

**CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH**

**OA/020/282/2015**

HYDERABAD, this the 24<sup>th</sup> day of March, 2021

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



1. ISRI Retired Employees Forum (IREF),  
(Regd. No.1251/2012) rep. by its  
Secretary, B. Subramanyam Reddy,  
S/o. Late Budha Reddy, aged about 66 years,  
Retd., Engineer-G, Flat No.107, Block-B, Ark Towers,  
Mayurinagar, Miyapur, Hyderabad – 500 049.
2. P. Vijaya Mohan Reddy,  
S/o. Late Pulla Reddy, aged about 68 years,  
Retd. Scientist/Engineer – SG, Flat12, Block 18,  
Kendriyavihar, Miyapur, Hyderabad – 500 049.
3. A.V. Sarma, S/o, Late Sundara Rama Sarma,  
Aged about 65 years, Flat 16, Block18,  
Kendriya Vihar, Miyapur, Hyderabad – 500 049.

...Applicants

(By Advocate: Dr. P.B. Vijaya Kumar)

Vs.

1. Indian Space Research Organization rep. by its  
Chairman, ISRO and Secretary,  
Department of Space, ISRO HQs,  
Anthariksha Bhavan, Airport Road, Bangalore-95.
2. The Union of India rep. by  
The Cabinet Secretary,  
Central Secretariat, New Delhi.
3. The Secretary, Department of Personnel & Training,  
Ministry of Personnel,  
Public Grievances & Pension, New Delhi.

... Respondents

(By Advocate: Sri V. Vinod Kumar, for R1 &R2  
Smt K. Rajitha, Sr. CGSC for R3)

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**ORDER**  
**(As per Hon'ble Mr. B.V. Sudhakar, Admn. Member)**

2. The OA is filed challenging the decision of the respondents dated 22.1.2014/22.5.2014 to consider the two additional increments sanctioned as pay for restricted purpose and not for all purposes.



3. Brief facts of the case are that the Presidential sanction was issued on 3.2.1999 for grant of 2 additional increments as incentive to the Scientists and Engineers in certain scales in order to arrest the attrition rate and retain the scientific/ technical manpower. However, Dept. of Space (DOS) vide its order dated 12.8.1999 stated that the 2 additional increments granted will not be treated as pay for the purpose of DA, HRA, CCA, Pension, etc. The decision was challenged in Hon'ble Ernakulam Bench of this Tribunal in OA 843/2001 and when it was dismissed, the matter was carried to the Hon'ble Kerala High Court which granted the relief sought on 18.1.2007 in WP No.29358/2004 & batch. Later, RP No.423/2007 filed was dismissed on 16.7.2007 and later, when the matter was taken up with the Hon'ble Supreme Court in SLP (Civil) Nos.555-560/2008, the result was no different, as the SLP was dismissed on 4.4.2011. Respondents have implemented the orders of the Hon'ble Court on 21.11.2011. When the applicants represented for extending similar benefits being similarly situated, it was rejected by stating that there is no direction from the court to extend the benefit to similarly placed Scientists/Engineers. Even when the Hon'ble Uttarakhand High Court passed favourable orders in a similar issue based on the Kerala High Court orders cited supra, respondents again carried the matter to the Hon'ble Apex Court and the SLP filed was

dismissed on 28.10.2013. Thereby the respondents extended the benefit sought vide their letter dated 27.04.2012. The OA 1158 of 2012 was filed in this Tribunal for similar benefits which was allowed on 23.4.2013 and the said order was stayed by the Hon'ble High court on 20.2.2014 in WP No. 4929/2014, but the said WP was dismissed on 31.7.2014 as infructuous, in view of the Office Memorandum dt. 20.01.2014 issued by the respondents in compliance of the orders of the Hon'ble High Courts of Kerala and Uttarakhand dt. 18.01.2007 and 03.08.2012 respectively. Thereafter, respondents issued a fresh memo on 22.5.2014 on similar lines as that of 12.8.1999 denying the benefit sought. Aggrieved over the clarification and non grant of the relief sought, the OA is filed.

4. The contentions of the applicants are that they are eligible for the relief as per the orders of the superior judicial fora. Some of the employees have been paid the benefits sought by the respondents. The clarificatory memo dated 22.5.2014 is contemptuous since it goes against the order of the Hon'ble High Court of Kerala.

5. Respondents while confirming the facts of the case as narrated supra, have stated that the incentive granted in the form of 2 additional increments does not come under the definition of 'basic pay' as per Fundamental Rules. Further, nowhere in the OM under reference, it was mentioned that the incentive granted would be treated as basic pay and granting of pay and pension is a policy matter. Basic pay means the pay drawn in the prescribed pay band plus the grade pay, but does not include any other type of pay like special pay etc. The additional increments fall in the category of FR 9 (21) (a) (iii) and they do not form a part of the basic pay. In a similar matter, as



per orders of this Tribunal in OA 1158/2012, the relief sought was granted vide OM dated 20.01.2014.

Applicants filed a rejoinder which we have gone through carefully and noted the contents.



6. Heard learned counsel for the respondents and perused the pleadings on record.
7. I. The dispute is in regard to treating the 2 additional increments granted by the respondents vide Presidential order dated 3.2.1999 as a part of pay for all purposes, which has been denied by the respondents by issuing the Memo dated 12.8.1999. The matter has been adjudicated on 18.1.2007 by the Hon'ble High Court of Kerala in WP Nos.29358, 29710 & 31525 of 2004 and held as under:

*"Consequently, the orders of the Tribunal impugned in this batch of writ petitions are quashed making it clear that the additional increments sanctioned in terms of paragraph 2 of Ext. P1 shall be counted as pay to attract all further payments including pension depending on pay of an incumbent and that the professional update allowance payable in terms of paragraph 3 of Ext. P1 shall be payable from 1998-1999, falling due on 01.04.1999 onwards."*

The decision of the Hon'ble High Court of Kerala was challenged in the Hon'ble Apex court by filing SLP (Civil) 555-560/2008 which were dismissed on 04.04.2011. The order of the Hon'ble High Court was implemented by the respondents on 21.11.2011.

II. Even when a similar matter fell for consideration before the Hon'ble Uttarakhand High Court in WP No.207 of 2012, similar relief was granted following the orders of Honble High Court of Kerala and when the

same was challenged in Hon'ble Apex Court by filing SLP, the SLP was dismissed on 28.10.2013 by observing as under:



*“Heard Mr. Mohan Prasaran, learned Additional Solicitor General. In view of the fact that the order passed by the Kerala High Court relied upon by the Uttarakhand High Court has been left undisturbed by this Court in SLP (C) Nos. 555-560 of 2008, we cannot find any fault with the impugned order. Moreover, there is a delay of 305 days in filing this petition. The special leave petition is dismissed on the ground of delay as also on merit.”*

Respondents thereupon granted the relief vide memo dated 27.4.2012.

III. A similar relief was sought by filing OA 1158/2012 in this Tribunal, wherein it was directed on 23.4.2013 as under:

*“5. OA is accordingly allowed. The members of the 1<sup>st</sup> applicant as per the Annexure XIII and the Applicants 2 & 3 are entitled for all the benefits in terms of the judgment of the Kerala High Court in WP (C) No. 29358, 29710 & 31525 of 2004. The order shall be complied with within three months from the date of receipt of copy of this order”.*

The matter was challenged by filing WP No.4929 of 2014 wherein stay was granted initially and when vacate stay petition was filed, the said WP was dismissed on 31.7.2014 as infructuous keeping in view the OM dt. 20.01.2014 issued by the respondents for implementation of the orders of the Hon'ble High Courts of Kerala and Uttarakhand. Respondents implemented the order of the Tribunal vide their Office Memorandum dated 20.1.2014.

IV. Thus, as can be seen from the above, the matter has been fully covered by the judgments of the superior judicial fora. Therefore, the contentions raised by the respondents would not hold ground. The

applicants are similarly situated and hence, need to be granted similar relief as observed by the Hon'ble Supreme Court as under:

***Amrit Lal Berry vs Collector Of Central Excise, (1975) 4 SCC 714:***



*“We may, however, observe that when a citizen aggrieved by the action of a Government Department has approached the Court and obtained a declaration of law in his favour, others, in like circumstances, should be able to rely on the sense of responsibility of the Department concerned and to expect that they will be given the benefit of this declaration without the need to take their grievances to Court.”*

***Inder Pal Yadav Vs. Union of India, 1985 (2) SCC 648:***

*“...those who could not come to the court need not be at a comparative disadvantage to those who rushed in here. If they are otherwise similarly situated, they are entitled to similar treatment if not by anyone else at the hands of this Court.”*

*In a latter case of **Uttaranchal Forest Rangers' Assn (Direct Recruit) Vs. State of UP (2006) 10 SCC 346**, the Apex Court has referred to the decision in the case of **State of Karnataka Vs. C. Lalitha, 2006 (2) SCC 747**, as under:*

*“29. Service jurisprudence evolved by this Court from time to time postulates that all persons similarly situated should be treated similarly. Only because one person has approached the court that would not mean that persons similarly situated should be treated differently.”*

***V CPC report, para 126.5 – Extending judicial decision in matters of a general nature to all similarly placed employees:***

*We have observed that frequently, in cases of service litigation involving many similarly placed employees, the benefit of judgment is only extended to those employees who had agitated the matter before the Tribunal/Court. This generates a lot of needless litigation. It also runs contrary to the judgment given by the Full Bench of Central Administrative Tribunal, Bangalore in the case of C.S. Elias Ahmed & Ors Vs. UOI & Ors, (OA 451 and 541 of 1991), wherein it was held that the entire class of employees who are similarly situated are required to be given the benefit of the decision whether or not they were parties to the original writ. Incidentally, this principle has been upheld by the Supreme Court in this case as well as in numerous other judgments like G.C. Ghosh V. UOI [(1992) 19 ATC 94 (SC)], dt. 20.07.1998; K.I. Shepherd V. UOI [(JT 1987 (3) SC 600)]; Abid Hussain V. UOI [(JT 1987 (1) SC 147], etc. Accordingly, we recommend that decisions taken in one specific case either by the judiciary or the Government should be applied to all other identical cases without forcing other employees to approach the court of law for an identical remedy or relief. We clarify that this decision will apply only in cases where a principle or common issue of general nature applicable to a group or category of Government employees is concerned and not to matters relating to a specific grievance or anomaly of an individual employee.”*

V. Hence, we direct the respondents to extend the benefits as has been ordered by the Hon'ble Kerala High Court in WP No. 29358, 29710 & 31525 of 2004 and upheld by the Supreme Court in SLP (Civil) No.555-560 of 2008 to the applicants from the date they are eligible. However, any arrears of pay/ pension consequent to treating the additional increments as part of the basic pay shall be restricted to 3 years prior to the date of filing of the OA, as observed by the Hon'ble Supreme Court in Union of India v. Tarsem Singh. Time granted to implement the judgment is 3 months. With the above direction the OA is disposed of with no order as to costs.



**(B.V. SUDHAKAR)**  
**ADMINISTRATIVE MEMBER**

**(ASHISH KALIA)**  
**JUDICIAL MEMBER**

/evr/