

Central Administrative Tribunal  
Principal Bench, New Delhi

OA No. 1868/2019

New Delhi, this the 18th day of February, 2020

**Hon'ble Mr. Ashish Kalia, Member (Judicial)**

Jagdish Prasad Vijay  
S/o Sh. Keshar Lal Vijay, Group 'A'  
Age -70 Years, Director, Niti Aayog, Erstwhile  
Planning Commission (Retd), R/o B-71, Mahesh Nagar,  
Jaipur, Rajasthan-30215. -Applicant

(By Advocate: Mr. Om Prakash)

**Versus**

Niti Aayog, Erstwhile, Planning Commission And Others.

Through

1. The Dy. Chairman, Niti Aayog, Sansad Marg,  
New Delhi.-110001.
2. The Chief Executive Officer, Niti Aayog  
Sansad Marg, New Delhi-110001.
3. The Secretary, DoPT  
Department of Personnel and Training,  
North Block, New Delhi. -110001. – Respondents

(By Advocate: Mr.Lalta Prasad for Mr.Vijendra Singh)

**ORDER (ORAL)**

This Original Application has been filed by the applicant under Section 19 of the Central Administrative Tribunal's Act., 1985, seeking for the following relief(s):-

A-To quash and set aside the impugned order no.A-38012/1/2018 Amn.II, dated 26/02/2019, (Impugned).

- B-To direct the respondents to grant one notional increment from 1<sup>st</sup> July 2009 for the period of 01 July 2008 to 30 June 2009.
- C-To direct the respondents to pay the arrear of increased pension from 01 July 2009 to the date of payment.
- D-To direct the respondents to pay the simple interest@ 15 % p.a. from the due date of arrear to the actual date of payment.
- E- To award the interest @ 15 % p.a. on the amount of arrear for the suit pendent lite.
- F- The cost of instant petition Rs.50,000/- may kindly be awarded in favour of applicant and against the respondents.
- G-Any other and future relief for which this applicant be found entitled to or this Hon'ble Tribunal deems fit and proper may also be awarded in favour of applicant and against the respondents.

2. Learned counsel for the applicant submits that the applicant has been retired from the post of Director, Planning Commission on 30.06.2009. As per the guidelines of the policy though the present applicant retired on 30.06.2009, he will not be entitled to any other relief except one notional increment because due on first July of the respective year. The applicant shortly submitted that his pay appears to be controverted the application and argued vehemently.

3. Learned counsel for the applicant has cited the judgment dated 15.09.2017 of Hon"ble High Court of Madras in the case of **P. Ayyamperumal vs. The Registrar, C.A.T., Madras Bench, High Court Complex, Channai**, wherein it has been decided that "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.

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.”»

Therefore Union of India have preferred Appeal against the order passed by the Hon’ble High Court of Madras and the same was dismissed. The relevant portion of which reads as under:-

“ On the facts, we are not inclined to interfere with the impugned judgment and order passed by the High Court of Judicature at Madras.

The special leave petition is dismissed.”

4. The respondents have cited the judgment passed by the Chennai Bench of the Tribunal in OA No.312/2019 and submitted that present OA is having no merits in view of the decision rendered by this Tribunal. Further, so far as the P.Ayyamperumal case is concerned, DoPT has mentioned that the Hon’ble High Court is in personam and is contrary to the personnel policy of Government of India. Further, the case of Sh. Balasubramaniam referred by Hon’ble High Court in its judgment in P.Ayyamperumal case is related to Fundamental Rules of Tamil Nadu Government whereas the P. Ayyamperumal case relates to Central Government Rules. As per the annual increments of the Govt. Servants are regulated in four quarters viz. 1<sup>st</sup> January, 1<sup>st</sup> April, 1<sup>st</sup> July, 1<sup>st</sup> October and from the Central Government it is done annually on 1<sup>st</sup> July only (6<sup>th</sup> CPC Scenario). Further, DOPT has also referred to the judgment of the Hon’ble High Court of Hyderabad in the year

2005 C. Subha Rao Case, which, while overruling the judgement of Division Bench in Malakondalah case has quoted several provisions of Fundamental Rules (FR), CCS (Pension) Rules and Civil Service Regulations like FR9, 17, 56, Rule 5, 14, 33, 34 and 35 of CCS (Pension) Rules and Article 43 and 151 of Civil Service Regulations, which had inter alia observed the following:-

“In support of the above observations, the Division Bench also placed reliance on Banerjee case (Supra) we are afraid, the Division Bench was not correct in coming to the conclusion that being a reward for the unblemished past service, Government servant retiring on the last day of the month would also be entitled for increment even after such increment is due after retirement. We have already made reference to all Rules governing the situation. There is no warrant to come to such conclusion. Increment is given (See Article 43 of CS Regulations) as periodical rise to a Government employee for the good behaviour in the service. Such increment is possible only when the appointment is “Progressive Appointment” and it is not a universal rule. Further, as per Rule 14 of the Pension Rules, a person is entitled for pay, increment and other allowances only when he is entitled to receive pay from out of Consolidated Fund of India and continues to be in Government Service. A person who retires on the last working day would not be entitled for any increment falling due on the next day and payable next date thereafter (see Article 151 of CS Regulations), because he would not answer the tests in these Rules. Reliance placed on Banerjee case (supra) is also in our considered opinion not correct because as observed by us. Banerjee case (Supra) does not deal with increment, but deals with enhancement of DA by the Central Government to pensioners. Therefore, we are not able to accept the view taken by the Division Bench. We accordingly, overrule the judgement in Malakondalah case (supra).”

5. I have heard the learned counsel for the respondents who also argued the matter vehemently and strenuously. Since the applicant has approached this Tribunal after lapse of more than

a decade he is not entitled to any back wages but he is entitled to refix his pension notionally. This exercise shall be completed within a period of 90 days and consequently pensionary benefits be made to the applicant. The OA is, accordingly, disposed of. No costs.

**(Ashish Kalia)**  
**Member (J)**

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