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

13.

OA 897/2024 with MA 1113/2024 AND
MA 1114/2024

Ex Sgt Madan Pattanaik & Ors. ..... Applicant
Versus
Union of India & Ors. ..... Respondents

For Applicant : Mr. Rohit Pratap, Advocate

For Respondents : Mr. Y P Singh, Advocate

CORAM

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

ORDER
21.03.2024

MA 1113/2024

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.

MA 1114/2024

2. Vide this MA, filed under Rule 4(5) of the Armed Forces Tribunal (Procedure) Rules 2008, the forty eight applicants arrayed in the OA seek permission to institute the present OA. In view of the factum that each of them submit to the effect

that they impugn the letters issued by respondent No.3 with regard to clarification on notional increment and they have a common interest and in view of the fact that all the applicants are being represented by the same counsel whose authorization and Vakalatnama is placed on the record, the said MA 1114/2024 is allowed and the applicants are allowed to join together to institute the present OA.

OA 897/2024

3. 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 W.P. No. 15732/2017 which was upheld by the Hon'ble Apex Court in S.L.P. (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 any other order that this Hon'ble Tribunal may deem fit in the facts and circumstances of the case."*

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

5. The applicants were discharged from service and granted their last increment as per details mentioned below:-

| S.No. | Particulars of the Applicant | Date of Discharge | Last Increment Paid | Increment Due |
|---|---|---|---|---|
| 1. | Applicant No 01. Ex- Sgt Madan Mohan Pattanaik | 30.06.2008 | 1st July, 2007 | 1st July, 2008 |
| 2. | Applicant No 02. Ex- Sgt Zakir Ali | 30.06.2011 | 1st July, 2010 | 1st July, 2011 |
| 3. | Applicant No 03. Ex-Sgt Rajendra Kumar Maurya | 30.06.2011 | 1st July, 2010 | 1st July, 2011 |
| 4. | Applicant No 04. Ex-Sgt Sujit Kumar Singh | 30.06.2011 | 1st July, 2010 | 1st July, 2011 |
| 5. | Applicant No 05. Ex-WO Kajal Kanti Nath | 31.12.2020 | 1st January, 2020 | 1st January, 2021 |
| 6. | Applicant No 06. Ex-Sgt Mukesh Kumar Singh | 30.06.2017 | 1st July, 2016 | 1st July, 2017 |
| 7. | Applicant No 07. Ex-JWO Joginder Singh Rathee | 30.06.2021 | 1st July, 2020 | 1st July, 2021 |
| 8. | Applicant No 08. Ex-HFO Muneshwar | 30.06.2017 | 1st July, 2016 | 1st July, 2017 |
| 9. | Applicant No 09. Ex-Sgt Sunil Kumar Sharma | 30.06.2011 | 1st July, 2010 | 1st July, 2011 |
| 10. | Applicant No 10. Ex-JWO Gnanakumar Kuttan | 30.06.2015 | 1st July, 2014 | 1st July, 2015 |
| 11. | Applicant No 11. Ex-Sgt Jitender Singh | 30.06.2011 | 1st July, 2010 | 1st July, 2011 |
| 12. | Applicant No 12. Ex-JWO Partha Khilari | 30.06.2017 | 1st July, 2016 | 1st July, 2017 |

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| 13. | Applicant No 13. Ex-JWO Shaik Ghouse Peera | 30.06.2015 | 1st July, 2014 | 1st July, 2015 |
| 14. | Applicant No 14. Ex-Sgt Srinivasan Satish | 30.06.2011 | 1st July, 2010 | 1st July, 2011 |
| 15. | Applicant No 15. Ex-Sgt Mudigonda Omkar | 30.06.2011 | 1st July, 2010 | 1st July, 2011 |
| 16. | Applicant No 16. Ex-JWO Surinder Singh | 30.06.2009 | 1st July, 2008 | 1st July, 2009 |
| 17. | Applicant No 17. Ex-Sgt Santosh Kumar Sahu | 30.06.2014 | 1st July, 2013 | 1st July, 2014 |
| 18. | Applicant No 18. Ex-JWO Yerram Rambhadraiah | 30.06.2010 | 1st July, 2009 | 1st July, 2010 |
| 19. | Applicant No 19. Ex-JWO Kamal Biswas | 30.06.2015 | 1st July, 2014 | 1st July, 2015 |
| 20. | Applicant No 20. Ex-Sgt Chaman Lal Saini Manohar Dhole | 30.06.2014 | 1st July, 2013 | 1st July, 2014 |
| 21. | Applicant No 21. Ex-JWO Shailendra Singh | 30.06.2017 | 1st July, 2016 | 1st July, 2017 |
| 22. | Applicant No 22. Ex-JWO Raj Kumar | 30.06.2011 | 1st July, 2010 | 1st July, 2011 |
| 23. | Applicant No 23. Ex-JWO Asish Kundu | 30.06.2017 | 1st July, 2016 | 1st July, 2017 |
| 24. | Applicant No 24. Ex-Sgt K G Rajasekharan | 30.06.2008 | 1st July, 2007 | 1st July, 2008 |
| 25. | Applicant No 25. Ex-Sgt Vidya Ram Diwedi | 30.06.2009 | 1st July, 2008 | 1st July, 2009 |
| 26. | Applicant No 26. | 30.06.2016 | 1st July, 2015 | 1st July, 2016 |

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| | Ex-JWO Manaw Kumar | | | |
| 27. | Applicant No 27. Ex-MWO K V Subrahmanya Kumar | 30.06.2020 | 1st July, 2019 | 1st July, 2020 |
| 28. | Applicant No 28. Ex-Sgt Chandar Shekhar Sharma | 30.06.2011 | 1st July, 2010 | 1st July, 2011 |
| 29. | Applicant No 29. Ex-WO Jyotish Adhikary | 30.06.2023 | 1st July, 2022 | 1st July, 2023 |
| 30. | Applicant No 30. Ex-WO Surender Singh | 30.06.2015 | 1st July, 2014 | 1st July, 2015 |
| 31. | Applicant No 31. Ex-WO Jollu Narayana Reddy | 30.06.2019 | 1st July, 2018 | 1st July, 2019 |
| 32. | Applicant No 32. Ex-Sgt Rakesh Kumar | 30.06.2011 | 1st July, 2010 | 1st July, 2011 |
| 33. | Applicant No 33. Ex-Sgt Bikram Keshari Behera | 30.06.2014 | 1st July, 2013 | 1st July, 2014 |
| 34. | Applicant No 34. Ex-JWO Bvg Srinivas Rao | 30.06.2009 | 1st July, 2008 | 1st July, 2009 |
| 35. | Applicant No 35. Ex-JWO Manpreet Singh Panesar | 30.06.2014 | 1st July, 2013 | 1st July, 2014 |
| 36. | Applicant No 36. Ex-Sgt Amit Kumar Sinha | 30.06.2011 | 1st July, 2010 | 1st July, 2011 |
| 37. | Applicant No 37. Ex-Sgt S Biju | 30.06.2011 | 1st July, 2010 | 1st July, 2011 |
| 38. | Applicant No 38. Ex-Sgt Sisir Kanta Samantraya | 30.06.2011 | 1st July, 2010 | 1st July, 2011 |
| 39. | Applicant No 39. Ex-Sgt Vishwesh | 30.06.2009 | 1st July, 2008 | 1st July, 2009 |

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| | Dutta Mishra | | | |
| 40. | Applicant No 40. Ex-Sgt Umakanta Dash | 30.06.2009 | 1st July, 2008 | 1st July, 2009 |
| 41. | Applicant No 41. Ex-MWO Hirday Ram | 31.12.2022 | 1st January, 2022 | 1st January, 2023 |
| 42. | Applicant No 42. Ex-WO Girish Kumar Kalanchath | 30.06.2009 | 1st July, 2008 | 1st July, 2009 |
| 43. | Applicant No 43. Ex-JWO Prakash Chandra Das | 30.06.2008 | 1st July, 2007 | 1st July, 2008 |
| 44. | Applicant No 44. Ex-Sgt Suresh Kumar Parida | 30.06.2017 | 1st July, 2016 | 1st July, 2017 |
| 45. | Applicant No 45. Ex-WO Kamal Lochan Nayak | 30.06.2020 | 1st July, 2019 | 1st July, 2020 |
| 46. | Applicant No 46. Ex-MWO Dinesh Talukdar | 31.12.2021 | 1st January, 2021 | 1st January, 2022 |
| 47. | Applicant No 47. Ex-MWO Govind Narayan | 30.06.2021 | 1st July, 2020 | 1st July, 2021 |
| 48. | Applicant No 48. Ex-Sgt Ambarish Kumar Srivastava | 30.06.2014 | 1st July, 2013 | 1st July, 2014 |

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.

6. 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 29.08.2008. 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 applicant 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 15.09.2017 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.

7. 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 applicant.

8. 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."*

9. 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].

10. 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 15.09.2017 of the Hon'ble High Court of Madras in the case of ***P.***

*Ayyamperumal* (supra) having been dismissed vide order dated 23.07.2018 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.

11. The respondents are thus, directed to:

(a) grant one notional increment to the applicants from the date of their retirement as tabulated in Para 5 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 his 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.

12. 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 applicant has completed one full year of service after drawal of the earlier/last increment.

13. There shall be no order as to costs.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

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