

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

Suppl. List

2.

OA 10/2025 with MA 15/2025

Col (TS) Vijender Singh Ahlawat (Retd) & Ors. Applicants
Versus
Union of India & Ors. Respondents

For Applicant : Mr. I S Singh, Advocate.
For Respondents *: Mr. Ranjan Khosla, Advocate

CORAM

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

ORDER
06.01.2025

MA 15/2025

Vide this MA, filed under Rule 4(5) of the Armed Forces Tribunal (Procedure) Rules 2008, the seventeen applicants arrayed in the OA seek permission to institute the present OA. In view of the fact that all of them have a common interest and the same cause of action and that all the applicants are represented by the same counsel, whose authorization and Vakalatnama is placed on the record, the said MA 15/2025 is allowed and the applicants are allowed to join together to institute the present OA.

2. MA stands disposed of.

OA 10/2025

3. The applicants, vide the present OA make the following prayers:

“(a) Direct the respondents to grant one-notional annual increment of pay to the applicants on notional basis and accordingly re-fix the Applicants’ basic service pension and other retiral benefits after adding the amount of one-additional annual increment of pay to thier basic pay;

(b) Direct the respondent to grant arrears of the pension and other retiral benefits (after adding one additional increment of pay) w.e.f. the respective date of retirement of the Applicants to till date with interest @10% until the said arrears are paid/credited to the Applicants’ Pension Account; and;

(c) Issue such other order(s)/direction(s) as may be deemed appropriate in the facts and circumstances of the case.”

4. Issue notice to the respondents, the same has been accepted on their behalf.

5. The applicants herein are Ex-Army/Air Force Officers belonging to different Corps/Regt/Unit of Army/Air Force and have retired from service on 30th June/31st December, between the years 2004 to 2018. 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 1st July/1st January in different years.

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

S.No.	Particulars of the Applicant	Date of Retirement	Last Increment Paid	Increment Due
1.	Col (TS) Vijender	30.06.2017	01.07.2016	01.07.2017
2.	Col Mehar Singh (TS)	31.12.2004	01.01.2004	01.01.2005
3.	Col Ajeet Singhvi	31.12.2008	01.01.2008	01.01.2009
4.	Col Harinder Singh Grewal	30.06.2009	01.07.2008	01.07.2009
5.	Col Sushil Kumar Chauhan	30.06.2008	01.07.2007	01.07.2008
6.	Col MGHS Rajan	31.12.2004	01.01.2004	01.01.2005
7.	Col Krishna Kamal Bora	30.06.2008	01.07.2007	01.07.2008
8.	Col Ravikiran Gangaram Kadam	30.06.2008	01.07.2007	01.07.2008
9.	Brig Gopal Narain Mathur Mathur	30.06.2010	01.07.2009	01.07.2010
10.	Brig NK Dutta	30.06.2010	01.07.2009	01.07.2010
11.	Col Suresh Singh	30.06.2017	01.07.2016	01.07.2017
12.	Col Sudhir Paliwal	30.06.2017	01.07.2016	01.07.2017
13.	AIR CMDE J Mathappan	31.12.2010	01.01.2010	01.01.2011
14.	WG CDR Jasmine Kaur	31.12.2018	01.01.2018	01.01.2019
15.	Maj Gen BS Brewal	30.06.2010	01.07.2009	01.07.2010
16.	Brig SMS Rathaur	30.06.2007	01.07.2006	01.07.2007
17.	Col Bharat Kumar Deka	31.12.2008	01.01.2008	01.01.2008

7. 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 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 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.

8. 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.

9. 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."

10. 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].

11. Moreover, 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. We consider it essential to rely on 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, further modified by the Hon'ble Supreme Court of India on 06.09.2024 in MA Dy No.

2400/2024 filed in SLP (C)No. 4722/2021 which reads to the effect:

(a) The judgment dated 11.04.2023 will be given effect to in case of third parties from the date of the judgment, that is, the pension by taking into account one increment will be payable on and after 01.05.2023. Enhanced pension for the period prior to 31.04.2023 will not be paid.

(b) For persons who have filed writ petitions and succeeded, the directions given in the said judgment will operate as res judicata, and accordingly, an enhanced pension by taking one increment would have to be paid.

(c) The direction in (b) will not apply, where the judgment has not attained finality, and cases where an appeal has been preferred, or if filed, is entertained by the appellate court.

(d) In case any retired employee has filed any application for intervention/impleadment in Civil Appeal No. 3933/2023 or any other writ petitions and a beneficial order has been passed, the enhanced pension by including one increment will be payable from the month in which the application for intervention/impleadment was filed.

12. In view of the foregoing, the OA is allowed as per the following directions:-

(a) grant one notional increment to the applicants as on 1st July/1st January in different years mentioned hereinabove in a tabulated form, 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) However, in the interim the arrears will be restricted to period after 01.05.2023 as per the order of Hon'ble Apex Court dated 06.09.2024 in Union of India & Anr. Vs. M. Siddaraj (supra).
- (c) Issue fresh corrigendum PPO to the applicants accordingly subject to their fulfilling other conditions which are applicable;
- (d) 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.

13. 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 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.

14. There shall be no order as to costs. _____

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[LT GEN C.P. MOHANTY]
MEMBER (A)

/vb/