

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/021/00868/2020

HYDERABAD, this the 6th day of November, 2020

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



1. Cyril Vivian D'Silva, S/o Mathics D'Silva,
Aged about 61 years, Occ: Sr.Technician (Retired),
O/o Chief Workshop Manager, Lallaguda,
R/o. H.No.16-141/3, Rajanagar Colony,
Mirjalaguda, Malkajgiri, Secunderabad.
2. K.Babu Rao, S/o Mallesha, ,
Aged about 68 years, Occ: Sr.Technician (Retired)
O/o Chief Workshop Manager, Lallaguda,
R/o. H.No.12-1-1119/35, Indira Nagar,
North Lallaguda, Secunderabad.
3. B.Malla Reddy, S/o B.Venkat Reddy, ,
Aged about 64 years, Occ: Sr.Clerk (Retired)
O/o.Chief Workshop Manager, Lallaguda
R/o. H.No.6-39/105, Plot No.84,
Pentareddy Nagar West, Venkatapuram, Hyderabad- 500015
4. P.Venugopala Krishnamurthy, S/o. P.Narasimha Murthy,
Aged about 61 years, Occ: Ch.OS (Retired),
O/o. Chief Workshop Manager, Lallaguda
R/o.H.No.29-168, Plot No.22,
New Vidyanagar Colony, Neredmet,
Secunderabad
5. G.Deva Reddy, S/o G.Sathyanarayana Reddy,
Aged about 61 years, Occ: Sr.Technician (Retired),
O/o Chief Workshop Manager, Lallaguda
R/o. Flat No.209, Sai Apartment,
Mirjalaguda, Malkajgiri, Hyderabad.
6. D.Vedakumari Wilson, W/o.D.Wilson,
Aged about 63 years, Occ: Ch.O.S (Retired),
O/o.Chief Workshop Manager, Lallaguda
R/o.H.No.18-1/35/2, Road No.1, Adarshnagar,
Peerzadiguda, Uppal, Hyderabad.
7. Y.Hemachandra Prasad S/o. Y.C.Subbarayaudu,
Aged about 63 years, Occ: OS (Retired),
O/o Chief Workshop Manager, Lallaguda
H.No.29-1391/1/2, Plot No.120,
Deendayal Nagar, Neredmet, R.K.Puram, Secunderabad.



8. Mirza Khader Baig, S/o.Mirza Yousuf Baig,
Aged about 61 years, Occ: Sr.Tech.(Retired)
O/o.Chief Workshop Manager, Lallaguda
H.No.1-5-168(174), Pension Lane,
New Bowenpally, Secunderabad.
9. Kandiraju Pradeep Kumar, S/o.K.Rajeshwar Rao,
Aged about 61 years, Occ: Sr.Section Engineer (Retd),
O/o.Chief Workshop Manager, Lallaguda
R/o.Flat No.303, Sai Meghana Brudavan Apts,
Block-2,Vani Nagar, Malkajgiri, Secunderabad.
- 10.R.Subramaniam, S/o M.Ranga Swamy,
Aged about 61 years, Occ: Sr.Section Engineer (Retd),
R/o. H.No.24-88/45/2B, Lalwani Nagar,
East Anandbagh, Malkajgiri, Secunderabad
- 11.Samboji Ravinder S/o.S.Komaraiah,
Aged about 61 years, Occ: Sr.Tech.(Retd)
O/o.Chief Workshop Manager, Lallaguda
R/o. H. No.12-11-607, Behind Kausar Masjid,
Warasiguda, Secunderabad
- 12.K.R.Venugopal, S/o.K.S.Ramakrishna,
Aged about 61 years, Occ: Sr.Tech.(Retd.)
O/o.Chief Workshop Manager, Lallaguda,
R/o.H.No.1-4-124, Near Mallanna Temple,
Bholakpur, Hyderabad.
- 13.P.Ashok Kumar, S/o Balraj,
Aged about 62 years, Occ: Sr. Tech.(Retd.)
O/o.Chief Workshop Manager, Lallaguda,
R/o.H.No.1-9-935, Adikmet, Vidya Nagar, Hyderabad.
- 14.B.Ramachander Rao S/o B.Shankar Rao,
Aged about 63 years, Occ: Sr.Tech.(Retd.)
O/o Chief Workshop Manager, Lallaguda,
R/o.H.No.1-6-340, Jamisthanpur, Musheerabad, Hyderabad.

...Applicants

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

Vs.

1. Union of India, Represented by the Secretary,
Railway Board, Ministry of Railways,
Rail Bhavan, New Delhi
2. The General Manager,
South Central Railways, Rail Nilayam, Secunderabad
3. The Chief Works Manager,
South Central Railways,
Lallaguda Work Shop, Secunderabad

....Respondents

(By Advocate : Mr.T.Hanumantha Reddy, SC for Railways)

ORAL ORDER
(As per Hon'ble Mr. Ashish Kalia, Judicial 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 of the relevant year with consequential benefits.

3. The applicants retired from service on 30th of June of respective years of retirement. The grievance of the applicants is that they were supposed to be granted increment due on 1st of July of the relevant year for having worked for one year prior to their retirement. They relied upon the order of the Hon'ble High Court of Madras in WP No.15732/2017 dt.15.09.2017, which has attained finality. They also cited orders of various courts in support of their claim. The applicants earlier filed OA No. 229/2020 which was disposed on 13.03.2020 with a direction to the respondents to examine and consider grant of relief sought keeping in view the legal principles laid down in the judgments cited and issue a speaking and reasoned order. Pursuant to the order of this Tribunal, the respondents issued the impugned order dt. 29.08.2020 rejecting the request of the applicants for grant of notional increment, on the ground that the applicants stood retired on 1st July of the year. Aggrieved, the applicants once again approached this Tribunal in this OA.

4. The contention of the applicants are that denial of notional increment to the applicants is unjust, arbitrary and discriminatory. They further contend that the FRs cited by the Hon'ble Madras High Court are applicable *mutatis mutandis* to Central Governmental employees and therefore, making a distinction on the basis of employee of State or Central Government employee is incorrect.



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

6. It is seen that this Tribunal passed very detailed order in OA 229/2020 referring to various legal principles and law laid down various juridical fora. On a perusal of the impugned orders dt. 29.08.2020, the respondents rejected the claim of the applicants on the basis of the Railway Board letter dt. 21.05.2020. Subsequently, this Tribunal passed orders in several OAs. In OA Nos. 325/2020 & Batch, a detailed order has been passed by this Tribunal, as under:

“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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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 1st 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.

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XXIII) Now coming to the aspect of DA on 1st July consequent to retirement of an employee, the matter is under adjudication by the Hon'ble Apex Court in SLP No.5646 of 2018 and 5647 of 2018 and therefore, applicants can pursue for appropriate remedies from the respondents based on the decision of the Hon'ble Supreme Court on the issue.

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."

¹ (2000) 1 SCC 644

Further, 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....”

Learned counsel for the applicants submits that the SLP (Civil)... Diary No. 13959/2020 filed against the judgment and order of the Hon'ble High Court of Delhi in W.P (C) 10509/2019 dt. 23.01.2020, has been dismissed on 13.10.2020 and the order of the Hon'ble High Court of Delhi granting similar relief, as sought in this OA, has become final. The order of the Hon'ble Supreme Court in the said SLP reads thus:

“Heard learned counsel for the petitioners and carefully perused the record.

Delay condoned.

We see no reason to interfere with the impugned order passed by the High Court.

The Special Leave petition is, accordingly, dismissed.”

Applicants also stated in the OA that in the affidavit filed in support of the SLP filed before the Hon'ble Supreme Court against the judgment dt. 20.09.2012 in WA No. 1940/2012 passed by the Hon'ble High Court of Madras, the State of Tamil Nadu raised a specific question of law referring to the judgment of the Hon'ble High Court of Andhra Pradesh in the case of Principal Accountant General & Anr v. C. Subba Rao. Thus, the learned counsel for the applicants argued that the judgment of the Hon'ble High Court of AP was also brought to the notice of the Hon'ble Supreme Court by the State of Tamil Nadu while filing the above SLP. However, the

Hon'ble Supreme Court dismissed the Petition (s) for Special Leave to Appeal (Civil)/2013 (CC 11662/2013) on 08.07.2013. The learned counsel for the applicants prayed that, in view of the above legal position, the applicants are entitled for the relief sought.



7. Considering the Judgments of the Hon'ble High Courts of Madras and Delhi referred to above having become final, we are of the view that the OA is liable to be allowed and the applicants are entitled for the relief sought.

However, before the signing the judgment, we were informed that the Hon'ble High Court of Telangana in WP No. 20907/2020 & batch, vide order dt. 03.12.2020, granted an interim suspension of the order of this Tribunal in OA 538/2020 and similar cases. Therefore, respondents are directed to provide relief based on the decision of the Hon'ble High Court as and when the WPs are decided. The OA is accordingly allowed, subject to the outcome of the WP No.20907/2020 & batch. No order as to costs.

(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

vl/evr