

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/021/727/2020

HYDERABAD, this the 22nd day of October, 2020.

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



1. L.Dharma RAo, IC No.461,
S/o L.Nageshwara Rao, Age 62 yrs,
Occ : Retired Asst. Purchase Officer,
R/o H.No.4-1-216/270, Karthikaya nagar,
Nacharam, Hyderabad-500076.
- 2.J.Anjaiah EC No.1299, S/o Late J Gandaiah,
Age 69 yrs, Occ : Retd ST/J, R/o 18-3-463/1/85/,
Sivaji Nagar, Rajana Bowli, Hyderabad-500053.
- 3.D.Krishan Raj, E C No.0996,
S/o Late D Shankaraiah, Aged about 65 years,
Occ : Retired SO/E employee, R/o H.No.1-4-214/2,
Sangamitra enclave, Kapra, ECIL Post,
Hyderabad-500062.Applicants

(By Advocate : Mrs.Anitha Swain)

Vs.

- 1.The Union of India Rep by its Secretary/Chairman,
Department of Atomic Energy, Anushakti Bhavan,
CSM Marg, Mumbai 400001.
2. The Secretary, Department of Personnel & Training,
Government of India, New Delhi.
3. The Chief Administrative Officer, Dept of Atomic
energy, Directorate of purchase & stores, Vikram Sarabhai
Bhavan, Mumbai-400094.
- 4.The Chief Executive, Nuclear Fuel Complex,
Department of Atomic Energy, ECIL PO,
Hyderabad-500062.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 to the applicants on 1st July of different years of retirement having retired from service on the 30th June of the relevant year, with consequential benefits.

3. Brief facts of the case are that the applicants retired from the respondents organization on 30th June of different years. The grievance of the applicants is that they were supposed to be granted increment due on 1st of July of the year of retirement, but they were not granted despite making representations. 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. Applicants cited the order of this Tribunal in OA No. 1263/2018, dt. 13.03.2020 and OA Nos. 503/2020, dt. 4.9.2020 and contend that they are also similarly placed as that of the applicant therein and therefore, they are entitled for similar relief. They contend that the relief granted to certain individuals in law cannot be denied to those who are similarly situated as per the judgments of the Hon'ble Apex Court in Inder Pal Yadav v. Union of India and K.C. Sharma v. Union of India.

5. Heard both the counsel 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, several other OAs were disposed. Recently, 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. 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'ble 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.

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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:

- 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.

¹ (2000) 1 SCC 644

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. “

7. As seen from the material on record, representation of one of the applicants has been disposed vide letter dt. 2.07.2018 informing him that, in the absence of any orders from the Government of India subsequent to judgment of the Hon'ble Court, they are not in a position to grant any notional increment to him. Apparently, the representations of other applicants are still pending with the respondents. This Tribunal is of the view that the letter referred to is not a speaking order and proper disposal of the requests of the applicants, particularly in view of the Court orders referred to above.

In view of the above, the respondents are directed to consider and dispose of the requests of the applicants for eligible relief with consequential benefits, keeping in view the orders cited supra, by passing a speaking and reasoned orders, within a period of 3 months 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

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