CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

OA/021/00658/2020

HYDERABAD, this the 8th day of October, 2020

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

1. K. Sudhakar Naidu S/o K. Subbaiah Naidu,
(Group-B), Aged 60 years, Senior Section Engineer (Retired),
R/o Plot No.32, Balaji Nagar, Ghatkesar, Medchal District.

2. M. Narayana Swamy S/o M.Rama Swamy,
Aged 60 years, Senior Technician (Retired),
R/o H.No.16-27, Alwyn Colony, Patancheru,
Sangareddy District.

3. M. Rami Reddy S/o Narayana Reddy,
Aged 60 years, Senior Technician (Retired),
R/o H.No.2-40, Neermala Village,
Devaruppula Mandal, Janagaon District. ...Applicants

(By Advocate : Mr. M. Srikanth)

Vs.

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

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

3. The Senior Divisional Personal Officer,
South Central Railway,
Sanchar Bhavan, Secunderabad.

....Respondents

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

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 to the applicants due on 1st July of 2020 after having retired from service on the 30th June of 2020, with consequential benefits.

3. Brief facts of the case are that the applicants retired from the respondents organization on attaining the age of superannuation as detailed as under:

Sl. No	Name	Designation	Retired on	Increment date
1.	K. Sudhakar Naidu	Senior Section Engineer	30.06.2020	01.07.2020
2	M. Narayana Swamy	Senior Technician	30.06.2020	01.07.2020
3	M.Rami Reddy	Senior Technician	30.06.2020	01.07.2020

The grievance of the applicants is that they were supposed to be granted increment due on 01.07.2008, but they were not granted despite making representation to the authorities. Aggrieved, the OA has been filed.

4. The contentions of the applicants 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 and also the judgment of the Hon'ble Delhi High Court in WP (C) No.10509/2020. Applicants cited the order of this Tribunal in OA No. 431/2020, dt.

08.07.2020 and contend that they are also similarly placed as that of the applicant therein and therefore, they are entitled for similar relief.

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

6. This Tribunal earlier granted similar relief in some OAs. In OA No.1263/2018, this Tribunal passed an elaborate order discussing the issue on hand threadbare and following the same, OA Nos. 431/2020, 432/2020 & 540/2020 were disposed. Subsequently, on 17.07.2020, in OA Nos. 325/2020 & Batch, this Tribunal passed a detailed order on the same subject. 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. 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 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. 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."

As seen from the material papers, applicants made a representation to the respondents on 05.07.2020 (Annexure A-VIII) and the same has not been disposed of, according to the applicants.

7. Hence, it is deemed appropriate to direct the respondents to consider and dispose of the representation of the applicants dt.05.07.2020, in the light of the above orders of this Tribunal, by passing a speaking and reasoned order in accordance with law, within a period of 12 weeks from the date of receipt of this order.

With the above directions, the OA is disposed of, at the admission stage. No order as to costs.

(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

evr

[1] (2000) 1 SCC 644