

**CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH**

**OA/021/00442/2019**

HYDERABAD, this the 18<sup>th</sup> day of September, 2020.

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



K. Sri Rama Chandra Murthy  
S/o K.Hanumantha Rao, aged 62 years,  
Retd. Senior Engineer / IT (Group 'C'),  
O/o The Principal Financial Advisor,  
South Central Railway, Rail Nilayam,  
Secunderabad,  
R/o Flat No.205, Prerana Towers,  
Mirzalaguda, Malkajgiri,  
Hyderabad-500 047.

...Applicant  
(By Advocate : Mr.K.R.K.V. Prasad)

Vs.

1. Union of India Rep. by  
The Secretary, Railway Board,  
Ministry of Railways, New Delhi.
2. The General Manager,  
South Central Railway,  
Rail Nilayam, Secunderabad.
3. The Principal Financial Advisor,  
South Central Railway,  
Rail Nilayam, Secunderabad.
4. The Ministry of Finance Rep by  
The Secretary, Government of India,  
Department of Expenditure,  
North Block, New Delhi.

....Respondents

(By Advocate : Mr.S.M.Patnaik, SC for Railways, for RR 1 to 3  
Mrs.K.Rajitha, Sr.CGSC for R-4)

**ORAL ORDER**  
**(As per Hon'ble Mr.B.V.Sudhakar, Administrative Member)**

**Through Video Conferencing:**



2. This OA is filed for grant of notional increment on 1<sup>st</sup> July after having retired from service on the 30<sup>th</sup> June of the relevant year with consequential benefits.
3. Brief facts of the case are that the applicant retired from the 3<sup>rd</sup> respondent organization on 30<sup>th</sup> June 2016. The grievance of the applicant is that he was supposed to be granted increment on 1<sup>st</sup> July 2016 for having rendered one year service, but it was not granted despite making representation. Aggrieved, the OA has been filed.
4. The contentions of the applicant are that the relief sought by him 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. The applicant, therefore, contends that, in view of the above orders of superior judicial fora, he is entitled for the relief sought.
5. Respondents filed reply statement opposing the OA. In the reply statement, the respondents, *inter alia*, contended that the OA has been filed after lapse of 3 years from the date of retirement. That, the applicant

ceases to be in service on 01.07.2016 having retired on 30.06.2016 and thus, he is short of one day of service for completion of one year service for granting annual increment. That, the judgment of the Hon'ble High Court of Madras in WP No. 15732/2017 relied upon by the applicant is a judgment *in personam*. That, the petitioner in the said Writ Petition and the applicant herein are governed by different Service Rules. That, a Government servant retiring on the last day of the month would cease to be a Government servant by midnight of that day and he would acquire the status of a pensioner and therefore, he would not be entitled for the relief sought. The respondents referred to the judgment of the Hon'ble High Court of Andhra Pradesh at Hyderabad rendered in 2005 in C. Subba Rao case in support of their contention.

6. Heard both sides and perused the pleadings on record.
7. This Tribunal earlier granted similar relief in several OAs. One of them is OA No.1263/2018 in which, this Tribunal passed an elaborate order discussing the issue on hand threadbare. This Tribunal also granted similar relief in OAs filed against the contesting Railways vide OA Nos. 431/2020 & 432/2020 on 08.07.2020 and OA 540/2020 and similar OAs on 26.08.2020. Further, on 17.07.2020, a detailed order has been passed by this Tribunal in OA Nos. 325/2020 & Batch, which were filed seeking similar relief and some of the observations made therein are as under:

*“XVII. xxxx the Hon'ble Delhi High Court in its later judgment in W.P (C) 10509/2019 in Gopal Singh v U.O.I did grant a similar relief on 23.01.2020, as under:*

*“8. More recently, this Court in its decision dated 13th January, 2020 in W.P.(C) 5539/2019 (Arun Chhibber v. Union of India) has discussed the judgment in P. Ayyamperumal at some length in the context of the prayer of an officer of the*

Central Reserve Police Force ('CRPF') who had retired on 30th June, 2007 for notional increment. The Court rejected the contention of the Respondents therein that the judgment in *P. Ayyamperuamal* had to be treated as one that was *in personam* and not *in rem*. In relation to the Respondent's attempt to distinguish the applicability of the judgment in *P. Ayyamperumal* to CRPF personnel, the Court observed as under:-



"5. The Court finds that the only difference, if any, between *P. Ayyamperumal* (*supra*) and this case is that the former was an employee of the Central Government, whereas here the Petitioner superannuated from the CRPF. The Court, therefore, finds no reasons to deny the Petitioner same relief granted to Mr. *P. Ayyamperumal* by the Madras High Court. The similarity in the two cases is that here too, the Petitioner has completed one year of service, just one day prior to 1st July, 2007."

9. The position here as regards CISF personnel can be no different and it was not, therefore, open to the Respondents to refuse to grant to the Petitioner notional increment merely because he superannuated a day earlier than the day fixed by the CPC for such benefit to accrue.

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. The appropriate orders will be issued and arrears of pension will be paid to the Petitioner within a period of 6 weeks, failing which the Respondents would be liable to simple interest at 6% per annum on the arrears of period of delay."

It requires no reiteration that the later judgment of Hon'ble High Court of Delhi on 13.1.2020 on the same issue holds the ground. It must be noted that the Hon'ble High Court of Delhi has rejected the contention that *P. Ayyamperumal* Judgment is *in personam* on which the respondents harped by stating that the nodal Ministry i.e DOPT has taken such a stand. Moreover, the judgment of the Hon'ble High Court of A.P. in *Principal Accountant General, AP & others v C. Subba Rao & others* in 2005(2) ALD 1 = 2005 (2) ALT 25 cited by the respondents to back their defence would not be relevant in view of the latest Judgment of the Hon'ble High Court of Delhi on 23.1.2020 referred to above and the dismissal of both the SLP (C) No.22008/2018 plus the Review Petition vide RP (C) No.1731/2019 filed thereupon against *Ayyamperumal* judgment in WP No.15732/2017 dt. 15.9.2017, by the Hon'ble Apex Court on 23.7.2018 and 8.8.2019 respectively, for reasons expounded in para XVI. It is also pertinent to point out that when the *C. Subba Rao* judgment was delivered in 2005 by the Hon'ble High Court of A.P. the rule for granting increment was the date of joining of the service/ date of promotion. The rule has been changed after the 6<sup>th</sup> CPC with the date of increment being taken as a uniform date of 1<sup>st</sup> July and as per CCS revised pay rules of 2008 after completion of 6 months of service in the grade/pay scale, one would become eligible for grant of an increment. Moreover, the concept of taking 50% of last pay drawn for granting of pension has been brought into vogue from 2006 onwards. The change in the rules subsequent to *C. Subba Rao* judgment have made it irrelevant.

XVIII) Further, the 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 by opining as under:

“9. We find that the Hon’ble Madras High Court had already considered the issue raised by the applicants in the present OAs, we are in full agreement with the judgment passed by the Hon’ble Madras High Court in P. Ayyamperumal’s case (*supra*) upheld by the Hon’ble apex court.

10. Therefore, the impugned orders of rejection Annexure A4 in OA No. 180/654/2019 and Annexures A5 in OAs Nos. 180/1055/2018 and 180/61/2019 are quashed and set aside. The applicant in OA No. 180/109/2019 had sought relief to quash Annexure A6 which is only a reply to the question posed by a Member of Parliament in Lok Sabha. 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.”



*It is the cardinal principle of judicial discipline, as held by the Apex Court in the case of **S.I.Roopal vs Lt. Governor of Delhi**<sup>1</sup> that precedents are to be strictly adhered to. xxxxxx*

XIX. Respondents banking on the fact that the Hon’ble Madras Bench of this Tribunal has dismissed OAs 1710 to 1714/2018, 309/2019, 312/2019, 26/2019, 498/2019 and MA 226/2019 filed seeking similar relief in March and April 2019, urged that the instant OAs be dismissed. However, in the context of the Hon’ble Supreme Court dismissing the relevant SLP and Review Petition cited *supra* and in the context of the observation at para XVI above in regard to review of P. Ayyamperumal judgment, as well as the later judgments of the Hon’ble High Court of Delhi on 23.01.2020 plus that of the Hon’ble Ernakulam Bench of this Tribunal on 3.12.2019, which are later to the Hon’ble Madras Tribunal Bench orders, it is incumbent on the respondents to grant the increment on 1<sup>st</sup> July. Respondents did point out that even this Tribunal has also dismissed OA 1275/2013 on 20.6.2019 seeking the relief sought. However, it is to be observed that as on 20.6.2019, the dismissal decision of Hon’ble Apex Court in the Review Petition delivered on 8.8.2019 filed against P. Ayyamperumal verdict was obviously not available and therefore, the dismissal. Subsequently, this Tribunal, in the light of the dismissal of the review petition referred to, disposed of OA Nos. 1263/2018, 1155/2018 & 229/2020 on 13.03.2020; OA No. 430/2020 on 26.06.2020 & OA Nos. 431/2020 & 432/2020 on 08.07.2020. In addition, keeping in view of the law laid down by the Hon’ble Apex Court in **Roop Lal**, to abide by the precedent, the respondents cannot afford to take any other view but are bound by the latest judgments of the superior judicial forums referred to above.

XX) The respondents did not leave any stone unturned by contending that the OAs filed are to be dismissed on grounds of limitation. Such a limitation does not apply to pension which is a continuous cause of action as held by the Hon. Apex Court in the case of **Union of India v. Tarsem Singh**, (2008) 8 SCC 648, relating to the limitation aspect xxxxxx

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XXIV) In view of the aforesaid, it is evident that the respondents have transgressed the rules and laws related to the issue adjudicated upon. Therefore, the OAs fully succeed. Hence, there can be no better conclusion other than to direct the respondents to consider as under:

<sup>1</sup> (2000) 1 SCC 644

i) Re-fix the pension of applicants by allowing the eligible increment for rendering an year of service due on 1<sup>st</sup> July.

ii) Release pension and pensionary benefits with all consequential benefits thereof, based on (i) above.

iii) While releasing benefits as at (ii) above, in regard to the quantum of arrears to be released, the judgment of Hon'ble Apex Court in *Union of India & Ors Vs. Tarsem Singh* in Civil Appeal Nos. 5151-5152 of 2008 vide para 5, has to be borne in mind and followed.

iv) Time calendared to implement the judgment is 3 months from the date of receipt of this order.

XXV. With the above directions, the OAs are allowed to the extent stated above. "



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., *Amrit Lal 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.*

7. In the result, the respondents are directed to grant eligible relief to the applicant keeping in view the orders cited supra, with consequential benefits, within a period of 3 months from the date of receipt of this order. The OA is disposed of accordingly. There shall be no order as to costs.

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

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

al/evr