



Central Administrative Tribunal Principal Bench, New Delhi

O.A. No. 1259/2019
M.A. No. 2084/2021

This the 17th day of August, 2021

Through Video Conferencing

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

1. Rajiv Kumar Srivastava, Rt. Asstt. Com.
Group 'A', Age 60 years,
S/o Shri Suresh Chandra Srivastava,
R/o Flat No. 29, Amrapali Apartment,
Plot No. 56, Patparganj, Delhi.
New Delhi.
2. Shri Rajendra Singh, Rt. Supptt.
Group 'A', Age 61 years,
S/o Shri Chandgi Ram,
1428, Pocket B, Sector A, Vasant Kunj,
New Delhi.
3. Shri C.K. Panthri, Rt. Supptt.
Group 'A', Aged 61 years,
S/o Shri Ram Charan Panthri,
R/o Type -IV/11, N.W. Moti Bagh,
New Delhi.
4. Shri Ramesh Chander Bhardwaj, Rt. Supptt.
Group 'A', Aged 60 years,
S/o Late Shri Devi Singh Bhardwaj,
R/o D-10/7181, Vasant Kunj,
New Delhi.



5. Shri Mohan Lal, Rt. Supptt.,
Group 'A', Age 60 years,
S/o Late Shri Ram Lal,
R/o B-502, Ashwaryam,
Plot No. GC-3G/GH-03,
Gaur City-II, Sector – 16/C,
Greater NOIDA, Gautam Budh Nagar, UP.
6. Shri S.K. Vadhera, Rt. Supptt.
Group 'A', Age 65 years,
S/o Late Shri P.L. Vadhera,
R/o Block '9', House No. 101,
East & Apartment, Mayur Vihar Extn.,
New Delhi.
7. Shri Atul Kumar, Rt. Asstt. Com.
Group 'A', Age 61 years,
S/o Dr. Kaushal Pal Singh,
R/o 82-L, New Colony,
Gurugram, Haryana.
8. Shri Bharat Bhushan Goel, Rt. Supptt.
Group 'A', Age 62 years,
S/o Late Shri R.L.N. Goel,
R/o A-33-E, DDA, Munirka,
New Delhi.
9. Shri D.K. Bose, Rt. Supptt.
Group 'A', Age 67 years,
S/o Shri B.N. Bose,
R/o D-600 (SF), C.R. Park,
New Delhi.
10. Shri Lilambar Pant, Rt. Supptt.
Group 'A', Age 67 years,
S/o Shri Poornanand Panth,
R/o C6/152-A, Keshav Puram,
Delhi.



11. Shri Ram Lal Meena, Rt. Supptt.
Group 'A', Age 61 years,
S/o Shri Gopal Ram,
R/o Pocket -A/142-B, MIG Flats Dilshad Garden,
New Delhi.

12. Mushtaque Ahmad, Rt. Supptt.
Group 'A', Age 61 years,
S/o Khudabuksh,
R/o 39-D, Dhawalgiri App.
Sector – 11, NOIDA.

13. Gopal Datt Joshi, Rt. Supptt.
Group 'A', Age 68 years,
S/o Late Shri Madhwanand Joshi,
R/o House No. 554, Sector – 4, Vashali,
Ghaziabad.

14. Sukhdev Kumar Dua, Rt. Supptt.
Group 'A', Age 62 years,
S/o Late K.C. Dua,
1101/Tower-2, The Close North,
Nirvana Country, Sector 50,
Gurugram

...Applicants

(By Advocate: Mr. Suresh Sharma)

Versus

1. The Union of India,
Through its Secretary,
Ministry of Finance,
Department of Revenue,
North Block, New Delhi.



2. The Chairman,
Department of Revenue,
Central Board of Indirect Taxes & Customs,
Directorate General of Human Resource Development,
507/8, Deep Shikha, Rajendra Place,
New Delhi.
3. Union of India,
Through its Secretary,
Department of Personnel & Training,
Ministry of Personnel, Public Grievances & Pensions,
North Block,
New Delhi.

...Respondents

(By Advocate: Mr. R K Jain)

ORDER (ORAL)

Hon'ble Ms. Manjula Das, Chairman

The applicants have filed this O.A. under Section 19 of the Administrative Tribunals Act, 1985, seeking the following reliefs:-

“(a) To issue direction to the respondents to give one last increment to all the applicants which has been denied to them on account of their date of retirement as last day of June of a particular year.

(b) To issue direction to the respondents to give all the consequential benefits to the applicants on



account of granting of one increment which has been denied illegally.

(c) The Hon'ble Tribunal may pass any other order/direction as deemed fit and proper in the circumstances of the present case and in the interest of justice.”

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 applicants retired between 30th June 2010 and 30th June 2018. They were denied the benefit of increment, which was otherwise due to them, only on the ground that by the time the increment became due, they had already retired from service.

3. The applicants submitted that there was absolutely no basis for the respondents in denying the benefit to them. Reliance is placed upon many orders passed by the Tribunal as well as 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. *Per contra*, learned counsel for respondents submitted that as per the Rules, the increment was due on 1st July and not on the last day of June. He further submitted that though the applicants had completed one year of service, the increment could be granted only on 1st July, since they were not in service on that date.

5. We heard Mr. Suresh Sharma, learned counsel for applicants and Mr. R K Jain, learned counsel for respondents.

6. 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.

7. 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 applicants 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 their service.



8. 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 applicants herein cannot be denied such benefit.

9. 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 applicants shall be under obligation to refund the benefit that is extended to them. In the corresponding orders, a clause can be incorporated to that effect.

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



11. For the foregoing reasons, the O.A. is allowed, directing that the applicants, who retired from service between 30th June 2010 and 30th June 2018, shall be extended the increment payable on 1st July of the respective years. Their pension shall also be revised, subject to their 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, they 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.



12. In view of the aforesaid order, M.A. No.2084/2021 shall stand disposed of.

There shall be no order as to costs.

(**Mohd. Jamshed**)
Member (A)

(**Manjula Das**)
Chairman

August 17, 2021
/sunil/lg/mbt/vb/