

COURT NO. 1
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

7.

OA 3842/2023 with MA 5119/2023

Ex JWO Rakesh Kumar & Ors.	Applicant
Versus		
Union of India & Ors.	Respondents

For Applicant	:	Mr. Ramniwas Bansal, Advocate
For Respondents	:	Mr. Vijendra Singh, Advocate

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

O R D E R
08.12.2023

MA 5119/2023

For the reasons stated in this application, the same is allowed. The applicants are allowed to join together by filing one single application.

MA stands disposed of.

OA 3842/2023

The applicant, vide the present OA makes the following prayers:

“(a) To quash and set aside the impugned order/letter passed by the respondent No. 3., denying notional increment to applicants.

(b) To direct the respondents to grant one notional increment to applicants in their pension, along with consequential benefits from the date of retirement.

(c) To direct the respondent to pay arrears of pension, payable to applicants on refixation of basic pension at the enhanced scale of basic pension, along with interest @ 18% p.a., from the date of their retirement.

(d) To pass such further order or orders, direction/Directions as this Hon'ble Tribunal may deem fit and proper in accordance with law.

2. Notice of the OA was issued to the respondents which is accepted on their behalf.
3. The applicants were enrolled and discharged from service as per details mentioned below:-

S.No.	Particulars of the Applicant	Date Enrollment	Date of Discharge	Last increment Due
1.	Applicant No 01. Ex-JWO Rakesh Kumar	10.03.1983	30.06.2022	1 st July, 2021
2.	Applicant No 02. Ex-JWO Udai Kumar Prajapati	16.11.1994	30.06.2015	1 st July, 2014
3.	Applicant No 03. Ex-Sgt Santosh Kumar Mishra	28.06.1994	30.06.2023	1 st July, 2022
4.	Applicant No 04. Ex-JWO Vinod Kumar Sharma	01.07.1987	30.06.2023	1 st July, 2022
5.	Applicant No 05. Ex-WO Amit Kumar Nayak	01.06.1990	30.06.2016	1 st July, 2015
6.	Applicant No 06. Ex-Sgt Hrushikesh Patro	22.06.1989	30.06.2009	1 st July, 2008
7.	Applicant No 07. Ex-WO Karande Prakash Nanasaheb	18.06.1980	30.06.2009	1 st July, 2008
8.	Applicant No 08. Ex-Sgt Amar Kumar Singh	30.06.1994	30.06.2014	1 st July, 2013
9.	Applicant No 09. Ex-JWO Manga Singh	10.06.1983	30.06.2009	1 st July, 2008
10.	Applicant No 10. Ex-Sgt Vinaya Kumar	28.06.1994	30.06.2014	1 st July, 2013
11.	Applicant No 11. Ex-JWO Purna Chandra Pradhan	11.06.1983	30.06.2009	1 st July, 2008
12.	Applicant No 12. Ex-JWO CH Venkata Suresh Babu	28.06.1994	30.06.2020	1 st July, 2019
13.	Applicant No 13.	15.06.1983	30.06.2009	1 st July, 2008

	Ex-JWO Ramesh Kuttikrishnan			
14.	Applicant No 14. Ex-WO Mahabir Singh Garvan	25.06.1987	30.06.2010	1 st July, 2009
15.	Applicant No 15. Ex-JWO Sanjay Grover	08.03.1991	30.06.2012	1 st July, 2011
16.	Applicant No 16. Ex-Sgt Shavinder Singh	28.06.1994	30.06.2016	1 st July, 2015
17.	Applicant No 17. Ex-Sgt Sunil Kumar Narware	01.07.1988	30.06.2008	1 st July, 2007
18.	Applicant No 18. Ex-MWO (HFO) Vidya Bhooshan	20.03.1980	30.06.2019	1 st July, 2018
19.	Applicant No 19. Ex-Sgt Man Singh Narwal	01.07.1988	30.06.2008	1 st July, 2007
20.	Applicant No 20. Ex-JWO Pradipta Kumar Behera	16.11.1993	30.06.2014	1 st July, 2013
21.	Applicant No 21. Ex-JWO Suresh	21.06.1991	30.06.2014	1 st July, 2013
22.	Applicant No 22. Ex-Sgt Vikram Sangwan	20.06.2001	30.06.2021	1 st July, 2020
23.	Applicant No 23. Ex-WO Md Aklaque Khan	23.06.1980	30.06.2016	1 st July, 2015
24.	Applicant No 24. Ex-MWO (HFL) Ratamsetty Madhu Sudana Rao	14.08.1971	30.06.2009	1 st July, 2008
25.	Applicant No 25. Ex-JWO Surender Saini	30.06.1988	30.06.2008	1 st July, 2007
26.	Applicant No 26. Ex-Sgt Ashok Kumar	01.07.1988	30.06.2008	1 st July, 2007

The applicants submit that 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 were not in

service though they completed one full year in service as on **30th June, of their respective retirement**. They were given their last annual increment **one year prior to the date of retirement** and were denied increment that fell due on **01st July of their year of retirement** on the ground that after the 6th Central Pay Commission, the Central Government fixed 1st July/1st January as the date of increment for all Government employees.

4. Learned counsel for the applicants contends that after the 6th CPC submitted its report, the Government promulgated the acceptance of the recommendations with modifications through the Govt. Extraordinary Gazette Notification dated 29th August, 2008. This notification was also applicable to the Armed Forces personnel and implementation instructions for the respective Services clearly lay down that there will be a uniform date of annual increment, viz. 1st January/1st July of every year and that personnel completing six months and above in the revised pay structure as on the 1st day of January/July, will be eligible to be granted the increment. In this regard learned counsel for the applicants relied upon the law laid down by the Hon'ble High Court of Madras in the case of *P. Ayyamperumal Vs. The Registrar, Central Administrative Tribunal, Madras Bench and Ors.* (WP No.15732/2017) decided on 15th September, 2017 and the verdict of the Lucknow Regional Bench of the Armed Forces Tribunal in *Ex Sgt Kapil Sharma Vs. Union of India and Ors.* (OA 161/2021) decided on 27.05.2021. The Hon'ble High Court of Madras vide the said judgment referred to hereinabove held that

the petitioner shall be given one notional increment for the purpose of pensionary benefits and not for any other purpose.

5. The respondents fairly do not dispute the settled proposition of law put forth on behalf of the applicant in view of the verdicts relied upon on behalf of the applicant.

6. The law on 'notional increment' has already been laid down by the Hon'ble High Court of Madras in the case of *P. Ayyamperumal* (supra) and in *State of Tamil Nadu, rep. by its Secretary to Government, Finance Department and Others* Vs. *M. Balasubramaniam*, reported in CDJ 2012 MHC 6525, wherein vide paras 5, 6 and 7 of the said judgment it was observed to the effect:

"5. The petitioner retired as Additional Director General, Chennai on 30.06.2013 on attaining the age of superannuation.

After the Sixth Pay Commission, the Central Government fixed 1st July as the date of increment for all employees by amending Rule 10 of the Central Civil Services (Revised Pay) Rules, 2008. In view of the said amendment, the petitioner was denied the last increment, though he completed a full one year in service, ie., from 01.07.2012 to 30.06.2013. Hence, the petitioner filed the original application in O.A.No.310/00917/2015 before the Central Administrative Tribunal, Madras Bench, and the same was rejected on the ground that an incumbent is only entitled to increment on 1st July if he continued in service on that day.

6. In the case on hand, the petitioner got retired on 30.06.2013. As per the Central Civil Services (Revised Pay) Rules, 2008, the increment has to be given only on 01.07.2013, but he had been superannuated

on 30.06.2013 itself. The judgment referred to by the petitioner in State of Tamil Nadu, rep. by its Secretary to Government, Finance Department and others v. M.Balasubramaniam, reported in CDJ 2012 MHC 6525, was passed under similar circumstances on 20.09.2012, wherein this Court confirmed the order passed in W.P.No.8440 of 2011 allowing the writ petition filed by the employee, by observing that the employee had completed one full year of service from 01.04.2002 to 31.03.2003, which entitled him to the benefit of increment which accrued to him during that period.

7. The petitioner herein had completed one full year service as on 30.06.2013, but the increment fell due on 01.07.2013, on which date he was not in service. In view of the above judgment of this Court, naturally he has to be treated as having completed one full year of service, though the date of increment falls on the next day of his retirement. Applying the said judgment to the present case, the writ petition is allowed and the impugned order passed by the first respondent-Tribunal dated 21.03.2017 is quashed. The petitioner shall be given one notional increment for the period from 01.07.2012 to 30.06.2013, as he has completed one full year of service, though his increment fell on 01.07.2013, for the purpose of pensionary benefits and not for any other purpose. No costs.”

7. The issue raised in this OA is squarely covered by the judgment of the Hon’ble Supreme Court rendered in Civil Appeal No. 2471 of 2023 decided on 11.04.2023 titled as Director (Admn. And HR) KPTCL and Others Vs. C.P. Mundinamani and Others (2023) SCC Online SC 401.

8. Thus, as the issue referred to under consideration in the present OA is no longer *res integra* in view of the SLP (Civil) Dy

No.22283/2018 against the judgment dated 15th September, 2017 of the Hon'ble High Court of Madras in the case of *P. Ayyamperumal* (Supra) having been dismissed vide order dated 23rd July, 2018 and in view of the order dated 19.05.2023 of the Hon'ble Supreme Court in *SLP (C) No. 4722 of 2021) Union of India & Anr vs M. Siddaraj*, the OA is allowed.

9. The respondents are thus, directed to:

- (a) grant one notional increment to the applicants from the date of their retirement as tabulated in Para 3 above subject to verification that they have completed one full year of service, for the purpose of pensionary benefits and not for any other purpose;
 - (b) issue fresh corrigendum PPO to the applicants accordingly subject to their fulfilling other conditions which are applicable;
 - (c) give effect to this order within a period of four months from the date of receipt of a certified copy of this order.
- The arrears that become due shall be paid without interest.

10. There shall be no order as to costs.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)