

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAMMU BENCH, JAMMU**

Hearing through video conferencing

O.A. No. 61/1266/2020

**Order reserved on 21.01.2021
Order pronounced on 05.02.2021**



**HON'BLE MR. RAKESH SAGAR JAIN, MEMBER (J)
HON'BLE MR. ANAND MATHUR, MEMBER (A)**

Sunil Sharma, S/o CK Sharma, R/o H. No. 69 Adarsh Enclave, Sec-1,
Extn Trikuta Nagar, Jammu.

.....Applicant
(Advocate: Mr. Vikram Arora)

Versus

1. Union of India through its Secretary, Department of Telecommunication, Ministry of Communication, New Delhi, India-110001.
2. Bharat Sanchar Nigam Ltd. Corporation Office 4th Floor, Bharat Sanchar Bhawan, Janapati, New Delhi-110001.
3. Bharat Sanchar Nigam Ltd Through its Chief General Manager, J&K Circle North Block Rail Head Complex, Jammu-180012.
4. Controller of Communication Accounts, J&K Circle Department of Telecommunication HUDCO Bhawan, Rail head Complex Jammu-180012.

.....Respondents

(Advocate: Mr. Amit Gupta, 1d. Additional Advocate General)

(ORDER)
(DELIVERED BY HON'BLE MR. ANAND MATHUR, MEMBER-A)



In the instant case, the applicant Sunil Sharma has filed this Original Application stating as under:

- (a) The applicant was appointed in the year 1980 as Junior Engineer in Bharat Sanchar Nigam Ltd (BSNL). In the year 2014, the applicant was promoted to the post of DGM (Ad-hoc) in the pay scale of Rs. (32900-58000), with next date of increment fixed as 1st of April, consequently to this the applicant had drawn his annual increment since 2014 till his retirement (i.e., 31.03.2018) on 1st April every year.
- (b) Learned counsel for the applicant submits that after retirement from the respondent department, the pension of the applicant was fixed, while at the time of retirement the applicant was placed in the Pay Band of Rs. 32900-58000 and was drawing Rs. 56,150 as Basic Pay along with other allowances accordingly, the pension of the applicant was fixed but without giving benefit of one annual notional increment which was due on 1st of April, 2018. It is been further submitted that the applicant stood retired on 31.03.2018 and the pension of the



applicant should have been fixed by giving the benefit of last increment which was due on 01.04.2018 i.e., for the period (01.04.2017 to 31.03.2018), despite this the annual notional increment @ 3% of the Basic Pay has not been paid to the applicant till date.

- (c) It has been further submitted that the applicant rendered unblemished service for one year i.e., (01.04.2017 to 31.03.2018) before date of his retirement, hence the applicant is entitled for benefit of increment for service rendered by him during year preceding his retirement.
- (d) In case the last annual increment is not granted in favour of the applicant, the applicant shall suffer huge monetary loss as his pension has been fixed on the basis of their last drawn pay and due and payable annual increment.
- (e) Learned counsel for the applicant has relied on the judgement passed by Hon'ble Supreme Court in the case of titled **Union of India and Ors Vs P. Ayyamperumal dated 23.07.2018** and order dated 16th November 2020 passed by Central Administrative Tribunal, Jammu Bench in the case of **Vijay Kumar Vs UT of J&K and Ors.**



(ii) Learned counsel for the applicant further prays for the following reliefs:-

- “(a) Directing the respondents to settle and refix the pension of the applicant by giving benefit of one annual notional increment @ 3% on Basic Pay which has been due since 1st of April, 2018 in favour of the applicant for the purpose of pensionary benefits.
- (b) Directing the respondents to release the consequential benefits that arises due to the fixation of the annual notional increment @ 3% on the Basic Pay of the applicant.
- (c) With further direction to the respondents to pay the arrears of pension after refixing the same in terms of annual notional increment which has been due 1st of April, 2018 along with interest 18% p.a. till the same is actually release and paid to the applicant”.

(iii) Learned counsel for the respondents strongly contested the claim of the applicant stating that the benefit of increment can be given only to serving employees and not to retired employees. Inasmuch as the applicant had retired one day before 01st April 2018 (the date of their annual increment), he cannot be given the benefit of this increment.



(iv) We have heard both the learned counsels and perused the facts on record. The issue of grant of annual increment on 1st of July has arisen ever since the 6th Central Pay Commission has made 1st of July as the uniform date of increment for all Central Govt. employees. Before this, annual increment was given on completion of one year's service initially with reference to the date of appointment. If a person was appointed in the month of March, his date of increment would be 1st March every year. With the implementation of common date of increment as 1st of July, such of the employees who retire on 30th of June have been deprived of one increment as they would have earned their last increment on 1st of July of previous year and would have completed the one year period on 30th of June of the current year. However, the stand of the administration has been that the increment falls due on 1st of July whereas the employee has retired on 30th of June. Hence, he cannot be given the benefit of this increment. This matter has been agitated in various fora.

(v) In one such case, Central Administrative Tribunal, Chennai had upheld the stand of the administration and denied the benefit of notional increment to the applicants. The applicants had then approached the Hon'ble

Madras High Court in Writ Petition No. 15732 of 2019 (P Ayyamperumal

Vs. The Registrar, Central Administrative Tribunal and others). Hon'ble

Madras High Court vide its judgment dated 15.09.2017 had granted the benefit of a notional increment to the applicants. The administration had then filed an SLP in the Hon'ble Supreme Court but the same was rejected on 23.07.2018.

(vi) It may also be pointed out that in a similar case filed in the Hon'ble High Court, Allahabad in the case of Ajay Kumar Trivedi and 13 others Vs. State of U.P and 3 others Writ- A No. 17608 of 2019 decided on 15.11.2019, the Hon'ble High Court has held as under:-

“In the facts and circumstances, noticed above, this writ petition stands disposed of with a direction upon the respondent No.2 to accord consideration to petitioners' claim for grant of notional increment w.e.f. 1.7.2017 to 30.6.2018 in respect of petitioner Nos. 7 and 8 and w.e.f. 1.7.2018 to 30.6.2019 in respect of other petitioners, keeping in view the law laid down in the matter, by passing a reasoned order, within a period of four months from the date of presentation of certified copy of this order”.

(vii) Although in the instant case the date of increment falls on 1st of April and not 01st of July, the logic remains the same. In view of the above, it is





felt that there is no denying the fact that the applicant has completed one year service from 1st April 2017 to 31st March 2018 (the date of his superannuation) and denying him the benefit of an increment solely because he has retired on 31.03.2018, would mean depriving him of the benefit of increment which he has earned by working for full one year.

(viii) Accordingly, this O.A. is disposed of with direction to the respondents/competent authority to consider the claim of the applicant for grant of a notional increment w.e.f. 01.04.2017 to 31.03.2018 keeping in view the law laid down in the matter as quoted above, by passing a reasoned and speaking order within a period of two months from the date of receipt of a certified copy of this order. A copy of the speaking order be given to the applicant. No order as to costs.

(ANAND MATHUR)
MEMBER (A)
Arun/-

(RAKESH SAGAR JAIN)
MEMBER (J)