

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION No.124/2020

Date of Decision: 3rd March, 2020

CORAM: RAVINDER KAUR, MEMBER (J)

Shri Popat Parwati Pawar, age 63 yrs
S/o Parwati Kesu Pawar, Retired LSG
NB Supervisor Pune Railway Mail Service,
Pune – 411 001, Resi: at Post Bhosari,
Survey No.209, Sambhaji Nagar,
Alandi Road, Pune – 411 039
Eid popatparwati@gmail.com
Mobile No.9422526170

... ***Applicant***

(By Advocate Shri R.B. Kadam)

Versus

1. The Union of India, Thro Secretary,
Department of Posts, Ministry of
Communications & IT, Sansad Marg,
New Delhi – 110 001.
2. The Chief Postmaster General,
Maharashtra Circle, GPO Building,
Mumbai – 400 001.
3. The Postmaster General,
Pune Region – 411 001..
4. The Supdt. of Railway Mail Service
“B” Division, Pune – 411 001.
5. The Head Record Officer, (Accts)
Railway Mail Service, “B” Division,
Pune – 411 001.

... ***Respondents***

ORDER (ORAL)

Per : Ravinder Kaur, Member (J)

When the case was called out, heard
arguments addressed by Shri R.B. Kadam,
learned counsel for the applicant at the

admission stage. I have carefully gone through the case record.

2. The Present OA has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

"8(a) This Hon'ble Tribunal may be pleased to call for the records of the case of the applicant from the respondents and after perusal consider grant of reliefs as prayed for hereunder on the basis of settled principle of laws and rules.

(b) To declare that the applicant is entitled for one notional increment on 01.07.2016 for his service from 01.07.2015 to 30.06.2016 for the purpose of retirement benefits.

(c) To direct the respondents to grant one notional increment to the applicant w.e.f. 01.07.2016 and to revise his retirement benefits like pension and gratuity including arrears of leave encashment within a time frame.

(d) To grant such other relief or reliefs that may be prayed for or that are found to be just and proper in the nature and circumstances of the case.

(e) To grant cost of this OA."

3. The applicant was working on the post of LSG NB Supervisor with respondent No.4 at the time of his superannuation on 30.06.2016 with basic pay of Rs.22310/- including 3% increment due on 01.07.2015 in the pay band of Rs.9300-34800 + G.P. Of Rs.4600/-. He completed 12 months service from 01.07.2015 till 30.06.2016 when he superannuated. He was not allowed notional increment on 30.06.2016. He made representation dated

19.08.2017 with respondent No.1 for grant of notional increment w.e.f. 01.07.2015. However, his claim was rejected. He filed OA No.677/2018 before this Tribunal dated 20.07.2018 which was disposed of vide order dated 22.11.2018 with direction to the applicant to file representation enclosing the orders of the various Hon'ble High Courts and the Hon'ble Supreme Court on which he is relying upon. The respondent No.1 was directed to consider the representation and pass a reasoned and speaking order within a period of six months from the date of representation. In view of these directions, the applicant filed representation dated 17.01.2019 wherein he made specific reference to the relevant judgments in para 6 which reads as under:-

“(1) Hon'ble Madras High Court Judgment in W.P. No.15732 of 2017.

(2) Hon'ble Supreme Court of India Judgment in SLP (Civil) diary nos.(s) 22283/2018 Dated 23.07.2018, and

(3) Hon'ble CAT Mumbai Bench judgment in OA No.677/2018 Dated 22.11.2018.

On the basis of the above referred judgments, he claimed increment on notional basis to be added in his last pay drawn on 30.06.2016, the date of his retirement, for

the purpose of pension and pensionary benefits even though the date of increment falls on 01.07.2016. The respondent No.1 vide impugned order dated 15.03.2019 disposed of the aforesaid representation rejecting the claim of applicant without making any reference to the judgments noted above.

4. On perusal of the judgment of Hon'ble Madras High Court in Writ Petition No.15732/2017, it is observed that the Petitioner- Shri P. Ayyamperumal sought issuance of a Writ of Certiorarified Mandamus calling for the records of respondent No.1 in OA No.310/00917/2015 dated 21.03.2017 and to quash the same and consequently direct respondent No.4 to treat the date of retirement of the Petitioner as 01.07.2013 and grant all the consequential benefits including the pensionary benefits. The Petitioner therein had retired as Additional Director General, Chennai on 30.06.2013 on attaining the age of superannuation. After the 6th Pay Commission, the Central Government fixed 1st July as the date of increment for all the employees by

amending Rule 10 of the Central Civil Services (Revised Pay) Rules, 2008. The applicant, therein was denied the last increment though he had completed a full one year in service i.e. from 01.07.2012 to 30.06.2013 and consequently, he sought mandamus to the respondents to consider the date of his retirement as 01.07.2013 so as to be entitled to the benefit of the increment which was due w.e.f. 01.07.2013. It is noticed that CAT, Madras Bench had rejected the OA on the ground that the Petitioner could be entitled to the increment on 1st July if he continued in service on that day. However, the Hon'ble Madras High Court observed that since the Petitioner had completed one full year service as on 30.06.2013, therefore despite the fact that the date of increment falls on the next day of his retirement i.e. 01.07.2013, he was allowed to be given one notional increment for the period from 01.07.2012 to 30.06.2013 for the purpose of pensionary benefits only. This judgment of the Hon'ble Madras High Court has been upheld by the Hon'ble Apex Court vide order

dated 23.07.2017 in SLP (Diary) No.22283/2018. Thereafter, the Review Petition (C) No.1731/2019 preferred by the Govt. of India before the Hon'ble Apex Court was also dismissed on merits vide order dated 08.08.2019.

5. It is observed that the respondents have not considered the aforesaid judgments while disposing of the representation of the applicant. Therefore, we set aside the impugned order dated 15.03.2019 and direct the respondents to reconsider the representation dated 17.01.2019 of the applicant in the light of the judgment of Hon'ble Madras High Court, upheld by Hon'ble Apex Court (supra) and any other judgment relied upon by the applicant in his representation and to pass a reasoned and speaking order thereon afresh within a period of twelve weeks from the date of receipt of certified copy of this order and communicate the order to be passed by the respondents to the applicant within two weeks thereafter.

6. With these directions, the Original Application stands disposed of. No order as to costs.

(Ravinder Kaur)
Member (J)

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