

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/021/00641/2020

HYDERABAD, this the 16th day of September, 2020



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

1. Noor Mohiuddin, S/o Mohd.Sardaruddin,
Aged about 66 years, Occ: Retired employee,
R/o. H.No.16-182/6, Quba Colony,
Shaheen Nagar, Bandlaguda,
Hyderabad
2. Mohammed Abdul Quadeer, S/o M.A.Hafeez, ,
Aged about 61 years, Occ: Retired employee,
R/o. H.No.12-2-257/3, Murad Nagar,
Medhipatanam, Hyderabad.
3. Shaik Khadervali, S/o S.Mohiuddin Saheb, ,
Aged about 62 years, Occ: Retired employee,
R/o. H.No.106, D Block, P&T Colony
Hyderabad
4. Md.Maqbool, S/o. Md.Iqbal,
Aged about 63 years, Occ: Retired employee,
R/o.H.No.1-8-747/11/27, Sanjaynagar,
Bagh Lingampally, Nallakunata,
Hyderabad.
5. K.Chandrakala, W/o.K.Narasing Rao,
Aged about 62 years, Occ: Retired employee,
R/o. 5-9-9/30/6-A, Nouhath Pahad,
Birla Mandir, Nampally, Hyderabad.
6. B.Churchil, S/o.B.Vandanam,
Aged about 66 years, Occ: Retired employee,
C/o. B.Nagiah,Pedapalem (PO),
Duggirala Mandal, Guntur Dist. A.P.
7. G.Sailoo S/o.G.Mallaiah,
Aged about 63 years, Occ: Retired employee,
H.No.10-95/6, Satyanarayana Colony,
Nagaram Village, Keesara Mandal,
Malkajgiri, Telangana.
8. D.S.R.Murthy, S/o.D.Rama Lingiah,
Aged about 63 years, Occ: Retired employee,

H.No.5-4-423, Road No.8, Kamala Nagar,
Vanasthalipuram, Ranaga Reddy Dist,
Telangana.

9. Ch.Appa Rao, S/o.Ch.Subba Rao,
Aged about 62 years, Occ: Retired employee,
R/o.H.No.5-24-1063/6/1/B, Flat No.776,
P.P.Nagar, Gajularamaram, Qutballapur,
Ranga Reddy Dist, Telangana



10. B.Jagapathi, S/o Venkat Reddy,
Aged about 67 years, Occ: Retired employee,
R/o. H.No.8-2-603/A/164/A, Singadi Basthi,
Road No.10, Banjara Hills,
Hyderabad.
11. Gona Dass S/o. Venkataiah,
Aged about 60 years, Occ: Retired employee,
R/o. H. No.7-98/84/83/N, Plot No.83, Phase No.1,
Road No.1, Hasthinapuram, Hyderabad.
12. L.Venkata Ratnam, S/o.L.Venkanna,
Aged about 65 years, Occ: Retired employee,
R/o. H.No.8-2-603/A/185/A, Singadi Basti,
Road No.12, Banjara Hills,
Hyderabad.
13. Pradeep Raj Saxena, S/o Dhuru Raj Saxena,
Aged about 65 years, Occ: Retired employee,
R/o.H.No.3-5-15, Ramkote,
Hyderabad.
14. B.Pandu, S/o.B.Venkaiah,
Aged about 63 years, Occ: Retired employee,
R/o.H.No.1-8-4/1/19A, Chikkadapally,
Hyderabad.
15. A.Anjaneyulu, S/o A.Venkateswarlu,
Aged about 63 years, Occ: Retired employee,
R/o.H.No.10-2-88/1 and 89/2, Flat No.808,
Amrut Akash, Lingojigudda,
Saroornagar, Hyderabad.
16. E.Shree Lakshmi, W/o S.Balachander,
Aged about 63 years, Occ: Retired employee,
R/o. Plot No.63, Road No.1-C, Krishnanagar colony,
NFC Road, Moula Ali, Hyderabad.
17. L.Chandra Kumar, S/o L.Ramalu,
Aged about 64 years, Occ: Retired employee,
R/o.H.No.15-5-427, Ashok Bazar,
Afzal Gunj, Hyderabad.
18. V.Chandra Sekhar, S/o. V.Anjaneyulu,
Aged about 64 years, Occ: Retired employee,

R/o. H.No.24-11-8/4, Weavers Colony,
Rajahmundry, East Godavari Dist,
Andhra Pradesh.

19. V.Satya Gopal, S/o.V.V.S.S.Ramachandramurthy,
Aged about 63 years, Occ: Retired employee,
R/o. H.No.Flat No.401, Sri Raghavendra Heights,
Nagarjuna Nagar, L.B.Nagar, Hyderabad.



20. S.Kameswara Rao, S/o Sarveswara Sastry,
Aged 64 years, Occ: Retired employee,
R/o Flat No.E/409, Vasathi Anandi Apts,
Peeranchruvu, Gandhipet Mandal,
Ranga Reddy Dist. Telangana

...Applicants

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

Vs.

1. Union of India represented by the Secretary,
Ministry of Home, Department of Census,
Central Secretariat, New Delhi.
2. The Registrar General of India,
Ministry of Home Affairs, 2-A, Mansingh Road,
New Delhi
3. The Director,
Directorate of Census Operations A.P & T.S,
Government of India, Kendriya Sadan, 1st Floor,
Sultan Bazar, Hyderabad.

....Respondents

(By Advocate: Mr.V.Vinod Kumar, Sr. CGSC)

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 due on 1st July of the year of retirement after having retired from service on the 30th June, with consequential benefits.



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	Noorm Mohiuddin	Asst. Director	30.06.2014	01.07.2014
2	Mohammed Abdul Quadeer	Sr. Draftsman	30.06.2019	01.07.2019
3	Shaik Khadervalli	Statistical Inv. Gr. I	30.06.2018	01.07.2018
4	Md. Maqbool	MTS	30.06.2017	01.07.2017
5	K. Chandrakala	MTS	30.06.2018	01.07.2018
6	B. Churchil	Data Entry Operator Gr. B	30.06.2014	01.07.2014
7	G. Sailoo	Senior Compiler	30.06.2017	01.07.2017
8	DSR Murthy	Senior Compiler	30.06.2017	01.07.2017
9	Ch. Appa	MTS	30.06.2018	01.07.2018
10.	B. Jagapathi	S.I. Gr. II	30.06.2013	01.07.2013
11	Gona Dass	Data Entry Operator Gr. B	30.06.2020	01.07.2020
12	L. Venkata Ratnam	Senior Supervisor	30.06.2015	01.07.2015
13	Pradeep Raj Saxena	Data Entry Operator Gr. B	30.06.2015	01.07.2015



14	B. Pandu	MTS	30.06.2017	01.07.2017
15	A.Anjaneyulu	Statistical Inv. Gr. II	30.06.2017	01.07.2017
16	E. Shree Lakshmi	Senior Supervisor	30.06.2017	01.07.2017
17	L. Chandra Kumar	Senior Supervisor	30.06.2016	01.07.2016
18	V.Chandra Sekhar	Senior Supervisor	30.06.2016	01.07.2016
19	V. Sathya Gopa	Senior Supervisor	30.06.2017	01.07.2017
20	S.Kameswara Rao	MTS	30.06.2016	01.07.2016

The applicants retired from the respondents organization on 30th June of different years. Their grievance is that they were supposed to be granted increment on 1st of July of the year of retirement, but they were not granted despite making representations to the authorities. Aggrieved, the OA has been filed.

4. The contentions of the applicant are that they are entitled for the relief sought in the OA, basing upon the judgment of the Hon'ble Madras High Court in WP No. 15732/2017, which attained finality, inasmuch as the SLP as well as the Review Petition filed before the Hon'ble Supreme Court against the said judgment of the Hon'ble Madras High Court have been dismissed.

5. Heard learned counsel for both sides and perused the material on record.

6. 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. Subsequently on 17.07.2020, in OA Nos. 325/2020 & Batch filed seeking similar relief, this Tribunal passed a detailed order. Some of the observations, and the conclusions made in OA No. 325/2020 & batch, are as under:



“XVII. Continuing their defence, respondents have stated that the Hon’ble High Court of Delhi in W.P (C) No. 9062/2018 & C.M No 34892/2018 has rejected similar relief in regard to increment and enhanced DA on 23.10.2018 even by referring to P. Ayyamperumal Judgment. However, 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. Ayyamperumal 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 Delhi court 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 6th CPC with the date of increment being taken as a uniform date of 1st 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.Rooplal vs Lt. Governor of Delhi*¹ that precedents are to be strictly adhered to.

XXXXX

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:

- i) Re-fix the pension of applicants by allowing the eligible increment for rendering an year of service due on 1st 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.*

¹ (2000) 1 SCC 644

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."

The above order of this Tribunal passed in OA No. 325/2020 &



batch, squarely applies to this case also. Accordingly, this OA is liable to be disposed on the same lines. Consequently, the respondents are directed as under:

- i) Re-fix the pension of applicants by allowing the eligible increment for rendering a year of service due on 1st July of the year of retirement.
- 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 thereof, 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.

With the above directions, the OA is disposed. No order as to costs.

(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

Al/evr

(ASHISH KALIA)
JUDICIAL MEMBER