation and pay fixed as Rs.44,770 with grade pay of Rs.10,000 on 1.04.2014. As per para 10 of the Ministry of Finance Notification dated 29.08.2008 the uniform date for fixing annual increment was fixed as 1st of July of every year. Employees completing 6 months and above in the revised pay structure as on 1st July were eligible to be granted the increment (Annexure-C). Applicant was granted an increment on 1.04.2014 and therefore the next increment cannot be drawn on 1.07.2014 within 3 months, even if he were to be in service on 1.07.2014. It is to be noted that the applicant has rendered only 3 months of service before retirement after the increment was fixed on 1.04.2014. Therefore, the judgment of the Hon'ble Madras High Court referred to, does not apply to the case on hand.

IV) Thus, there being no merit in the case, merits dismissal and hence, dismissed with no order as to costs.

**(B.V. SUDHAKAR)
MEMBER (ADMN.)**

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