

**Central Administrative Tribunal  
Principal Bench, New Delhi**

O.A.No.3045/2004

Monday, this the 7<sup>th</sup> day of November 2005

**Hon'ble Shri Mukesh Kumar Gupta, Member (J)**

J.R. Nebhoria  
R/o Flat No. 9-B/GH-10  
Sunder Apartments, Paschim Vihar  
New Delhi

..Applicant

(By Advocate: Shri Yogesh Sharma)

Versus

1. Union of India through the Secretary  
Ministry of Finance, Govt. of India  
New Delhi
2. The Director  
Ministry of Finance, Deptt. of Revenue  
Govt. of India, New Delhi
3. The Chief Account Officer  
Customs & Central Excise Head Quarters  
Tiruchirappalli-620001

..Respondents

(By Advocate: Shri R.N. Singh for Shri R.V. Sinha)

**ORDER (ORAL)**

By the present OA, the applicant, who retired on attaining the age of superannuation on 31.12.2002, seeks quashing of orders dated 1.11.2004 and 12.1.2004 and consequently a declaration that the applicant is entitled to his increment, which was due on 1.1.2003 with all consequential benefits.

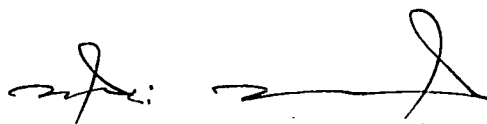
2. The facts sans unnecessary details are as under.
3. Applicant initially appointed on 11.12.1972, earned various promotions in service career and retired as Commissioner in the grade of Rs.18400-22400/- on 31.12.2002. An annual increment fell due on 1<sup>st</sup> of January of every year. It is contended that for the service rendered from 1.1.2002 to 31.12.2002, applicant became entitled to annual increment on 1.1.2003, which has not been granted and considered while granting terminal benefits on the ground that he retired on 31.12.2002. It is contended that on an earlier occasion, he had filed OA-1019/2004 seeking the relief of grant of one due increment, which was disposed of vide order dated 24.4.2004 with direction to the respondents to pass a reasoned and speaking order in terms of the judgment in the case of **K.V. Lakshminarayana v. Zoological Survey of India & others**, 2002 (3) ATJ 593. Instead of considering applicant's request objectively and sympathetically, the respondents rejected the said request vide order dated 1.11.2004 by a laconic and bald order.

4. The respondents contested applicant's claim and contended that the word 'emoluments' as per Rule 33 of CCS (Pension) Rules, 1972 means basic pay, which a Government servant was receiving immediately before his retirement. Since the increment was due to the applicant only on 1.1.2003, when he was not in a Government service as he retired on 31.12.2002, the applicant was not entitled to any increment, which became due after his retirement.

5. I have heard learned counsel for the parties at length. It is not disputed by Shri Yogesh Sharma, learned counsel appearing for the applicant that a Full Bench of Andhra Pradesh High Court in Writ Petition Nos. 22042, 24191, 24308, 24324 and 24325 of 2003 decided on 27.1.2005, **The Principal Accountant General & others v. C. Subba Rao & others** had specifically held that "annual increment payable to a Government servant will accrue from the day following that day on which it is earned. The Government servant would get a right for annual increment only after conclusion of the year and therefore on the day when the increment falls due it would not become payable, but it would become payable only from the next day". The said Full Bench has overruled the judgment of a Division Bench of Andhra Pradesh High Court as reported in 2003 (1) ATJ 320, **Union of India & others v. R. Malakondaiah and another** on which reliance has been placed by the applicant.

6. I have carefully bestowed my thoughtful consideration to the contentions raised and I am of the opinion that the applicant's claim is not justified and the decision of the Full Bench of the Andhra Pradesh High Court, in my respectful view, is binding upon this Tribunal. Since the applicant had not been in service on 1.1.2003, on which day such an increment would become payable, he is not entitled for any increment for the service rendered from 1.1.2002 to 31.12.2002. The aforesaid judgment of the Full Bench has been followed by this very Bench of Tribunal in OA-142/2004 decided on 14.9.2005. It is also not disputed by Shri Yogesh Sharma, learned counsel that the aforesaid Full Bench judgment of the Andhra Pradesh High Court has been followed by a Division Bench of Delhi High Court recently.

7. In view of the above, I find no justification in the present OA and finding no merits, the OA is dismissed without any order as to costs.

  
( Mukesh Kumar Gupta )  
Member (J)