



Central Administrative Tribunal Principal Bench: New Delhi

O.A. No. 893/2021

This the 16th day of August, 2021

Through Video Conferencing

**Hon'ble Ms. Manjula Das, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

Lalji Singh Yadav, 63 Years,
S/o Late Sh. Abhorik Singh Yadav,
R/o H.No.58, Sector – 6,
Chiranjeev Vihar,
Kavi Nagar, Ghaziabad.

...Applicant

(By Advocate: Mr. A.K. Padhy)

Versus

1. Union of India,
Through the Chairman,
Central Board of Direct Taxes (CBDT),
New Delhi.
2. Union of India,
Through the Secretary,
Department of Personnel, Pension & Training,
North Block, New Delhi.
3. The Principal Chief Commissioner of Income Tax,
Aayakar Bhawan 16/69,
Civil Lines, Kanpur Nagar – 208001.



4. The Principal Commissioner of Income Tax,
CGO Complex – 1,
Hapur Chungi, Ghaziabad – 201001.

...Respondents

(By Advocates: Mr. R.S. Rana and Mr. Satish Kumar)

ORDER (ORAL)

Hon'ble Ms. Manjula Das, Chairman

The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985, seeking the following relief(s):-

“(a) To allow the prayed relief of the applicant by directing the respondents to provide one notional increment with the last salary of applicant due on 01.07.2017 by re-fixing the pension and his pensionary consequential benefits and

(b) Consider any other relief which the Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case and

(c) To award the cost of the application & litigation throughout as the rejection order is biased/deliberate & against the existing law of the land.”



2. The only question that arises for consideration is as to whether an employee, who retired on 30th June of a year, is entitled to be extended the benefit of increment that falls due on 1st July of that year. The applicant retired on 30th June 2017. He was denied the benefit of increment, which was otherwise due to him, only on the ground that by the time the increment became due, he was not in service.

3. The applicant submitted that there was absolutely no basis for the respondents in denying the benefit to him. Reliance is placed upon many orders passed by the Tribunal as well as the different Hon'ble High Courts. It is also stated that the judgments rendered by the Hon'ble High Courts were affirmed in some of the SLPs. Particulars thereof are also furnished.



4. We heard Mr. A.K. Padhy, learned counsel for applicant and Mr. Satish Kumar & Mr. R.S. Rana, learned counsel for respondents.

5. The issue, as mentioned above, fell for consideration in a large number of cases. The Benches of this Tribunal as well as the different Hon'ble High Courts have taken the view that the increment becomes payable on account of the satisfactory service rendered by the employee for the preceding six months, and the mere fact that he retired one day earlier, should not be a factor to deny him the benefit. It is also a matter of record that some SLPs filed against the detailed orders passed by the Hon'ble High Courts were dismissed.

6. It is true that in **Union of India v. M. Siddaraj** (SLP No. 4722/2021), the Hon'ble Supreme Court passed an order recently on 05.04.2021, directing that the pension shall be granted to the respondents therein on



the basis of the last pay drawn as on 30th June, 2014. Learned counsel for the applicant submitted that he verified the record and found that the respondents in the said SLP were already extended the benefit of increment, at the last day of his service.

7. Be that as it may, once the various Benches of the Tribunal, the Hon'ble High Courts and the Hon'ble Supreme Court held that the increment, which became due on 1st July or 1st January as the case may be, needs to be released for the employees, who retired one day earlier thereto, the applicant herein cannot be denied such benefit.

8. To protect the interests of the respondents, we direct that in case any different view is taken by the Hon'ble Supreme Court in SLP No. 4722/2021, the applicant shall be under obligation to refund the benefit



that is extended to him. In the corresponding orders, a clause can be incorporated to that effect.

9. We make it clear that extension of benefit of increment shall be subject to his fulfilling other conditions under the relevant service Rules.

10. For the foregoing reasons, the O.A. is allowed, directing that the applicant, who retired on 30th June 2017, shall be extended the increment payable on 1st July of the respective years. His pension shall also be revised, subject to his fulfilling other conditions, which are applicable. The arrears that become due shall be paid without interest. While extending such benefits, a clause shall be incorporated to the effect that in case the Hon'ble Supreme takes a different view in the Civil Appeal arising out of SLP No. 4722/2021, he shall be under obligation to refund the entire benefit without any demur. The aforesaid exercise shall be completed within a period of



three months from the date of receipt of a copy of this order. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Manjula Das)
Chairman

August 16, 2021
/sunil/jyoti/rk/dd/