CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

OA/21/524/2020

HYDERABAD, this the 14th day of August, 2020

Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member

1. P. Malla Reddy , Gr.C
   S/o. Venkataramaiah,
   Aged about 64 years,
   Occ: Ch. Office Supdt. (Retired).
   O/o. General Manager, S.C. Railway,
   R/o. Plot No.27, Dinakar Nagar,
   West Venkatapuram, Secunderabad.

2. K. Uma Devi, D/o. K. Sudarsan Rao,
   Aged about 62 years, Occ: Office Supdt. (Retired).
   O/o. General Manager, S.C. Railway,
   R/o. Plot No.47, Devinagar,
   Safilguda, Secunderabad.

3. Jaswinder Singh, S/o. Mansa Singh,
   Aged about 62 years,
   Occ: Ch. Office Supdt. (Retired).
   O/o. General Manager, S.C. Railway,
   R/o. Plot No.44, H.No. 32-67/20/A,
   Sri Balaji Colony, Neredmet, Hyderabad.

4. Fatima Joseph, S/o. J. Francis Xavier,
   Aged about 63 years,
   Occ: Ch. Office Supdt. (Retired).
   O/o. General Manager, S.C. Railway,
   R/o. H. No.15-104/4, New Mirjalaguda,
   Malkajgiri, Hyderabad.

5. N.U.N.Ch. Sarma, S/o. N. Venkateswaralu,
   Aged about 62 years,
   Occ: SSE/Drawing (Retired).
   O/o. General Manager, S.C. Railway,
   R/o. H. No.2-11-5, Rail Vihar,
   Cheralapalli, Hyderabad.

6. P. Suryanarayana Rao, S/o. P. Raja Rao,
Aged about 63 years,
Occ: SSE/Drawing (Retired),
O/o. General Manager, S.C Railway,
R/o. Flat No. G-1, Srivalli Residency,
Mangapuram, Moula Ali, Secunderabad.

7. O. Pavan Kumar, S/o. O. Narayan,
Aged about 62 years, Occ: SSE/ Drawing (Retd),
O/o. General Manager, S.C. Railway,
R/o. H.No.1-1-336/22, Viveknagar,
Chikkadpally, Hyderabad.

8. K. Bapi Raju, S/o. K. Kotam Raju,
Aged about 62 years, Occ: SSE/Works (Retd).
PPO No.20187090100107,
R/o.Alakapuram, Allur P.O.
Nizampatnam, Guntur, A.P.

9. B. Pothaiah, S/o. B. Nagaiah,
Aged about 69 years,
Occ: Ch. Office Supdt. (Retd.),
PPO No.20117090100021,
R/o. Flat No.203, Harsha Apts, Vani Nagar,
Malkajgiri, Hyderabad.

10. Y. Krishna Mohan, Y. Radhakrishna,
Aged about 61 years,
Occ: Ch. Office Supdt. (Retd.),
PPO No.20197090100122,
H.No.23-231, Chanikyapuri, R.K. Nagar,
Malkajgiri, Secunderabad.

11. P. Elizabeth Swami Dass, W/o. P. Swami Dass,
Aged about 68 years, Occ: Ch. Matron,(Retd),
PPO No.20127090100181,
Flat No.402, Srinivasa Towers,
Vijayapuri Colony, Tarnaka, Secunderabad.

12. J.M. Samuel, S/o. J. John Devapriyan,
Aged about 69 years,
Occ: Chief Commercial Inspector (Retd.),
PPO No.20117090100129,
R/o. No.104, Neha Towers, Goutam Nagar,
Malkajgiri, Secunderabad.

13.M.P. Sathyanarayana, S/o. M. Pentiah,
Aged about 66 years,
Occ: Technician (Retd.),
PPO No.20147091500217,
R/o. H.No.9-3-705, Regimental Bazar,
Secunderabad.

14.Kolla Umapathi, S/o K. Varadarajulu,
Aged about 62 years,
Occ: Sr. Technician (Retd.),
PPO No.20167091500172,
R/o. H.No.30-1588, Flat No.201, SSV Castle,
Neredmet, Secunderabad.

15.N. B. Rama Rao, S/o. N. Bhadraiah,
Aged about 64 years,
Occ: Sr. Technician (Retd.)
PPO No.20167091500123,
R/o. H.No.2-10-195, Old Mudfort,
Secunderabad.

... Applicants

(By Advocate: Mr. M.C. Jacob)

Vs.

1. Union of India rep. by
The Secretary,
Railway Board, Ministry of Railways,
Rail Bhavan, New Delhi.

2. The General Manager,
South Central Railways, Rail Nilayam,
Secunderabad.

3. The Principal Chief Personnel Officer,
South Central Railway, Rail Nilayam,
Secunderabad.

... Respondents

(By Advocate: Mrs. A.P. Lakshmi, SC for Railways)

O R D E R (ORAL)

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

Through Video Conferencing:

2. This OA is filed for grant of notional increment on 1st July after having retired from service on the 30th June of the relevant year.

3. Brief facts of the case are that the applicants retired from the respondents organization on 30th June of the corresponding year, as listed below:

Sl. No	Name	Designation	Retired on	Increment Due
1	P. Malla Reddy, PPO	Chief Office Supdt.	30.06.2016	01.07.2016
2	K. Uma Devi, PPO	Office Supdt.	30.06.2018	01.07.2018
3	Jaswinder Singh	Chief Office Supdt.	30.06.2018	01.07.2018
4	Fatima Joseph	Chief Office Supdt.	30.06.2017	01.07.2017
5	N.U.N.Ch. Sarma	Sr. Section Engineer	30.06.2018	01.07.2018
6	P. Surya Narayana Rao	Sr. Section Engineer	30.06.2017	01.07.2017
7	O. Pavan Kumar	Sr. Section Engineer	30.06.2018	01.07.2018
8	K. Bapi Raju	Sr. Section Engineer	30.06.2018	01.07.2018
9	B. Pothaiah	Chief Office Supdt.	30.06.2011	01.07.2011
10	Y. Krishna Mohan	Chief Office Supdt.	30.06.2019	01.07.2019
11	P. Elizabeth Swamidass	Chief Matron	30.06.2012	01.07.2012
12	J.M. Samuel	Chief Commercial Inspector	30.06.2011	01.07.2011
13	M.P. Satyanarayana	Technician	30.06.2014	01.07.2014
14	Kolla Umapathi	Sr. Technician	30.06.2018	01.07.2018
15	N.B. Rama Rao	Sr. Technician	30.06.2016	01.07.2016

The grievance of the applicants is that they were supposed to be granted increment on 1st of July of the retirement year, but it was not granted since they retired on 30th June of the relevant year. Aggrieved, the OA has been filed.

4. The contentions of the applicants are that the relief sought by the applicants in regard to the notional increment to be granted to them on the 1st July of the relevant year has already been decided by the superior judicial fora viz., the Hon'ble High Court of Madras in WP No. 15732/2017 vide order dt. 15.09.2017 and when the said order was challenged before the Hon'ble Supreme Court in SLP (Civil) Diary No. 22283/2018, the same was dismissed on 23.07.2018. Further, review petition filed by the department vide RP (C) No. 1731/2019 was also dismissed by the Hon'ble Supreme Court on 08.08.2019. It is also submitted by the applicants that the Hon'ble Delhi High Court in WP (C) No. 10509/2019, vide order dt. 23.01.2020, allowed a similar relief following the judgment of the Hon'ble High Court of Madras (supra). Applicants further contend that Ernakulam Bench of this Tribunal in OA No.1055/2018 & batch, vide order dt. 03.12.2019, granted relief following the order of the Hon'ble Madras High Court (supra). The applicants, therefore, contend that, in view of the above orders of superior judicial fora, they are entitled for the relief sought.

5. Heard both sides and perused the material on record.

6. We have carefully gone through various orders referred to by the applicants. Hon'ble Ernakulam Bench of this Tribunal in OA No. 180/1055/2018 and batch, vide order dt. 03.12.2019, extended the same relief as sought by the applicants, with the following directions:

> *"... The applicants shall be given one notional increment for the purpose of calculating the 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 the order of this Tribunal within three months from the date of receipt of a copy of this order. There shall be no order as to costs."*

Hon'ble High Court of Delhi in W.P (C) 10509/2019 in Gopal Singh v U.O.I has also granted a similar relief on 23.01.2020, as under:

> *"10. Accordingly, the impugned order dated 3rd May, 2019 is set aside. A direction is issued to the Respondents to grant notional increment to the Petitioner with effect from 1st July, 2019. The Petitioner's pension will consequentially be re-fixed...."*

This Tribunal also granted similar relief in several OAs. One of them is OA No.1263/2018 wherein vide order dt.13.3.2020, while granting the similar relief, passed an elaborate order discussing the issue on hand threadbare. Concluding part of the Order of this Tribunal after discussing the judgments referred to above at length in about 27 pages, is extracted as under:

> *" ..Increment, axiomatically, is an integral and inseparable part of pay and as per the provisions of Rule 64 of the Receipt and Payment Rules, 1983, pay of a Government servant together with allowances becomes due and payable on the last working day of each month. Thus, the increment which accrued over 12 months becomes payable on the last working day of the month of June. Had the same been paid on that date, the last pay drawn would mean the pay with the increment for that year, whereas, since the pay was not disbursed on that day, the increment has not been taken into account while reckoning the last pay drawn. Last pay drawn is significant in view of the fact that all the terminal benefits and pension are calculated on the basis of last pay drawn. Non- disbursement of pay on the last working day of June of the year when the applicants superannuated is not on account of any of the fault of the applicants. As such, they cannot be penalized in this regard. The only possible way to right the wrong is to consider the increment due for the last year of service of the applicant as deemed one and the pay with increment is thus the deemed last pay. All the pensionary benefits are, therefore, to be calculated reckoning the deemed last pay as the basis and various pensionary benefits worked out accordingly and also revised PPO issued after revising the extent of pension and fixing the rate of family pension.*

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XXIII) In view of the aforesaid discussion and decisions, the OA succeeds. It is declared that the applicants are entitled to reckon the increment due for the last year of their service before superannuation for the purpose of working out the last pay drawn and it is this revised pay that would form the basis for working out pension, family pension and pensionary benefits. Necessary orders including PPO shall be passed accordingly within a period of three months from the date of receipt of certified copy of this order.

XXIV) As regards disbursement of arrears of pay for the last month of service as also the arrears of difference in pension, the judgment of Hon'ble Apex Court in ***Union of India & Ors*** *Vs.* ***Tarsem Singh***[1] *has to be borne in mind and followed."*

This Tribunal granted similar benefit in OA filed against the contesting Railways vide OA 432/2020, vide order dt. 08.07.2020. Recently, this Tribunal allowed OA Nos. 325/2020 & batch, on 17.07.2020, wherein a detailed order has been passed adverting to the several contentions raised by the respondents therein.

In order to maintain judicial discipline, orders of the higher judicial fora as well as the Coordinate Benches of this Tribunal have to be abided by. It is well settled that similarly placed employees are entitled to be granted similar relief, as held by the Hon'ble Supreme Court in its judgments viz., ***AmritLal Berry vs Collector Of Central Excise, (1975) 4 SCC 714; Inder Pal Yadav Vs. Union of India, 1985 (2) SCC 648; Uttaranchal Forest Rangers' Assn (Direct Recruit) Vs. State of UP (2006) 10 SCC 346.***

[1](2008) 8 SCC 648

7. In the result, the respondents are directed to grant eligible relief to the applicants keeping in view the orders cited supra, with consequential benefits, within a period of 3 months from the date of receipt of this order. However, monetary relief like arrears, etc. payable to the applicants, shall be restricted for a period of 3 years prior to the date of filing of the OA as observed by the Hon'ble Supreme Court in ***Union of India v Tarsem Singh*** cited supra.

The OA is disposed of accordingly. There shall be no order as to costs.

(B.V. SUDHAKAR) ***(ASHISH KALIA)***
MEMBER (ADMN.) ***MEMBER(JUDL.)***

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