

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/20/1062/2019

HYDERABAD, this the 18th day of September, 2020



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

1. Akula Rajendra Prasad
S/o Appa Rao, Aged about 71 years,
Occ : Retired Foreman of Stores,
PPO No. C/MISC/26407/2007,
Ship Building Centre, Visakhapatnam,
R/o D.No.45-47-36/2, Madeti Gardens,
Akkayyapalem,
Visakhapatnam-530 016.
2. Kota Venkata Jagadeeswara Rao,
S/o Venkata Rao, Aged about 70 years,
Occ : Retired Assistant,
PPO No.C/MISC/16530/2009,
Ship Building Centre, Visakhapatnam,
R/o D.No.38-30-22, Eswar Residency,
Marripalem, Visakhapatnam-530 018.
3. Rampilla Ramalingeswara Rao
S/o Surya Rao,
Aged about 72 years,
Occ : Retired Techncial Assistant,
PPO No.C/MISC/16448/2007,
Ship Building Centre, Visakhapatnam,
R/o D.No.4-155/3, Ajantha Park,
RRV Puram, Visakhapatnam-530 029.
4. Talada Ananda Rao S/o Ramulu,
Aged about 60 years,
Occ : Retired Construction Supervisor,
PPO No.409201900533,
Ship Building Centre, Visakhapatnam,
R/o D.No.63-3-45, AS Towers,
Jawaharnagar, Sriharipuram,
Visakhapatnam-530 011.
5. Pechetti Satyanarayana
S/o Dhanaraju, Aged about 70 years,
Occ : Retired Construction Supervisor,

PPO No.C/MISC/16662/2009,
 Ship Building Centre, Visakhapatnam,
 R/o D.No.58-14-143, Nethaji Colony,
 Near PF Office, NAD Jn.,
 Visakhapatnam-530 009.

...Applicants

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



Vs.

1. Union of India represented by
 The Secretary, Ministry of Defence,
 Government of India, South Block,
 New Delhi-110011.
2. The Director General, Head Quarters,
 Advanced Technology Vessels Programme,
 Akanksha Development Enclave,
 Rao Tula Ram Marg,
 New Delhi-110010.
3. The Project Director,
 Ship Building Centre, Vanuna Block,
 Naval Base Post, Visakhapatnam-530 014.
4. The Secretary, Government of India,
 Ministry of Personnel, Public Grievances & Pensions,
 Department of Personnel & Training,
 North Block, New Delhi-110 001.
5. The Ministry of Finance Rep. by
 The Secretary, Government of India,
 Department of Expenditure, North Block,
 New Delhi – 110 001.

....Respondents

(By Advocate : Mrs.Megha Rani Agarwal, Addl. 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 on 1st July of the year of retirement for the purpose of pension and other terminal benefits for having rendered one year service, with consequential benefits.

3. The applicants retired from the 3rd respondent organization on attaining the age of superannuation on 30th June of the different years. Their grievance is that they have not been granted increment due on the 1st July of the respective year of retirement though they rendered one full year service. Representations made to the authorities have been rejected. 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, inasmuch as the SLP (C) Diary No.22283/2018 as well as the Review Petition vide RP (C) No.1731/2019 filed before the Hon'ble Supreme Court challenging the said judgment of the Hon'ble Madras High Court have been dismissed.

5. Despite granting sufficient time from December 2019 onwards, the respondents did not file reply.

6. Heard both the counsel and perused the material on record.

7. This Tribunal 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. Recently, this Tribunal passed a detailed order in OA Nos. 325/2020 & Batch on 17.07.2020. Some of the observations, and the conclusions made in OA No. 325/2020 & batch, are referred to hereunder:



"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.

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

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 allowed on the same lines. Consequently, the respondents are directed as under:



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

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

(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER