

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

1.

OA 2025/2023 with MA 2923/2023 & MA 2924/2023

In the matter of :

Ex Sgt Parmod Kumar Sharma & Ors. ... Applicant

Versus

Union of India & Ors. ... Respondents

For Applicant : Shri Rohit Pratap, Advocate

For Respondents : Shri Rakesh Dhawan, Advocate

CORAM :

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE LT GEN C P MOHANTY, MEMBER (A)

ORDER
01.08.2023

MA 2923/2023

Joint application allowed. MA stands disposed off.

OA 2025/2023 with MA 2924/2023

Considering the fact that the issue has already been decided not only by various Benches of this Tribunal but also by Hon'ble Supreme Court in the matter of **The Director (Admn and HR) KPTCL and Ors. Vs. C.P. Muddinamani and Ors.** (Civil Appeal No. 2471/ 2023) decided on 11.04.2023, for the present, we dispose of this application with the following directions.

- (i) On the applicant filing a representation along with a certified copy of this order and relevant

particulars of the orders passed on the issue involved, respondents shall decide the same in accordance with law within a period of two months from the date of receipt of a copy of this order and communicate the decision to the applicant

(ii) if still aggrieved, the applicant will have the option to seek revival of this matter in accordance with law.

2. OA stands disposed of.

**[RAJENDRA MENON]
CHAIRPERSON**

**[C. P. MOHANTY]
MEMBER (A)**

sm

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

54.

MA 874/2024 in OA 2025/2023

Ex Sgt Pramod Kumar Sharma & Others	Applicant
Versus		
Union of India & Ors.	Respondents

For Applicant	:	Mr. Rohit Pratap, Advocate
For Respondents	:	Mr. Rakesh Dhawan, Advocate

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE LT GEN P.M. HARIZ, MEMBER (A)

ORDER
04.03.2024

MA 874/2024

Heard learned counsel for the parties on the MA.

2. In the matter of granting notional increment to the applicant based on the law laid down by the Hon'ble Supreme Court in the matter of *The Director (Admn and HR) KPTCL and Ors. Vs. C.P. Mundinamani and Ors.* (Civil Appeal No. 2471/2023) decided on 11.04.2023, at the instance of the applicant in OA 2025/2023 we had directed the respondents to take note of the law laid down by the Hon'ble Supreme Court in the case of *The Director (Admn and HR) KPTCL and Ors.*

(supra) and decide the claim of the applicants with regard to notional increment within a period of two months.

3. Respondents have not taken any action even though the period of two months have elapsed and therefore, a prayer under Rule 25 of the Armed Forces Tribunal (Procedure) Rules, 2008 by filing MA 874/2024 is made seeking revival of the OA 2025/2023.

4. Keeping in view the aforesaid, we allow this application and restore OA No. 2025/2023 with MA 2923/2023 and MA 2924/2023 to its original file.

OA 2025/2023 WITH MA 2923/2023 and MA 2924/2023

5. Taken on board.

MA 2923/2023

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

7. MA stands disposed of.

MA 2924/2023

8. Keeping in view the averments made in the miscellaneous application and finding the same to be bona fide, in the light of

the decision in Union of India and others Vs. Tarsem Singh (2008) 8 SCC 648, the same is allowed condoning the delay in filing the O.A.

9. MA stands disposed of.

OA 2025/2023

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

“(a) To set aside the impugned order cum reply letter passed by the Respondent No. 3.

(b) To direct the respondents to grant one notional increment in pension along with other retiral benefits found to be dues wef the retirement of the applicants.

(c) To direct the respondents to grant the benefit of increment in terms of law settled in WP No. 15732/2017 which hwas upheld by the Hon’ble Apex Court in SLP (C) No. 22283/2018 and Review Petition No. 1731/2019.

(d) To direct the respondents to pay the due arrears of increment of pension with interest @ 18% p.a. with effect from the date of retirement with all the consequential benefits.

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

11. Notice of the OA was issued to the respondents which is accepted on their behalf.

12. The details of applicants’ date of discharge and their date of increment due are mentioned below:-

S.No.	Particulars of the Applicant	Date of Discharge	Last increment Paid	Increment Due
1.	Applicant No 01. Ex Sgt Parmod Kumar Sharma	30.06.2007	1 st July, 2006	1 st July, 2007
2.	Applicant No 02. Ex-JWO A. Nagarjunareddy	31.12.2020	1 st January 2020	1 st January 2021
3.	Applicant No 03. Ex-MWO Ali Akbar Khan	30.06.2012	1 st July, 2011	1 st July, 2012
4.	Applicant No 04. Ex-HFL Amir Singh	31.12.2019	1 st January 2019	1 st January 2020
5.	Applicant No 05. Ex-Sgt Arvinda Kumar Srivastava	30.06.2009	1 st July, 2008	1 st July, 2009
6.	Applicant No 06. Ex-Sgt Arteshwar Ashish	30.06.2022	1 st July, 2021	1 st July, 2022
7.	Applicant No 07. Ex-Sgt Arun Kumar Sahu	30.06.2009	1 st July, 2008	1 st July, 2009
8.	Applicant No 08. Ex-WO Ashok Kumar	30.06.2020	1 st July, 2019	1 st July, 2020
9.	Applicant No 09. Ex-Sgt Avani Kumar	30.06.2022	1 st July, 2021	1 st July, 2022
10.	Applicant No 10. Ex-HFL Chandra Ballabh Pandey	31.12.2021	1 st January 2021	1 st January 2022
11.	Applicant No 11. Ex-WO Dhruva Kumar Thakur	31.12.2021	1 st January 2021	1 st January 2022
12.	Applicant No 12. Ex-HFO Gurdeep Singh	30.06.2008	1 st July, 2007	1 st July, 2008
13.	Applicant No 13. Ex-Sgt Harjeet Singh	30.06.2007	1 st July, 2006	1 st July, 2007
14.	Applicant No 14. Ex-HFO Jagdish Maharaj	30.06.2011	1 st July, 2010	1 st July, 2011

15.	Applicant No 15. Ex-MWO Kedar Singh	30.06.2018	1 st July, 2017	1 st July, 2018
16.	Applicant No 16. Ex-Sgt Kishore Kumar Sahoo	30.06.2012	1 st July, 2011	1 st July, 2012
17.	Applicant No 17. Ex-JWO Kotapatipati Srinivas Rao	30.06.2018	1 st July, 2017	1 st July, 2018
18.	Applicant No 18. Ex-Sgt Madhav Kumar Mallareddi	30.06.2018	1 st July, 2017	1 st July, 2018
19.	Applicant No 19. Ex-Sgt Mahesh Kumar	30.06.2007	1 st July, 2006	1 st July, 2007
20.	Applicant No 20. Ex-Sgt Manohar Dhole	22.06.2009	1 st July, 2008	1 st July, 2009
21.	Applicant No 21. Ex-LAC Manoj Kumar P	30.06.2018	1 st July, 2017	1 st July, 2018
22.	Applicant No 22. Ex-Sgt Manoj Kumar Singh	30.06.2011	1 st July, 2010	1 st July, 2011
23.	Applicant No 23. Ex-WO Mukesh Kumar	30.06.2013	1 st July, 2012	1 st July, 2013
24.	Applicant No 24. Ex-Sgt Naga Anand Mouli Boppana	30.06.2011	1 st July, 2010	1 st July, 2011
25.	Applicant No 25. Ex-Sgt Pradeep Kumar Ojha	30.06.2014	1 st July, 2013	1 st July, 2014
26.	Applicant No 26. Ex-Sgt Pradyot Banerjee	30.06.2014	1 st July, 2013	1 st July, 2014
27.	Applicant No 27. Ex-MWO Pramod Kumar Tyagi	30.06.2017	1 st July 2016	1 st July 2017
28.	Applicant No 28. Ex-Sgt Pravakar Patra	30.06.2012	1 st July 2011	1 st July 2012

29.	Applicant No 29. Ex-WO Raghbir Singh	30.06.2019	1 st July, 2018	1 st July, 2019
30.	Applicant No 30. Ex-HFO Raghbir Singh	31.12.2022	1 st January 2022	1 st January 2023
31.	Applicant No 31. Ex-MWO Rajendra Singh Gaur	31.12.2022	1 st January 2022	1 st January 2023
32.	Applicant No 32. Ex-HFO Rakesh Prasad Choudhary	31.12.2021	1 st January 2021	1 st January 2022
33.	Applicant No 33. Ex-WO Rampal Singh	30.06.2022	1 st July 2021	1 st July 2022
34.	Applicant No 34. Ex-JWO Raveendran G	30.06.2009	1 st July 2008	1 st July 2009
35.	Applicant No. 35. Ex-Sgt Ravindra Kumar	30.06.2021	1 st July 2020	1 st July 2021
36.	Applicant No 36. Ex-Sgt Rupawala Mustafa	30.06.2009	1 st July 2008	1 st July 2009
37.	Applicant No 37. Ex-Sgt S.K. Shivaprasad	30.06.2017	1 st July 2016	1 st July 2017
38.	Applicant No 38. Ex-HFO Sanap Sudhakar Kisanrao	30.06.2013	1 st July 2012	1 st July 2013
39.	Applicant No 39. Ex-HFO Satish Kumar Yadav	31.12.2021	1 st January 2021	1 st January 2022
40.	Applicant No 40. Ex-Sgt Seekala Jagadeesh Kumar	30.06.2021	1 st July 2020	1 st July 2021
41.	Applicant No 41. Ex-Sgt Shashi Bhushan Mishra	30.06.2022	1 st July 2021	1 st July 2022
42.	Applicant No 42.	31.12.2021	1 st January 2021	1 st January 2022

	Ex-HFO Shrawan Kumar			
43	Applicant No 43. Ex-WO Shri Krishan Vashisat	30.06.2021	1 st July 2020	1 st July 2021
44.	Applicant No 44. Ex-JWO Shunny Shankar Srivastava	30.06.2009	1 st July 2008	1 st July 2009
45.	Applicant No 45. Ex-JWO Srinivas Chodiseti	30.06.2020	1 st July 2019	1 st July 2020
46	Applicant No 46. Ex-JWO Sujit Kumar Jagati	30.06.2010	1 st July 2009	1 st July 2010
47.	Applicant No 47. Ex-Sgt Sunil Kumar Sharma	30.06.2018	1 st July 2017	1 st July 2018
48.	Applicant No 48. Ex-Sgt Suresh Kumar	30.06.2007	1 st July 2006	1 st July 2007
49.	Applicant No 49. Ex-Sgt Suresh Kumar Sharma	30.06.2017	1 st July 2016	1 st July 2017
50.	Applicant No 50. Ex-HFO Swapan Kumar Karmakar	30.06.2015	1 st July 2014	1 st July 2015
51.	Applicant No 51. Ex-JWO Tofan Kumar Sahoo	30.06.2015	1 st July 2014	1 st July 2015
52.	Applicant No 52. Ex- JWO Uttam Mandal	30.06.2010	1 st July 2009	1 st July 2010
53.	Applicant No .53 Ex-Sgt. Vidya Dhar Dhikwal	30.06.2011	1 st July 2010	1 st July 2011
54.	Applicant No 54. Ex-HFO Vinod Kumar	31.12.2022	1 st January 2022	1 st January 2023
55.	Applicant No 55. Ex-JWO Vinod Kumar Saini	30.06.2018	1 st July 2017	1 st July 2018
56.	Applicant No 56.	30.06.2022	1 st July 2021	1 st July 2022

	Ex-WO Yogendra Prakash Gautam			
57.	Applicant No 57. Ex-Sgt Yogendra Singh	30.06.2008	1 st July 2007	1 st July 2008
58.	Applicant No 58. Ex-JWO Yogesh Kumar	30.06.2012	1 st July 2011	1 st July 2012
59.	Applicant No 59. Ex-Sgt Nisheet Kumar	30.06.2021	1 st July 2020	1 st July 2021

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/ 31st December 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/ 01st January 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.

13. 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.

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

15. 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."*

16. 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.

17. 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.

18. The respondents are thus, directed to:

- (a) grant one notional increment to the applicants from the date of their retirement as tabulated in Para 12 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.

19. Even though in all the cases till date we have been following and passing aforesaid order but recently it has come to our notice that in certain cases applicants have been granted increment and before completing the period of one year, they are again claiming the subsequent increment as well. Grant of benefit of notional increment, as directed hereinabove, shall be subject to the

condition that the applicants have completed one full year of service after drawal of the earlier/last increment.

20. There shall be no order as to costs.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[~~ST GEN~~ P.M. HARIZ]
MEMBER (A)

/sm/